

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.553/09

Tuesday this the 23rd February, 2010

CORAM:

**HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER(J)
HON'BLE MRS.K.NOORJEHAN, MEMBER(A)**

**K.T.Philip,
S/o Thomas, aged 60 years,
Retired Technical Assistant, Poovarani Exchange,
residing at Koyiprayil, Kezhuvankulam,
Puliyannur, Meenachil, Kottayam.**

.. Applicant

By Advocate:Mr.R.Sreeraj

vs.

1. **The Chief General Manager, Bharat Sanchar Nigam Limited, Kerala Circle, Trivandrum.**
2. **The General Manager, Telecom, O/o the Principal General Manager, Telecom, Bharat Sanchar Nigam Limited, Pullikens Complex, Nagampadom, Kottayam.**
3. **The Deputy General Manager, Telecom, O/o the Principal General Manager, Telecom, Bharat Sanchar Nigam Limited, Pullikens Complex, Nagampadom, Kottayam.**

By Advocate:Mr.Varghese for Mr.Thomas Mathew Nellimoottil

The Application having been heard on 23.02.2010, the Tribunal on 23.02.2010 delivered the following:

ORDER

JUSTICE K.THANKAPPAN, MEMBER(J):

Aggrieved by the penalty order passed by the third respondent, the Deputy General Manager, BSNL, Kottayam, the applicant has filed this O.A. The applicant prays to quash the said order Annexure A1 and the appellate



order Annexure A2 and further prays that a direction may be issued to the respondents to restore all consequential benefits on quashing the penalty and appellate orders passed by the respondents.

2. The few facts which are necessary for the decision of the Original Application are as follows:-

3. While the applicant was working as TTA in Poovarni Exchange he was served with a memo of charges with imputations of allegations dated 19.9.2008. As per the said charge memo it is alleged that while the applicant was working as TTA in Poovarni Exchange during the period 2004 he had submitted a family declaration with a family photograph for BSNL MRS Identity Card on 8.06.2004, in which the name of his wife is recorded as Alice and the date of birth of his wife is shown as 11.10.1952, whereas the name and date of birth of his wife given in the family declaration Form III dated 1.6.1981 pasted in his service book it is recorded that as Alice Philip and 24.10.1953 respectively. By doing so the applicant committed a misconduct, failed to maintain absolute integrity and acted in a manner unbecoming of a public servant thereby violated Rule 4(1)(a) and Rule 4(1)(c) of the BSNL CDA Rules, 2006. On the basis of the said charge, on receipt of an explanation submitted by the applicant, an enquiry has been ordered and as per the enquiry report dated 1st September, 2008, it is reported that the charges levelled against the applicant has been proved and on the basis of the said enquiry report, the Disciplinary Authority imposed a penalty of reduction of pay of the applicant to be reduced to by two stages from Rs.9500/- to Rs.9100/- in the time scale of pay Rs.7100-200-10100 with



immediate effect. Against the said order dated 14th November,2008 the applicant preferred an appeal before the Appellate Authority. However, on hearing the appeal, the Appellate Authority on confirming the order passed by the Disciplinary Authority, by modifying the period of reduction of pay as ordered by the Disciplinary Authority with effect from 19.9.2008 to 30.9.2008,i.e, to the date of superannuation of the applicant. Aggrieved by the said orders passed by the Disciplinary Authority as well as the Appellate Authority, the applicant has filed the present O.A.

4. The Original Application has been admitted by this Tribunal and the notice ordered to the respondents on 19.8.2009. On receipt of the notice received from this Tribunal, a reply statement has been already filed for and on behalf of the respondents justifying the impugned orders and it is further stated in the reply statement that even though the applicant never claimed any medical reimbursement or any benefit on the change he made in the family photos or on the changed declarations of the name of his wife, it is proved beyond doubt that the name of wife of the applicant as he declared as Alice whereas the real name of the wife of the applicant is Annamma alias Alice and in the service records her name is shown as Alice Philip and the date of birth is also shown as 24.10.1953. Hence it is stated in the reply statement that the O.A. has to be dismissed as merit less.

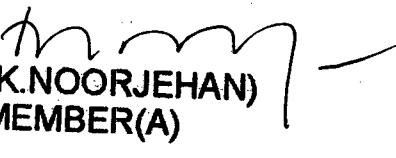
5. Today we heard the counsel appearing for the parties and perused all the documents. In the light of the arguments of the counsel appearing for the parties, the question to be considered is that whether the orders under challenge are liable to be interfered with or not. The main trust given by the

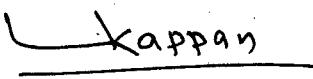
counsel appearing for the applicant Mr.R.Sreeraj is that it is evident from the enquiry report that the wife of the applicant has been separated from him for the last 14 years and his children were actually being brought up by one Alice, whose photograph has been shown in the family photo, but this was precipitated only because of the complaint filed by his wife to the Authorities and the applicant has not claimed any benefit either on the basis of the family photos or on the declaration made by him by way of any medical reimbursement or any other benefits. According to the counsel for the applicant it is an admitted fact that Smt.Annamma Philip, the legally wedded wife of the applicant was away from the family for the last 14 years and it is under that circumstance he had given a declaration only to provoke his legally wedded wife to come back to his company and not for any other purpose. If so this Tribunal may see that the alleged misconduct is not so serious and the applicant has to be exonerated from the charges. The counsel also relies on the fact that the evidence of DW I, the son of the applicant, who was examined before the Enquiry Officer, that his mother was away from his family for the last 14 years and only family problem is precipitated with the service of the applicant, hence the finding entered into by the Enquiry Officer ought to have been rejected by the Disciplinary Authority as well as the Appellate Authority.

6. We have considered the above points in the light of the facts now proved before this Tribunal. Though the applicant had a case in his written statement that his wife left his company for the last 14 years and she has already abandoned his company and that by itself is not a reason to give any false declaration to the Department and that too at the eve of his retirement.

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That apart, it has come out in evidence that the legally wedded wife of the applicant had filed a complaint before the Departmental Authorities complaining that the applicant is trying to part with the pensionary benefits to the servant maid of the applicant and hence the attention of the Department has been invited. So the very inception of the proceedings and issuance of the charge is justifiable and the charges levelled against the applicant have been established and proved by evidence. The Disciplinary Authority only followed the findings entered into by the Enquiry Authority. Hence on the basis of the findings, the Disciplinary Authority imposed the penalty. Hence we see no justification to interfere with the penalty order passed by the Disciplinary Authority. Further it has to be noted that the Appellate Authority had shown much leniency towards the applicant by fixing the reduction of the pay to the date of his superannuation, so that the punishment will not affect his pension. Considering all these aspects we see that the orders under challenge are based on facts and evidence and conclusions arrived at by the Authorities are justifiable and there is no ground to interfere with such orders. The O.A. stands dismissed as merit less. No order as to costs.


(K.NOORJEHAN)
MEMBER(A)


(JUSTICE K.THANKAPPAN)
MEMBER(J)

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