

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.610/1996

Friday this the 14th day of August,1998.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K.C.George,
Technician,
Telephone Exchange,
Parappa,
residing at Noorjahan Quarters,
Kushal Nagar,
Kanhagad.

...Applicant

(By Advocate Mr.M.R.Rajendran Nair)

vs.

1. Union of India, represented by Secretary to Government of India, Ministry of Communications, New Delhi.
2. The Chief General Manager, Telecom, Kerala Circle, Trivandrum.
3. The General Manager, Telecom District, Kannur.
4. The Divisional Engineer, Telecom, Kasargode.
5. The Telecom District Engineer, Kannur. ..Respondents

(By Advocate Mr.P.R.Ramachandra Menon, ACGSC)

The Application having been heard on 14.8.98, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

This application was filed against the order of the 4th respondent dated 8.5.95 (Annexure A1) imposing on the applicant the penalty of reduction in pay by four stages from Rs.1420/- to Rs.1330/- in the time scale of pay of Rs.975-25-1150-EB-30-1660 for a period of three years from 1.6.95 with a direction that

the applicant would not earn increment of pay during this period of reduction and that on expiry of this period the reduction would not have effect of postponement of his future increments of pay, and the appellate order dated 20.11.95(Annexure A2) confirming the order of the disciplinary authority as also the order dated 24.9.96(Annexure A9) of the revisional authority, the second respondent affirming the finding of guilty but modifying the penalty by reducing the period of reduction for one year from 1.6.95.

2. Shorn of details, the facts can be stated in the nutshell as follows.

3. While the applicant was working as a Technician at Tellicherry Telephone Exchange, he was served with a memorandum of charges dated 7.3.89 containing three Articles of charges which are as follows:

" Article I

That the said Shri K.C.George while functioning as Technician Tellicherry Exchange,during the period of August/September/October 1988,has wilfully delayed the completion of the expansion work of the Tellicherry Telephone Exchange by creating man-made faults by manipulating the exchange equipment and also by laying unauthorised cables with ulterior motive of making his service indispensable for expansion work to gain pecuniary gains to himself. Thus, it is alleged that the said Shri George had exhibited lack of devotion to duty and had also acted in a manner unbecoming of a Govt.

servant, thereby violated Rules 3(I)(ii) and 3(iii) of CCS(Conduct)Rules,1964.

Article II

That during the aforesaid period and while functioning as Technician in the aforesaid office the said Shri K.C.George has demanded and obtained from Shri Joy, JTO Tellicherry an illegal gratification of Rs.500/- for helping to run the concentration cycles in ICP Tellicherry. Thus, the said Shri George has exhibited lack of integrity and has also acted in a manner unbecoming of a Government servant violating Rules 3(I)(iii) of CCS(Conduct Rules)1964.

Article III

That the said Shri George while functioning as Technician in the said office has acquired a plot of about 6.54 cents in Tellicherry Municipal Ward No.1, Kunnoth Desom, Tellicherry village and has constructed a residential building of about 53.9 sq.m without obtaining the prior permission of the department. It is also alleged that the said George has amassed disproportionate assets. Thus it is alleged that the said Shri George has violated Rules 3(I)(i) and 3 (I)(iii) of CCS Conduct Rules 1964 by exhibiting lack of integrity and acting in a manner unbecoming of a Govt. servant."

4. The applicant denied the charges. An enquiry was held. The Enquiry Officer in his report(Annexure A4) stated that from the evidence Article I of the charges stood partly proved and Articles II and III were fully proved. This was accepted by the Disciplinary authority and the Disciplinary

authority by the impugned order Annexure A1 imposed on the applicant the penalty as aforesaid. The Appellate authority did not interfere in the order Annexure A2 either with the finding arrived at by the Disciplinary authority or with the penalty imposed. Although, the Revisional authority in his order found that for want of evidence Article II of the charge had not been established, affirmed the finding of the Disciplinary authority as also the Appellate authority on charges I & III. Taking a lenient view, the Revisional authority has modified the penalty of reduction from Rs.1420/- to Rs.1300/- in the time scale of pay of Rs.975-25-1150-EB-30-1660 for a period of one year w.e.f. 1.6.95 directing that the official would not earn increment of pay during this period of reduction and that on expiry of this period, the reduction would not have effect of postponing of his future increments of pay. The applicant was not satisfied with the Revisional order. Therefore, the applicant has filed this application seeking to have the impugned orders set aside. The grounds on which the applicant assails these orders are that the charges were vague, that the enquiry was a result of conspiracy against him, that there was no legal evidence to find the applicant guilty of the charges, that curiously enough the charges proved against one Mr.Balan has been held proved against the applicant, that the applicant was denied reasonable opportunity to defend himself by not allowing his request for production of documents and that as the charge against Article II was not proved, charge No.1 also should have been held not proved.

5. The respondents have filed a detailed reply statement contending that the enquiry had been held in conformity with the rules and observing the principle of natural justice, that out of the three documents sought by the applicant, two having not relied on by the disciplinary authority, the non-furnishing of these documents would not cause any hardship to the applicant, that the third document namely the duty chart was not relevant as the officials generally did not strictly adhere to the duty chart and that the finding entered into are based on evidence legally adduced at the enquiry.

6. We have gone through the entire pleadings in this case and other materials including the enquiry report and have heard the learned counsel appearing for the parties. The file relating to the proceedings of the enquiry have been produced by the counsel of the respondents for our perusal, was also perused by us.

7. Though there has been three Articles of charges, the Revisional authority has held that Charge No.2 has not been established and Charge No.1 partly and Charge No.3 have been fully established. The contention of the applicant that the charges are vague has no force because a mere scrutiny of the memorandum of charges and statement of imputation shows that the ingredients of the charges have been very clearly spelt out. The applicant has given a reply to the memorandum of charges, copy of which is Annexure R1. In the reply, the applicant had stated very clearly that he was not guilty. If the charges were vague, the applicant would have stated in his reply that the charges being vague, he was not in a position to understand actually what he was to explain. Hence this argument has only to be rejected as devoid of merit.

8. With regard to the allegation that the proceedings against the applicant was as a result of conspiracy at the dictate of one Sri Krishnan, the Assistant General Manager, the applicant has not impleaded him as a party to the proceedings and therefore the allegation cannot be taken serious note of.

9. The learned counsel for the applicant strenuously argued that the finding of the enquiry officer which has been accepted by the Disciplinary authority and the appellate and revisional authorities, is perverse for want of evidence. We have very carefully gone through the enquiry report and the orders of the disciplinary authority, appellate authority and the revisional authority. We find that not only the enquiry authority but also the other authorities have discussed the evidence adduced at the enquiry in an elaborate manner and have formulated the finding based on cogent and convincing evidence. The deposition of witness Sivakumar, to the effect that he found the applicant going to 15/1 frame and putting strapping pins and also in the II pair of Translator, Manual Test box on the night of 5.10.88 has been relied by the authorities as the evidence, was cogent and convincing and agreed with the evidence of other witnesses, who were not eye witnesses.

9. The scope of judicial review in a proceeding of this nature extend to seeing whether the proceedings have been properly held and whether there is any evidence at all to come to the findings that has been arrived at. Learned counsel of the applicant has not been able to establish that there has been serious infirmity in the proceedings before

the enquiry officer. It cannot be seriously argued that there is no evidence at all because at least Shri Sivakumar has given evidence regarding the involvement of the applicant in regard to Article 1 of the charge. The argument that the remaining witnesses did not depose that they saw the applicant putting strapping pins and therefore it is unsafe to come to a finding against the applicant solely on the evidence of Sivakumar, has no force at all. As the finding has been arrived at on the basis of some evidence, there is no scope for judicial intervention. The charge No.III has been partly admitted and the applicant himself has sought ex post facto sanction. Thus, we find little merit in the argument that the finding is perverse and unsupported by evidence.

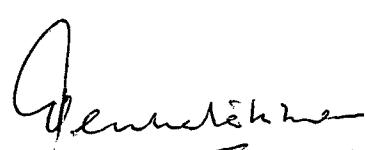
10. The contention of the applicant that reasonable opportunity of defence was not given to him, was based on the allegation that he had not been furnished with the documents he wanted. The denial of the first two documents did not jeopardise his defence because the enquiry officer has not relied upon them. Regarding the refusal to furnish the duty chart, the enquiry officer found that it was not relevant as the timing in the duty chart was not generally adhered to by the officials. Therefore, we find that non-furnishing of the duty chart did not stand in the way of the applicant in making a proper defence. The argument of the learned counsel of the applicant that as the Revisional authority has held charge No.II not established, the charge No.I also should have been found not proved, does not deserve serious consideration. The charge No.II pertains to a demand and receipt of Rs.500 as an illegal gratification but charge No.I is regarding creation of man-made faults by

manipulating the exchange equipments and also by laying unauthorised cables with ulterior motive of making his service indispensable with a view to gain pecuniary gains. These two charges are independent and therefore even though charge No.2 has been found not established on the basis of evidence, charge No.1 has been held to be established and rightly.

11. The last leg of the argument is that the charge against Shri Balan has been made use of to establish the charge against the applicant. A careful scrutiny of the evidence and the report of the enquiry officer, shows that nothing exterior to the evidence recorded and admitted at the enquiry, has been even referred to by the enquiry authority in his report. Therefore, the argument that charge found against Sri Balan have been found against the applicant, has no basis at all.

12. In the light of what is discussed above, we find no merit in this Original Application. We, therefore, dismiss the application, leaving the parties to bear their costs.

Dated the 14th August, 1998.



P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN