

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 102 of 2002

Monday, this the 21st day of June, 2004

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. K.N. Raman,
Chowkidar (removed from service),
Vadakkakuttil House,
Peechi Post, Thrissur District.Applicant

[By Advocate Mr. P. Ramakrishnan]

Versus

1. The Director General of Meteorology
(Appellate Authority), Office of the
Director General of Meteorology,
India Meteorology Department,
Mansom Bhavan, Lodi Road, New Delhi-110003
2. The Director & Enquiring Authority,
Regional Meteorological Centre,
College Road, Chennai-6
3. The Deputy Director General of Meteorology,
Regional Meteorological Centre,
College Road, Chennai-6
4. The Assistant Meteorologist (Administration),
Appointing Authority, Regional Meteorological
Centre, College Road, Chennai.
5. The Director, Meteorological Centre,
Observatory Centre, Thiruvananthapuram.
6. The Director of Employment Exchange,
Ministry of Labour (DGE-T),
Group D Surplus Cell, New Delhi-110002
7. The Regional Director, National Savings,
Government of India, P.B.No.97, TC 28/1589,
Geethanjali, Chettikulangara,
Trivandrum-695001
8. Union of India
Ministry of Meteorological Department,
represented by its Secretary,
Govt. of India, New Delhi.Respondents

[By Advocate Mr Shafik MA for Mrs S Chithra, ACGSC]

The application having been heard on 21-6-2004, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, an Ex-Chowkidar of the Office of the 5th respondent, has filed this application challenging the memorandum of charges dated 21-7-1998 (Annexure A-18), the report of enquiry (Annexure A-20), Annexure A-23 order dated 29-7-1999 of the 3rd respondent imposing on the applicant a penalty of removal from service and Annexure A-24 order dated 30-11-1999 by which the period of absence of the applicant was treated as wilful absence constituting a break in service as also Annexure A-27 order dated 16-1-2001 of the 1st respondent dismissing the applicant's appeal and confirming the penalty. The applicant was proceeded on the basis of Annexure A-18 memorandum of charges for the misconduct of unauthorized absence from duty as also for disobeyal of orders of the competent authority to report for duties and after an ex-parte enquiry the penalty of removal from service was imposed on him. His appeal was unsuccessful. Hence, the applicant has filed this application challenging the above said orders.

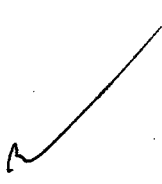
2. It is alleged in the application that the enquiry has not been held in accordance with the rules, that the principles of natural justice have been violated in this case, that the applicant had preferred an appeal raising various grounds, that the appellate authority has failed to discharge his duty by considering all the grounds and passing a speaking order and that a personal hearing as requested by the applicant had not been afforded to him and therefore under these reasons the impugned orders are unsustainable.

3. Respondents resist the claim of the applicant. They contend that the applicant has been awarded the penalty of removal from service after his misconduct has been established

in a duly held enquiry and that the disciplinary authority's order as also the appellate order being well reasoned do not call for any interference.

4. We have gone through the pleadings and materials placed on record and have heard Shri P.Ramakrishnan, learned counsel of the applicant and Shri Shafik MA, who appeared on behalf of the counsel of the respondents.

5. Shri Ramakrishnan, learned counsel of the applicant took us through the proceedings of the enquiry as reflected in the enquiry report as also the appeal memorandum (Annexure A-26) and argued that the orders of the disciplinary authority as also of the appellate authority are bereft of application of mind. He argued that the appellate authority has not adverted to the various contentions raised in the appeal memorandum. For instance he referred to the contention that the exparte enquiry was not held as required under rules observing all the gamuts of a regular interview and that the applicant was neither questioned as provided in the rules after recording evidence in support of the charges nor was he called upon to enter in his defence and argued that the appellate authority's order does not disclose application of mind on these points. He submitted in the facts and circumstances of the case it would be appropriate if the appellate authority's order is set aside and the authority is directed to consider the appeal in detail on merits after giving the applicant an opportunity of personal hearing and dispose it of with a speaking order. He pleads that this course may be adopted. He also pleaded that the applicant may be permitted to submit to the appellate authority a supplementary appeal.



6. We are of the view that the submission by the learned counsel is reasonable. We have gone through the appellate order. Although the order is fairly long, it does not disclose a proper application of mind to the various grounds raised in the appeal memorandum. The grounds raised by the applicant have not been considered separately and discussed or decided. Since the penalty imposed is removal from service, it was necessary that the appellate authority should have considered the contentions in detail and passed a well reasoned order. We also find that in this case a personal hearing should have been given to the applicant.

7. In the light of what is stated above, we set aside Annexure A-27 order of the appellate authority and remit the matter to the appellate authority, the 1st respondent. The applicant may file a supplementary appeal within three weeks from today. The 1st respondent, appellate authority, is directed to consider Annexure A-26 appeal memorandum along with the supplementary appeal memorandum that the applicant would file within three weeks and dispose it of with a reasoned order after giving the applicant an opportunity of personal hearing, within a period of four months from the date of receipt of the supplementary appeal.

8. The Original Application is disposed of as above. No order as to costs.

Monday, this the 21st day of June, 2004.

H-P-D

H.P. DAS
ADMINISTRATIVE MEMBER

A.V. Haridasan

A.V. HARIDASAN
VICE CHAIRMAN

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