

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.4/98

Monday, this the 18th day of September, 2000.

CORAM:

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

V.K.Satheesan,
Junior Telecom Officer,
Pandikad,
Malappuram District.

-Applicant

By Advocate Mr MR Rajendran Nair

Vs

1. Deputy General Manager,
Telecom,
Office of the General Manager,
Telecom,
Calicut.
2. General Manager,
Telecom,
Calicut.
3. Chief General Manager,
Telecom, Kerala Circle,
Trivandrum.
4. Union of India represented by
Secretary to Government of India,
Ministry of Communications,
New Delhi.

- Respondents


By Advocate Mr Govindh K Bharathan, SCGSC

The application having been heard on 18.9.2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A-1, A-2 and A-3 and to restore the monetary benefits, if any, lost to him by virtue of the said order.

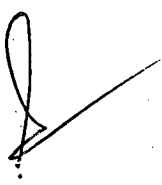


2. Applicant is working as Junior Telecom Officer. He was served with a charge memo. Enquiry was conducted. The Disciplinary Authority found him guilty and imposed the penalty of reducing his pay by two stages for a period of two years. Appellate Authority confirmed the penalty and rejected the appeal. Revisional Authority reduced the penalty of reduction by two stages for a period of one year.

3. The first ground raised is that there is absolutely no legal evidence against the applicant to substantiate the findings against him. The second ground raised is that he was denied a reasonable opportunity to defend his case. The third one is that there is serious procedural irregularity in the present case. The last ground raised is that the appellate and revisional authority never considered the question of proportionality in its proper perspective. The punishment should commensurate with the gravity of the charges in the present case.

4. Respondents resist the O.A. contending that the finding is supported by evidence, that there was denial of reasonable opportunity has no substance and that there is also no substance in saying that the punishment awarded is not in proportionate to the gravity of the offence.

5. As far as the last ground that punishment should commensurate with the gravity of the charges proved, it is need less to say that unless the punishment awarded shocking



the conscience of the Tribunal, the Tribunal will not interfere with the punishment awarded by the authorities concerned. The punishment in this case awarded to the applicant originally was reduction by two stages for two years. That was modified by the revisional authority to one year. The charge which according to the respondents proved in this case is that the applicant while functioning as JTO, Perinthalmanna Telephone Exchange, was found having consumed intoxicating drinks in his office on the 14th of April, 1992. It cannot be said that the penalty imposed in this case is shocking the conscience of the Tribunal.

6. Though the applicant says that there is serious procedural irregularity in the present case, no procedural irregularity committed in the enquiry was sharply brought to our notice focussing any particular instance or instances. A mere averment that there is serious procedure irregularity is not sufficient, but the irregularity should be brought out. Nothing is done.

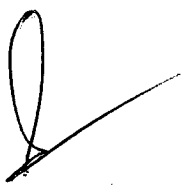
7. As far as the other ground that denial of reasonable opportunity to defend the case raised by the applicant, apart from the bald statement that reasonable opportunity was denied, nothing is specifically stated.

8. The learned appearing for the applicant submitted that this is a case of no evidence. As far as the disciplinary proceedings are concerned, it is not necessary that the



evidence should be as strong as in a criminal case. If there is some evidence, it is suffice. The argument advanced by the learned counsel for the applicant is that the most important witness in the enquiry was one C.Mohammed, PW-11 and the said Mohammed has got a hostility against the applicant. If that is the fact, the applicant could have very well brought it in the cross examination as admittedly the applicant cross examined the said witness. When the applicant is alleging that the said witness has got a hostility towards him, it is upto to him to prove it. This aspect has been considered by the disciplinary authority, by the appellate authority and also by the revisional authority. The Tribunal will not re-appreciate the evidence. If it is a question of no evidence, it is true that the Tribunal has to interfere. No evidence means not total want of evidence but on the evidence available whether a reasonable man would arrive at the conclusion that is arrived at. On going through the materials available in this case, we are of the view that there is some material and it is not a case that no reasonable man would come to the particular conclusion of finding the applicant guilty of the first charge.

9. The learned counsel Mr CS Ramanathan, representing the Senior Central Government Standing Counsel submitted that the authorities concerned have taken every piece of evidence into consideration that this is not a case of no evidence and the finding of the disciplinary authority, the appellate authority



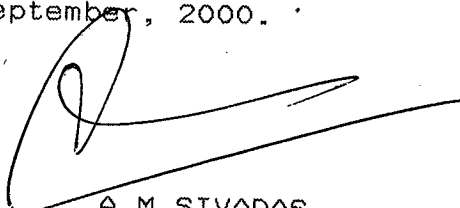
and the revisional authority are not to be interfered with since there is absolutely no ground for interference.

10. With the materials available, we are not inclined to accept the plea of the applicant that this is a case of no evidence.

11. We do not find any ground to quash the impugned orders and grant the other relief sought by the applicant. Accordingly the application is dismissed. No costs.

Dated, the 18th of September, 2000.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

trs

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-1: True copy of the order No.Disc/DGM/93-94/27 dated 15.12.94 issued by the 1st respondent.
2. A-2: True copy of the order No.Disc/DGM/92-95/30 dated 17.4.95 issued by the 2nd respondent.
3. A-3: True copy of the order No.Disc/DGM/92-94/I/32 dated 6.1.97 issued by the 3rd respondent.