

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

...

O.A. 394/93

Friday, this the 11th day of February, 1994

Shri N.Dharmadan, Member (Judicial)

Shri S.Kasipandian, Member (Administrative)

Applicant

Shri R.Soorianarayana Iyer,  
Junior Telecommunications Officer,  
Moovattupuzha (now dismissed),  
Residing at 'Hill View',  
Vazhathope, Idukki Colony P.O.,  
Idukki Dt.

( Applicant in person )

Versus

Respondents:

1. Union of India rep. by the  
Secretary, Telecommunications,  
Central Secretariat, New Delhi.
2. The General Manager, Telecom,  
Ernakulam, Cochin.
3. The Deputy General Manager,  
Telecom, Cochin.
4. The Divisional Engineer, Telecom,  
Thodupuzha.

By Advocate Shri C.N.Radhakrishnan, ACGSC

O R D E R

S.Kasipandian, AM

The applicant in this case was working as a Junior Telecommunications Officer and he was chargesheeted under Rule 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (CCA) Rules, 1965. There were 7 charges levelled against him for having submitted bills of fraudulent nature for the purpose of embezzling government money. An enquiry into the charges was duly conducted by an Enquiry Officer and on the basis of the enquiry report the applicant was dismissed from service by Annexure-A4 order. The applicant went on appeal and the penalty was confirmed by the appellate authority by his order dated 30.11.90. The

82

applicant challenged these orders by filing OA 1284/91 before this Tribunal and obtained a judgement, the operative portion of which reads as follows:

"Having regard to the facts and circumstances of the case we set aside both orders Annexure-15 and Ann.17 passed by the Appellate authority and send back the case to the Appellate authority for a de novo consideration of the appeal in the light of the points raised by the applicant in the appeal and original application and dispose of the same in accordance with law. This shall be done within a period of three months from the receipt of a copy of this order."

Ann.15 and Ann.17 referred to above were the penalty order and the appellate order respectively.

2. In pursuance of the directions of this Tribunal in the judgement referred to above the appellate authority has considered the case de novo and has passed an elaborate order as in Ann.A11 dated 27.11.92 covering all the points raised by the applicant before the Tribunal in OA 1284/91.

3. The applicant has again come up before the Tribunal challenging the <sup>8</sup>~~very~~ order of the appellate authority on the grounds that he was not allowed to engage a legal practitioner at the time of enquiry; the enquiry officer used the services of a stenographer while recording evidence; he was not supplied with the photostat copies of all the 39 documents asked for by him and that he was not given adequate opportunity to examine the documentary evidence and to examine government witnesses.

4. The applicant argued the case before the Tribunal in person.

5. The learned counsel for the respondents argued that the appellate authority took up a denovo consideration of the appeal filed by the applicant as ordered by this Tribunal in OA 1284/91. The applicant was also given a personal hearing by the appellate authority. As per Rule 14(8)(a) of CCS (CCA) Rules 1965 a delinquent officer is not entitled to engage a legal practitioner to present his case on his behalf before the enquiring authority unless the presenting officer appointed by

the disciplinary authority himself is a legal practitioner. With regard to the objection made by the applicant regarding the utilisation of stenographic assistance by the enquiring officer, the learned counsel for respondents mentioned that there is no rule to debar the enquiring officer from availing himself of the stenographic assistance for which he is entitled <sup>to</sup> in his official capacity. Regarding the supply of photostat copies of 39 documents, the learned counsel for respondents submitted that the applicant was requested to verify the authenticity of the photostat copies with the originals available with the enquiring officer but he declined to do so. He mentioned that "the applicant deliberately refused to receive photostat copies of 39 documents and to acknowledge the proceedings of that particular day with a view to arguing that he could not effectively cross-examine the government witnesses due to the non-perusal of documents." The learned counsel for respondents also mentioned that it has been the practice of the applicant to ask for non-existent documents to confuse the disciplinary authority <sup>and</sup> ~~xxx~~ to delay the enquiry. With regard to the contention of the applicant that he was not given enough opportunity to file written briefs, the learned counsel for the respondents mentioned that such an opportunity was given to him, but he did not submit the brief in time. He also pointed out that the applicant did not co-operate with the enquiry as can be seen from the enquiry proceedings, walking out from the enquiry proceedings several times.

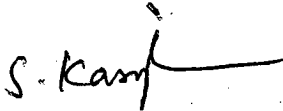
6. After having heard the applicant and the learned counsel for the respondents, it is seen that the applicant was given adequate opportunity by the respondents at every stage of the enquiry. In pursuance of the directions of the Tribunal in OA 1284/91 the appellate authority also gave a personal


*h*

hearing to the applicant at the time of the de novo enquiry. It is seen from the beginning that the applicant has been putting forward technical and procedural objections which are of a peripheral nature without substantially rebutting the main charges levelled against him. The order passed by the appellate authority in Ann.A11 is a well-reasoned order covering all the relevant points raised by the applicant before the Tribunal. We therefore find no justification for interfering with the order passed by the appellate authority in Ann.A11. The application therefore deserves to be dismissed as devoid of merit and we do so. If, however, the applicant wants to urge the grounds of mercy, it is open to the applicant to approach the Telecom Commission with a revision petition which statutory remedy he has not so far exhausted.

7. With the above observations the OA is dismissed.

There is no order as to costs.

  
(S. Kasipandian)  
Member (A)

 11.2.94.  
(N. Dharmadan)  
Member (J)

vm