

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

XXXXXXXXXXXXXXXXXXXX

O.A. No. 104/87 & 109/87

198

XXXXXXXXXX

DATE OF DECISION 13-4-1988

Shri K.M. Singh Thakur & V.D. Bhadlekar. Petitioner

Applicants in persons. Advocate for the Petitioner(s)

Versus

Union of India, through the Secretary, Respondent
Govt. of India, Commerce Min. New Delhi & 2 OTHERS.

Shri V.G. Rege. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. J.G. RAJADHYAKSHA, MEMBER(A)

The Hon'ble Mr. M.B. MUJUMDAR, MEMBER(J)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

O.A.No.104/87 & O.A.No.109/87

Shri Kiratpal Mangroo Singh Thakur,
Line/Man, Assistant Engineer Cables,
Shivajinagar,
Poona-411 005.

.. Applicant in
O.A. No. 104/87

Shri Vishwas Dnyadev Bhadlekar,
Line/Man, Assistant Engineer Telex,
Shivajinagar,
Poona-411 005.

.. Applicant in
O.A. No. 109/87

vs.

1. Union of India, through the
Secretary, Government of India,
Commerce Ministry,
NEW DELHI.

2. Divisional Engineer,
Telephones/Telex,
Pune-411 005.

3. Assistant Telephone Engineer,
Cables,
Shivajinagar,
Pune-411 005.

.. Respondents in
O.A. No.104/87

3. Assistant Telephone Engineer,
Telex,
Shivajinagar,
Pune-411 005.

.. Respondents in
O.A. No.109/87.

Comra: Hon'ble Member(A) Shri J.G. Rajadhyaksha.

Hon'ble Member(J) Shri M.B. Mujumdar.

Appearances :

1. Applicant in persons.
2. Shri V.G. Rege, Advocate
for the Respondents.

ORAL JUDGMENT

DATE: 13/4/1988.

¶ PER: Shri M.B. Mujumdar, Member(J) ¶

By this judgment we are disposing of O.A. No.104/87 filed by
Shri K.M. Singh Thakur and O.A. No.109/87 filed by Shri V.D. Bhadlekar.

2. Both the applicants were working as linesmen in Pune Telephones
though under different Divisions. On 9.2.1980, both were found tampering

with the departmental coin collection box of the Public Call Office situated in the Kirkee Post Office Compound. Separate charges were framed against them.

3. Shri G.D. Vaidya, Sub Divisional Officer was appointed as enquiry officer in both the cases. Both the applicants pleaded quality to the charges and hence the enquiry officer submitted separate reports holding them guilty, to their respective disciplinary authorities.

4. Shri G.V.S.K.V. Prasad Rao, Assistant Engineer Cable, Shivajinagar, Pune, who was disciplinary authority of Shri K.M. Singh Thakur, by the order dated 26-11-1987, accepted the findings of enquiry officer and imposed on him the penalty of reduction to the lower stage at Rs.210/- in the time scale of Rs.210-270 for a period of three years w.e.f. 12-2-1980, without any effect on further increments.

5. So far as Shri V.D. Bhadlekar was concerned the disciplinary authority was one Shri A.N. Kulkarni, Sub Divisional Officer (Phone) South Shivajinagar. He also imposed the same penalty upon Shri Bhadlekar by his order of the same date namely 26-11-1983.

6. The applicants did not prefer any appeal against these orders. However the authorities found it difficult to implement the orders of penalty as they were given retrospective effect from 12-2-1980. Hence disciplinary authority suo-moto revised the previous orders of penalty of dt. 26-11-1983. According to the revised orders, penalty was made effective from the date of the order.

7. Both the applicants had preferred appeals against the revised orders of penalty. The appeal preferred by Shri K.M. Singh Thakur was decided by the appellate authority, namely, Divisional Engineer Phones, (External), Shivajinagar on 16-4-1987. He confirmed the penalty but made it effective for one year. The appeal preferred by Shri V.D. Bhadlekar was decided by Divisional Engineer Phone (Trunk/Telex) as 16-7-1986. He, however, confirmed the entire order of penalty without reducing the period of penalty.

8. We have heard the applicants in persons and we have also considered the written arguments brought by them. Mr. V.G. Rege, learned advocate for the respondents, took us through the relevant records.

9. The only point that was urged before us by the applicants was that the disciplinary authorities had no power to revise their previous orders of penalty. We are not inclined to accept this submission. The revision of the order had become necessary because it was found difficult to implement the previous orders of penalty which were given retrospective effect from 12-2-1980 as the period of penalty was getting over much before the issue of the order of penalty. If the authorities would have impl implemented these orders some substantial amount would have been required to be recovered from the applicants. Moreover imposition of ^{such a} penalty with retrospective effect was not legal and proper. Hence we do not find that the Disciplinary Authorities have committed any illegality or impropriety the revising orders of penalty.

10. However, we are unable to understand as to why the appellate authorities have discriminated between the applicants so far as the period of penalty is concerned. Both the applicants together were found tampering with the coin collection box of the Public Call Office in Kirkee Post Office Compound. Charges against the applicants were the same. Both the applicants had pleaded guilty. Both were working as linesmen. Hence in our opinion the appellate authority in the case of Shri Bhadlekar should have made the penalty effective for one year only, as was done in the case of Shri Thakur. Hence we propose to remove this anomaly only.

11. In the result we pass the following order :

- (i) O.A. No. 104/87 filed by Shri K.M. Singh Thakur is dismissed.
- (ii) However O.A. No. 109/87 filed by Shri V.D. Bhadlekar is partly allowed. The penalty of reduction to lower stage from Rs.246/- to Rs.210/- in the scale of Rs.210/- to 270/- is confirmed but it should be for a period of one year only from the date of the

original order of penalty i.e. w.e.f. 26-11-1983. To the same extent the order passed by the appellate authority is also modified. Consequential benefits should be extended to him according to rules.

(iii) In each case parties should bear their own costs.

(S.G. RAJADHYAKSHA)
MEMBER(A)

(M.B. MUJUMBAR)
MEMBER(J)