

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

NEW BOMBAY BENCH, NEW BOMBAY 4 0 0 6 1 4.

O.A.No. 607/87.

Shri Pisaram Natthuji Petkar,
S/o Natthuji Nanaji Petkar,
Jr. Accounts Officer,
O/o Divl. Engineer,
Telegraphs,
Amravati 444 601.

....Applicant.

vs.

1. Divisional Engineer,
Telegraphs,
Amravati 444 601.

2. General Manager,
Telecommunications,
Maharashtra Circle,
Bombay 400 001.

....Respondents.

CORAM: Hon'ble Member (A) Shri J.G. Rajadhyaksha,
Hon'ble Member (J) Shri M.B. Mujumdar.

Appearances:

Shri G.K. Masand,
Advocate for applicant.

Shri P.M. Pradhan,
Advocate for respondents.

ORAL JUDGMENT:

Dated: 14.4.1988.

(PER M.B. MUJUMDAR, Member (J))

This application is filed by the applicant Shri P.N. Petkar, challenging his suspension. Prior to 26.9.1986, the applicant was working as Junior Accounts Officer in the Office of the Divisional Engineer, Telegraphs at Amravati. By an order passed on that date, he was posted as Junior Accounts Officer (Telegraph

Revenue Accounts) at Amravati itself. On 27.9.1986, he was asked to explain as to why he had not checked and attested the entries made in the Retrenchment Register re: advances given to four persons mentioned therein, before submitting the register to the higher authorities. The applicant replied to that notice on 1.10.1986. By an order dated 8.10.1986, he was suspended with immediate effect. The applicant is challenging that order in this case. The applicant had preferred an appeal against that order on 27.1.1987, but it was rejected on 11.2.1987. Along with memorandum dated 24.2.1987, a statement of six charges was served on him. He replied to the charges on 13.3.1987. One of the objections taken by him was that the Chief Accounts Officer who had issued the memorandum had no authority to issue the same. The Chief Accounts Officer accepted that objection and by order dated 27.4.1987, dropped the above memorandum of charges dated 24.2.1987.

2. Thereafter, the General Manager, Telecom, Maharashtra Circle, Bombay, served a fresh memorandum dated 28.4.1987 on the applicant along with a statement of six charges. The charges were the same as the previous charges. The applicant has replied to that memorandum on 15.5.1987. Inquiry Officer is also appointed and enquiry is still going on. In this application, the applicant has mainly challenged the continuance of his suspension after dropping the first memorandum and charges dated 27.4.1987.

3. We have heard Mr. G.K. Masand, learned advocate for the applicant and Mr. P.M. Pradhan, counsel for the respondents. In support of his contention, Mr. Masand

relied on a judgment of the Principal Bench of this Tribunal in MOHAN LAL SHARMA v. CHIEF MINING ADVISER (LOCO CELL) RAILWAY BOARD, DHANBAD AND ANOTHER, 1987 (2) SLJ (CAT) 482. In that case, the first charge sheet was dropped as the authority which had issued it was not competent to issue it. Though the second charge sheet containing some additional charges was served upon the applicant, the Principal Bench of the Tribunal has held in para 11:

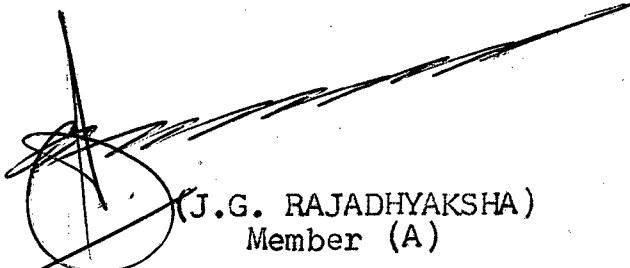
"The suspension order which was made in March, 1964, was not revoked even after the first charge sheet was found to have been issued by an authority which was not competent to issue the same. No fresh order of suspension was made after the earlier charge sheet was dropped. Once the Disciplinary Proceedings were dropped and a fresh charge sheet was issued, the suspension order made earlier could not stand. Consequently, the suspension order also cannot be sustained."

We are of the view that this ratio helps the applicant and we shall have to quash the suspension order in question.

4. Mr. Pradhan, counsel for the respondents, tried to distinguish the facts of this application and the facts of the case before the Principal Bench. It is true that in this case before the Principal Bench, the second charge sheet contained some additional charges. But after going through the judgement, we do not think that the suspension order was revoked because the second charge sheet contained some more charges. Mr. Pradhan also relied on the provisions

of Rules 10(3) & (4) of Central Civil Service (Classification, Control & Appeal) Rules, 1965. But, in our opinion, the provisions in these rules will apply when the penalty of removal, dismissal etc., is set aside in appeal, review etc., either by the departmental authority or by the court. These provisions will not apply to the facts of this case.

5. We, therefore, quash and set aside the impugned suspension order dated 8.10.1986. There would, however, be no order as to costs.


(J.G. RAJADHYAKSHA)
Member (A)


(M.B. MUJUMDAR)
Member (J)

dms.