

to maintain absolute integrity and acted in a manner unbecoming of a Government Servant and thus violated the provision of Sub-rule (i) and (iii) of Rule 3(1) read with rule 13 of CCS(Conduct)Rules,1964.

ARTICLE - II

THAT the said Shri V.N.Kari, J.E. St. No 15531, while functioning as Junior Engineer, Bombay Telephones, Powai Telephone Exchange, during the aforesaid period colluded with S/Shri A.S.Upasini, P.I., St No 1156 and Shri M.R.Patil, J.E., St No.17889, to demand and accept consideration for showing undue favour Shri Paleja, Partner of M/s.Ramesh & Company, Bhandup, for providing an unauthorised external extension to Tel No 582019 and thus contravened the provision of Sub-rule (i) & (ii) or Rule 3(2) of CCS (Conduct)Rules,1964."

4. The applicant has filed the present application on 14-7-1988 and his prayer in para 9 is for quashing the charges with a direction to the respondents that no further action be taken on the basis of these charges.

5. The applicant's grievance is that because of the pendency of the departmental proceedings he has not <sup>been</sup> allowed to cross the Efficiency Bar, he has not <sup>been</sup> given the increments and promotions and hence he requests that the charges be quashed.

6. Mr.Masurkar, advocate for the respondents stated that one Mr.G.Raghavan, Divisional Engineer, is appointed as Inquiry Officer. A new Presenting Officer is also appointed. He fairly submitted that the respondents would hereafter complete the enquiry as expeditiously as possible and this Tribunal may lay down some period for completing the enquiry.

7. It is true that practically the same charges are framed against the applicant and other two employees. It is also true that the enquiry is pending since long. Still in view of the seriousness of the charges we do not think it is proper to quash the charges framed against the applicant. It may be noted that the other two employees viz. Shri Upasini and Shri Patil have not approached this Tribunal. Charges are mainly against the applicant.

8. Mr. Atre has relied on two judgments. The first is G. Ramachandran v. Senior Superintendent of Post Offices, 1987(3)ATC 629. It is the judgment of the Madras Bench of this Tribunal. The charge in that case was for submitting three applications for reimbursement of medical charges amounting to Rs.188.72 ~~which was~~ which was stated to be apparently not genuine. The delinquent in that case was served with the charges in 1971. However, enquiry was not started for about 13 years. Documents were not supplied to the delinquent and even the number of witnesses who were available was not certain. It was on these circumstances the Madras Bench has held that the charge sheet was vitiated. The ratio of that case will not apply to the fact of the case which is before us. In the present case the ~~charge sheets~~ previous two ~~charge~~ sheets were required to be cancelled because the contentions raised by the Defence Asstt. regarding the procedure which was followed. Moreover the charges in the present case are very serious. The second case relied by Mr. Atre is Tarlochan Singh v. Union of India & Others, 1986 ATR 405. It is a judgment of the Delhi Bench of the Tribunal. In that case the petitioner Shri Tarlochan Singh had moved the High Court of Delhi in September, 1976 praying that the order

tdt.10-10-1975 limiting his pay during the period of suspension from 23-11-1962 to 23-2-1969 to the amount of subsistence allowance already paid to him and treating the period as duty only for the purpose of pension should be quashed along with the appellate order rejecting his appeal. As there was incidental delay of 5½ years in disposing of the disciplinary proceedings, for no fault of the delinquent, the order was quashed by the Tribunal. Here in the present case the enquiry against the applicant is still going on. We think that the purpose would be served if we direct the respondents to complete the enquiry, as far as possible within a certain period.

9. Section 20 of the Administrative Tribunals Act lays down that a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. The enquiry against the applicant and two other employees is still going on. If the result of the enquiry goes against the applicant and the Disciplinary Authority awards any penalty to him he can prefer an appeal to the Appellate Authority and after exhausting all the remedies he can come to us. Hence in our view the present application which is filed for quashing the charges framed against the applicant is premature.

10. We, therefore, reject this application summarily under Section 19(3) of the Administrative Tribunals Act, 1985 with no order as to costs.

11. We, however, direct that the respondents shall as far as possible complete the departmental enquiry pending against the applicant and two others within a period of 4 months from the date of receipt of a copy of this order. Of course we assume that the applicant and two others will cooperate with the authorities in completing the enquiry.



(P.S.CHAUDHURI)  
Member(A)

(M.B.MOJUNDAR)  
Member(J)

25/89

fixed on 19.4.89

14/4

Dated: 19/4/89

Present Mr. S.R. Atre, learned advocate for the applicant. None present for the respondents.

Adjourned to 31/5/89 for orders on C.P. No. 25/89.

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(M.Y. PRIOLEKAR) (M. ATRE)  
MCA MCA

(M. ATRE)  
MCA MCA

Dated: 31/5/89:

Heard Mr. S.R. Atre, learned advocate for the applicant. The applicant has filed Contempt Petition No. 25/89. But Mr. Atre requests for withdrawal of Contempt Petition. We grant that request and dispose of the Contempt Petition as withdrawn. The applicant may file Contempt Petition again, if he so wants. Liberty to that effect is given to the applicant. Contempt Petition No. 25/89 is disposed of as withdrawn.

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(M.Y. PRIOLEKAR) (M. ATRE)  
MCA MCA