

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

(8)

NEW BOMBAY BENCH

O.A. No. 832/88 &amp;

198

Exxxxxx No. OA 284/90

DATE OF DECISION

15-11-91

Shri M.L.M.Suleman PetitionerMr. D.B. Walthare Advocate for the Petitioner(s)

Versus

Ministry of Communication RespondentMr. Ramesh Darda Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. JUSTICE U.C. SRIVASTAVA, Vice-Chairman

The Hon'ble Mr. M.Y. PRIOLKAR, MEMBER(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH  
CAMP AT NAGPUR

ORIGINAL APPLICATION NO: 832/88 &  
OA : 284/90

Mr. Mohd. Luqman Mohd. Suleman  
Telephone Operator,  
Telephone Exchange, Khamgaon  
Dist. Buldhana

.... applicant

V/s

The Union of India  
and ors.

CORAM : HON'BLE MR.JUSTICE U.C.SRIVASTAVA, Vice-Chairman  
HON'BLE MEMBER MR.M.Y.PRIOLKAR, MEMBER (A)

Appearance

Mr. D.B. Walthare, Adv,  
for the applicant

Mr. Ramesh Darda, Adv  
for the respondents

JUDGEMENT

DATED: 18-11-91

(PER : U.C.SRIVASTAVA, Vice-Chairman)

In this application, the applicant who is a Telephone Operator in the office of Telephone Exchange, Khamgaon, District Buldhana has claimed apart from claiming relief of drawing of annual increment with effect from 1.1.1973 as extended to Shri C.A. Shaikh, Telephone Operator, Telephone Exchange, Khamgaon, who was earlier junior to him in service has also challenged the punishment order by which his one increment for a period of two years, was withheld. Subsequently, as during the pendency of this case his appeal was allowed and the punishment has been modified and the period was reduced to one year only. He has amended the application and was claimed relief against the same also. Faced with this mis-joinder two causes of

of action at the time of argument learned Counsel did not press the plea apparently view of the fact decided by us today in which we rejected similar plea raised another employee claiming stepping up of increment as extended to Shri Shaikh. The increment granted to Shri Shaikh was withdrawn by the department and recovery has been made from him. The other application was dismissed and the applicant of this case has confined his relief only against to the punishment order. A complaint was made by a subscriber against the applicant regarding his misbehaviour and false information on a date in the year 1986 when he was on duty as a result of which his immediate superior Jr.Engineer(Trunks) issued a memo of warning to behave properly and politely with the customers in future. On the basis of complaint some 11 months thereafter a chargesheet was issued to the applicant. It was cancelled due to correctness in the date even vide order dated 26.12.1987 and fresh chargesheet was issued on 28th December 1987. The applicant submitted his reply to the said Chargesheet denying the allegation. It was thereafter applicant was visited with the punishment order, against which he filed departmental appeal. The applicant has challenged the inquiry proceeding and the punishment order on various ground. On behalf of the applicant it has been contended that once the applicant was warned no further action could not been taken. As a matter of fact, the applicant was warned by his immediate Boss and not by the Disciplinary Authority, which was dealing with the complaint and making enquiries decided to issue the chargesheet. It was next contended that the chargesheet having been cancelled once no fresh chargesheet could have been issued. The chargesheet was cancelled because of the mistake in the dates and after correction a fresh chargesheet was issued. It was not a case of new chargesheet or giving or drafting of the charges and again levelling very same charges. Learned

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counsel next contended that no opportunity was given to the applicant and he was not allowed to cross-examine the witnesses and the complaint was also not made available for cross-examination and as such inquiry was vitiated. As a matter of fact for minor penalty rule does not provide for fulfledged inquiry and inquiry can be conducted only if the Disciplinary Authority decides to do so. In the instant case the Disciplinary authority did not take any decision to hold the fulfledged inquiry. The contention of the learned counsel, that he should have taken such decision is without any substance as it was not obligatory on him to do so and that in the circumstances and discretion cannot be said to be arbitrary which may call for any interference. The disciplinary Authority after satisfying himself that the applicant mis-behaved and talked in a very rude manner and gave an incorrect information to the applicant, that the call was not pending, which ultimately was found to be still pending awarded the punishment. The complainant also complained that after the said behaviour the applicant even blocked his telephone and he could contact higher officer with great difficulty. The Disciplinary Authority was not satisfied by the denials and pleas submission of the applicant and decided to award punishment. A Appellate Authority took a lenient view and reduced the penalty. The contention of the applicant that, it was against the rules does not stand in scrutiny. The charges against him were based on the complaint and was if substantialy they were found to be correct he could

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have been punished, in instant case his minimum punishment which could be given has been awarded, We do not find any ground to interfere or otherwise no interference in the punishment to given is called for and as application deserve to be dismissed as hereby dismissed with no order as to the costs.

  
(M.Y.PRIOLKAR)  
MEMBER (A)

  
(U.C.SRIVASTAVA)  
Vice-Chairman