

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 23rd JANUARY, 1987

Present : Hon'ble Shri Ch. Ramakrishna Rao - Member (J)

Hon'ble Shri P. Srinivasan - Member (A)

APPLICATION No. 469/1986

K. Satyanarayana
Advocate
H.No. 7181, Yellapur Oni
Hubli 580 028

- Applicant

v

The Divisional Engineer, Telegraphs,
19/B, Hindustan Complex
B.V.K. Iyengar Road,
Bangalore 560 009

- Respondent

(Sri M.S.Padmarajaiah, Senior C.G.S.C.)

This application came up for hearing before
this tribunal and the Hon'ble Member (J), Sri
Ch. Ramakrishna Rao to-day made the following

O R D E R

The prayer of the applicant in this application
is that the order dated 10.4.1985 (Annexure 'D') passed
by the Divisional Engineer, Telegraphs, Bangalore
(Respondent) imposing on him the penalty of removing
him from service be set aside since the proceedings
under the CCS (CC & A) Rules 1965 ('Rules') on the basis
of which the said order was passed is not in conformity
with the provisions of the Rules, and the order dated
12.9.1985 passed by the Director, Telecom, Bangalore
Area, confirming the aforesaid order in appeal was
illegal. The facts giving rise to the application,

briefly, are as follows.

2. A memorandum dated 25.7.11984 ('memo') was issued by the respondent to the applicant framing two charges against him. The charges are (i) that while functioning as a Telecom Office Assistant in the office of DET, Bangalore, the applicant violated the provisions of Rule 3(I)(ii)(iii) of the CCS (Conduct) Rules by failing to maintain devotion to duty, by being disrespectful to his Controlling Officers and by behaving in a manner most unbecoming of a Government servant; (ii) that the applicant, in a letter dated 4.6.1984 addressed to the Head of the Office, had demanded that an exclusive Group 'D' official be posted to the Section to which he is attached and he would stop working till such time somebody is provided to clean his table, and that he cast grave aspersions on the respondent and raised irrelevant objections without recording a note on the file as is normally done, by passing normal channels; that he addressed a letter dated 21.5.1984 to GMT, Bangalore by-passing normal channels and making derogatory remarks against the respondent, and thereby contravened rule 3(I)(iii) of the CCS (Conduct) Rules. An Enquiry Officer ('EO') was appointed by the respondent to enquire into the charges. The applicant requested the Director, Telecom to change the EO and also the venue of the enquiry but it was rejected. The representation made by him to GM Telecom in this behalf was also rejected. The applicant then

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addressed the GM Telecom in the matter. The EO, however, proceeded with the enquiry without awaiting orders on the representation. The applicant protested and left without participating in the enquiry. Thereafter the EO continued the disciplinary proceedings and submitted his report on the basis of which the applicant was removed from service (Annexure 'A'). The appeal preferred by the applicant against this order was also rejected. Aggrieved by these orders the applicant has filed this application.

3. The main submission of the applicant, who appeared in person, is that the EO erred in holding the proceedings when the representation of the applicant was pending before the GM Telecom; that the EO should not have held the enquiry on 4.1.85 and on 11.1.85 for the purpose of recording evidence of the departmental witnesses; that despite the applicant writing to the EO on 11.1.85 requesting him not to continue with the proceedings until his representation to the GM Telegraphs disposed of, the EO continued with the proceedings; that on 21.3.85 he addressed the EO seeking some clarifications and stating that after receipt of the same he would participate in the proceedings but the EO turned a deaf ear to the request and submitted his report to the respondent and that the respondent should not have acted on the same because of several deficiencies in the proceedings, procedural and otherwise vitiating the same. Shri M.S. Padmarajaiah, senior C.G.S.C. appearing for the respondent has refuted the contentions urged by the applicant.

64

4. After giving careful thought to the matter, we consider it unnecessary at this stage to examine the grounds urged by the applicant in as much as the appellate authority has not given any reasons for rejecting the appeal preferred by the applicant against the order passed by the ~~Rxxxx~~ respondent and it is, thus, not a 'speaking order'. In the decision, R.P. Bhatt V Union of India, the Supreme Court ~~of India~~ has ruled on 14.12.1982 thus :

"It is clear upon the terms of R.27(2) that the appellate authority is required to consider (1) whether the procedure laid down in the rules had been complied with; and if not, whether such non-compliance has resulted in violation of any of the provisions of the Constitution of India or in the failure of justice; (2) whether the findings of the disciplinary authority are warranted by the evidence on record; and (3) whether the penalty imposed is adequate, inadequate or severe, and pass orders confirming, enhancing, reducing or setting aside the penalty, or remit back the case to the authority which imposed or enhanced the penalty, etc."

The decision cited supra was referred to in a recent judgement of the Supreme Court in Ramachandra v Union of India AIR 1986 SC 1173 in which the legal position was reiterated as follows :

"We wish to emphasize that reasoned decisions by tribunals, such as the Railway Board in the present case, will promote public confidence in the administrative process. An objective consideration is possible only if the delinquent servant is heard and given a chance to satisfy the Authority regarding the final orders that may be passed on his appeal. Considerations of fair-play and justice also require that such a personal hearing should be given."

5. In the present case the order passed by the GM Telecom, Bangalore, acting as the appellate authority is not a speaking order as laid down in the dicta of the

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Supreme Court. We, therefore, set aside the appellate order dated 12-9-1985 of Director, Telecom Bangalore Area, Bangalore and direct the ^{Director, Telecom, area} ~~GM Telecom~~ Bangalore to dispose of the appeal de novo, after giving an opportunity to the applicant to present his case, if ~~xx~~ he so desires, by a reasoned speaking order within three months from the date of receipt of this order. The applicant is at liberty to come before this tribunal if he is not satisfied with that order.

6. In the result, the application is remitted back to the respondents. No order as to costs.

C. S. Hanumanth
Member (J) 23.1.87

R. S. Hanumanth
Member (A) 23/1/87