

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 23rd February, 1987

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

Hon'ble Sri L.H.A. Rego - Member (A)

APPLICATION No. 1255/86

J. Tiruvengadam
Section Supervisor
Office of the Divisional Engineer, Telephones
Mysore City, Mysore - Applicant
and (Sri Ranganath Jois, Advocate)

1. The Director of Telecommunications,
Bangalore Area, Bangalore 9
2. The Divisional Engineer, Telegraphs,
Bangalore 9
3. The General Manager, Telecommunications
Bangalore 9 - Respondents
(Sri M.S.Padmarajaiah, Senior C.G.S.C.)

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

O R D E R

This application was initially filed in the
High Court of Karnataka and subsequently transferred
to this Tribunal. The facts giving rise to this
application are, briefly, as follows. Disciplinary
proceedings were initiated by the Director of Telecommunications,
Bangalore Area, Bangalore ('R1'), against the applicant
by issuing a memorandum dated 22-2-1980. The charge
levelled against the applicant in the memorandum is

as follows : That the applicant while functioning as LSG Cler, Office of the Divisional Engineer, Telegraphs, Bangalore during November-December 1978, committed misconduct and failed to maintain absolute integrity and also acted in a manner unbecoming of a Government servant in as much as he has tried to defraud the Department by claiming false leave travel concession to the tune of Rs.3,742/- for the alleged journey performed by him along with his family consisting of his wife, two sons, one daughter and mother from Bangalore to New Delhi and back, based on a bogus voucher for Rs.5,457/- issued by the Proprietor, G.K.L. Tempo Hire Service, No. 10, Ebrahim Sahib Street, Bangalore-1. By producing the above voucher, he has tried to induce fraudulently the Department to pass his irregular L.T.C. claim. He has thereby contravened Rule 3(1)(i) and Rule 3(1)(iii) of the C.C.S. (Conduct) Rules, 1964.

2. The Enquiry Officer ('E0') in his report held that the charge was established and the Disciplinary Authority ('R1') passed an order dated 18.3.81 imposing a minor penalty of censure. The applicant preferred an appeal to the General Manager, Telecommunications, Bangalore ('R3'). The appellate authority enhanced the penalty of censure to withholding one increment for a period of two years without cumulative effect. Aggrieved by these orders, the applicant has filed this application.

3. Sri Ranganath Jois, learned counsel for the applicant, has raised several contentions which were refuted by Shri N. Basavaraju, learned counsel for the respondents. We do not, however, consider it necessary to examine all the contentions except one since in our view, the appellate authority, R3, has not considered the merits of the appeal but only confined himself to the quantum of penalty. The applicant, in his appeal, has raised contentions touching the merits of the case and it was, therefore, incumbent on the R3 to have considered the case on its merits. The Supreme Court, in a recent judgement, made the following observations in case Ram Chander Vs the Union of India (AIR 1986 SC 1173) which is reproduced below :

"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."

4. Applying the rationof the above observations of the Supreme Court, we direct R3 to pass a speaking order after affording an opportunity to the applicant to be heard in person within two months from the date of receipt of this order.

5. In the result the application is allowed subject to the above directions. No order as to costs.

Chander

Member (J)

Member (A) 25.2.1987