

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE.

Present: X Hon'ble Shri Ch. Ramakrishna Rao, Member (J)
and

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

DATED THIS THE TWENTY THIRD DAY OF OCTOBER, 1986.

Application No. 1668/86

Between:-

B. Ramadas Nayak,
Section Supervisor,
O/o Director,
Telecommunications,
Bangalore Area,
Bangalore.

....Applicant.

and

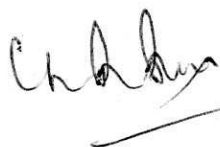
1. The Director of Telecommunications,
Bangalore Area,
Bangalore.
2. The Director Telecoms,
Hubli Area,
Hubli.
3. The General Manager Telecom,
Karnataka Circle,
Bangalore.

...Respondents.

having
The application ~~was~~/come up for hearing today before
this Court, and after hearing both counsel, the Member (J)
made the following:

ORDER

This is an application ~~wherein~~ in which the applicant has
prayed for setting aside the Memo dated 21.7.1986 (Annexure-B),



/2/

initiating
~~wherein~~ the disciplinary proceedings ~~were initiated~~ against him
~~the applicant~~ by the Respondent No.1 (R1). The facts giving
rise to the application are, briefly, as follows:

2. The applicant is a Section Supervisor in the
Office of R1. He was transferred from Bangalore to Hubli
on 6.3.1985, where he reported on 16.3.1985 and requested
for retransfer. At his request, he was retransferred from
Hubli to Bangalore by an order dated 17.5.1985. The
applicant submitted a bill for Travelling Allowance (TA)
on 19.9.1985 for the journey performed from Bangalore to
Hubli. The office of R1 called for family particulars
which the applicant furnished. The bill is still pending.
While so, the impugned Memo ~~was issued, wherein the~~
~~was issued, wherein the~~ charge
~~in the memo~~ is that he preferred 'bogus claims for trans-
porting his personal effects when he was transferred from
Bangalore to Hubli during March, 1985,' and by doing so,
'violated rule 3(1)(i) of the CCS(CCA) Rules, 1965! In
the statement of imputation of misconduct, it is stated
that the applicant preferred a claim for Rs. 450/- for
transporting his personal effects from Bangalore to Hubli;
that the 2nd respondent issued a letter to the ~~transport~~
transport company on 4.12.1985 to confirm the receipt issued
by them; that the said letter returned undelivered with



the postal remark : 'No such firm in the address given; not known'; that, thereafter, the Vigilance Officer (VO) in the office of R1 arranged physical verification and found that there was no such firm in existence at the address mentioned and no such party was there at any time before. The Vigilance Officer in the course of his enquiry seems to have gathered some other material, which is also incorporated in the statement of imputation. Aggrieved by ^{the impugned} ~~this~~ memo, the applicant has filed this application.

3. Shri M. Raghavendrachar, learned counsel for the applicant, contends ~~that~~ that the TA bill submitted by his client to R1 was still under scrutiny when the impugned memo was issued. According to ~~the~~ counsel, rule 4(10) of the P&T Financial ~~Handbook~~ Handbook prescribes a period of 30 days for scrutinising the TA bills and in the present case, this period has not been adhered to, ~~since the TA bill is still~~ ^{Counsel} ~~pending scrutiny.~~ Shri Raghavendracher/further submits that until the scrutiny of the TA bill is completed, it ~~has~~ is not open to R1 to issue the memo proposing disciplinary proceedings.

4. Shri M.S. Padmarajaiah, learned counsel for the respondents, submits that the scrutiny of the TA bill and

C. Adh...

the initiation of disciplinary proceedings are independent of each other, and the pendency of the TA bill ipso facto does not render the initiation of disciplinary proceedings invalid.

5. After giving careful thought to the rival contentions, we are satisfied that incomplete scrutiny of the TA bill is not a bar to the initiation of disciplinary proceedings, because in some cases, the scrutiny of TA bills may take more time than what has been prescribed in rule 4(10) supra, and that will not per se invalidate the initiation of the disciplinary proceedings. We, therefore, reject this contention.

6. Shri Raghavendrachar next invokes rule 195(g) of the Supplementary Rules (SR), which, in so far as it is material, reads as follows:-

"It is the duty of a Controlling Officer, before signing or countersigning a travelling allowance bill, -

to satisfy himself that, where the actual cost of transporting personal effects/servants is claimed under these rules, the scale on which such effects/servants were transported was reasonable; and to disallow any claim which, in his opinion, does not fulfil that condition. In respect of claim for transporting personal effects, he shall also scrutinise the details and satisfy himself that the claim is reasonable."


Shri Raghavendrachar contends that it was incumbent on the CO to have decided the matter relating to the admissibility/ reasonableness of the TA claim, inasmuch as the provisions in SR 195 constitute a self-contained code for dealing with the TA claims. Shri Padmarajaiah, on the other hand, submits

C. A. Rao

that there is no need for any nexus between the consideration by the competent authority of the TA bill, and the initiation of disciplinary proceedings, based on an alleged false claim.

7. After carefully considering the pros and cons, we are satisfied that SR 195 is not an impediment to the initiation of disciplinary proceedings based on alleged false TA bills. As already stated by us above, the CO acting under SR 195 has to perform his duties in the manner prescribed therein, which does not in any way come in conflict with the examination of the TA bills by the administration. In other words, the scope of SR 195 is limited to the admissibility and reasonableness, or otherwise, of the TA claim, but does not trench upon the falsity of the TA claim which would attract the applicability of the provisions of CCS (CCA) Rules.

8. ~~We find that the Supreme Court decision relied upon by the respondent for the applicant is concerned with the fulfillment of conditions applicable~~ Shri Raghavendrachar, relies finally on a decision of the Supreme Court in A.L. KALRA v. PROJECT AND EQUIPMENT CORPORATION OF INDIA LTD. (1984 SCC (L&S) page 497) and invites our attention to the following observations therein:



"xxxxx If the rules for granting the advance themselves provided the consequence of the breach of conditions, it would be idle to go in search of any other consequence by initiating any disciplinary action in that behalf unless the 1975 Rules specifically incorporate a rule that the breach of House Building Advance Rules would by itself constitute a misconduct. That is not the case here, as will be presently pointed out. Seeking advance and granting the same under relevant rules, is at best a loan transaction. The transaction may itself provide for repayment and the consequence of failure to repay or to abide by the rules. That has been done in this case. Any attempt to go in search of a possible other consequence of contract itself appears to be arbitrary and even motivated."


The 1975 Rules referred to by the Supreme Court in the passage extracted above are the Project & Equipment Corporation of India (PECI) House building (~~xxxxxxx~~ grant and recovery) Rules (Rupes), and it was held that failure to refund the advance taken within the time frame results only in recovery of the advance by withholding the salary of the employee, and it has nothing to do with the question of integrity of the employee, as envisaged by rule 4(1)(i) and (iii). In our view, the ratio of this decision has no application, since the allegation in the case on hand, as already stated in paragraph 2, is not that any TA was claimed in excess of the amount admissible, but a sum of Rs. 450/- claimed by the applicant in reimbursement of the charges for transporting his personal effects from Bangabre to Hubli through a transport company, which according to the Office of RI is non-existent. The decision relied upon by the counsel is, therefore, distinguishable on facts.


Chadby

/7/

9. From the foregoing paragraphs, it follows that whether the disciplinary proceedings should be initiated only after the scrutiny of the TA bill is completed or even before, is a matter entirely for the administration to decide.

10. In the result, the application is dismissed; parties to bear their own costs.


(CH. RAMAKRISHNA RAO)
MEMBER (J)
23.X.1986.


(P. SRINIVASAN)
MEMBER (A)
23.X.1986.

dms.