

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE
DATED THIS THE 17TH DAY OF OCTOBER, 1986.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy. .. Vice-Chairman.
And
Hon'ble Mr. L.H.A. Rego. .. Member(A).

APPLICATION NUMBER 197 OF 1986.

N. Rangaiah,
Son of Pullaiah,
Major, Engineering Assistant,
All India Radio, BANGALORE. .. Petitioner.
(By Sri V.S. Kulkarni, Advocate)
v.

1. The Director General of All
India Radio, Akashvani Bhavan,
Fourth Floor, NEW DELHI-I.
2. The Station Engineer,
All India Radio, GULBARGA. .. Respondents.
(By Sri N. Basavaraju, Standing Counsel)

This application coming on for hearing this day, Vice-Chairman made the following:

O R D E R

In this transferred application received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act of 1985 ('the Act'), the applicant has challenged Order No. 6/69 /75-Vig. dated 21-7-1979 (Exhibit-H) of the Deputy Director General (Admn.) of All India Radio, New Delhi (DDG) and order No. Con(E)C /74/MR dated 1-10-1974 (Exhibit-D) of the Station Engineer and Disciplinary Authority, AIR, Gulbarga ('DA').

2. From 5-9-1972, the applicant is working as an Engineering Assistant at the All India Radio Station, Gulbarga. Some time in 1974, the applicant made a claim for medical reimbursement of the amounts stated to have been spent by him in the purchase of medicines under

the

Rules. Without admitting the said claims made by the applicant, the DA on the view that they were not genuine, commenced disciplinary proceedings against him under the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('the Rules') and issued him an Article of Charges and Statement of Imputations thereto which were denied by the applicant. Hence, the DA appointed one Sri A.S. Rao, Assistant Station Engineer of his Office as the Inquiry Officer ('IO') who held a regular inquiry and submitted his report to the DA holding him guilty of the charges levelled against him. On a consideration of the report of the IO and all other records, the DA concurring with the IO made an order on 1-10-1974 (Exhibit-D) imposing the following penalty:

" Sri Rangaiah will now stand to be reduced to the lower stage at Rs.425/- in the time scale of pay of Rs.425-15-500-EB-15-560-20-640-EB-20-700-25-750 for a period of four years from the date of issue of this order. It is further ordered that he will not earn any increment of pay during the period of such reduction and on the expiry of such period, the reduction will have the effect of postponing the future increments of his pay."

Aggrieved by this order, the applicant filed an appeal before the DDG who by his order dated 28-2-1975 dismissed the same.

3. Aggrieved by the said orders of the DDG and the DA, the applicant approached the High Court in Writ Petition No.5730 of 1975. On 3-11-1978 Rama Jois, J. allowed the said writ petition and directed the DDG to restore the appeal of the applicant to its original file and dispose of the same afresh, in compliance of which the DDG reconsidered the appeal of the applicant and by his order

dated

dated 21-7-1979 (Exhibit-H) dismissed the same.

4. The applicant has challenged the orders of the DDG and the DA on substantially four grounds, ~~xptixh~~ which will be noticed and dealt by us in their order.


5. In justification of the orders made, the respondents have filed their statement of objections before the High Court of Karnataka.

6. Sri S.Kulkarni learned counsel for the applicant contends that the order made by the DDG on the second occasion also as on the first occasion, was not a speaking order and illegal.

7. Sri N.Basavaraj, learned Additional Central Government Standing Counsel appearing for the respondents contends that the order made by the DDG was a speaking order.

8. We have carefully read the order made by the DDG. We are of the view that the DDG taking note of the order made by the High Court had considered all the material contentions urged by the applicant with due regard to the requirements of Rule 27 of the Rules and had recorded his findings on all of them. When that is so, it is difficult to hold that the order made by the DDG is not a speaking order. We see no merit in this contention of Sri Kulkarni and reject the same.

9. Sri Kulkarni next contends that the appointment of the Assistant Station Engineer who was the immediate superior of the applicant, as the Inquiry Officer was impermissible and ab initio void and therefore, all orders made



thereafter are void and illegal. In support of his contention Sri Kulkarni strongly relies on the instructions issued by Government.

10. Sri Basavaraj contends that the instructions of Government are to the contrary and do not support the applicant and is unsustainable.

11. The instructions of Government on which reliance is placed by Sri Kulkarni reads thus:

" (8) Immediate superior functioning as Inquiry Officer - The Pay Commission have recommended that a disciplinary enquiry should not be conducted by the immediate superior of the Government servant being proceeded against or by an officer at whose instance the inquiry was initiated.

The recommendation has been carefully examined by the Government. It is obviously desirable that only disinterested officers should be appointed as inquiry officers in departmental proceedings. There is no bar to the immediate superior officer holding an inquiry but, as a rule, the person who undertakes this task should not be suspected of any bias in such cases. The authorities concerned should bear this in mind before an Inquiry Officer is appointed in a disciplinary case.
(Extract from G.I., M.H.A., O.M. No. F.6/26/60-Ests. (A), dated the 16th February, 1961.)

These instructions far from supporting the applicant, support the respondents.

12. The Rules or any other law do not prohibit the DA from appointing the immediate superior of a civil servant as an IO. The fact that an officer is an immediate superior of the civil servant does not at all make him ineligible for his appointment as an IO. We see no merit in this contention of Sri Kulkarni and we reject the same.

13. Sri Kulkarni contends that the findings of the DDG ,DA and IO are based on no evidence and if based

on evidence are so perverse that no reasonable man would have found ~~that~~ the applicant guilty of the charges and therefore they are unsustainable and illegal.

14. Sri Basavaraj sought to support the orders of the authorities.

15. We have perused the report of the IO, the orders of the DA and DDG and the evidence on record.

16. We find it impossible to hold that the findings of the authorities are based on 'no evidence' at all.

17. We are also of the view that the findings of the authorities are based on an appreciation of the evidence on record and they are not so perverse as to hold that no reasonable man would have reached that conclusion at all. We see no merit in this contention and we reject the same.

17. Sri Kulkarni lastly contends that the punishment imposed against the applicant was disproportionately severe excessive and unjustified.

18. Sri Basavaraj sought to support the punishment imposed against the applicant.

19. The total claim made by the applicant for reimbursement of medical bills did not exceed Rs.50-00 in all. We are informed that this is the first disciplinary proceeding instituted against the applicant who had started his career in the year 1967. We are of the view that the punishment imposed against the applicant with due regard to the charges levelled proved and all other relevant circumstances is unduly severe, disproportionate to the gravity of the charge and calls for modification.

20. On a detailed examination of all the circumstances, we are of the view that the ends of justice will be met, that in modification of the punishment imposed by the DA and upheld by the DDG, the applicant is reduced to the lower stage of Rs.425-00 in the time scale of pay of Rs.425-15-EB-15-560-20-640-EB-20-700-750 for a period of one year only without cumulative or permanent effect.

21. In the light of our above discussion we make the following orders and directions:

- (a) We dismiss this application insofar as it challenges the orders of the appellate and the disciplinary authority to the extent they hold that the charges levelled against him are proved and called for imposition of punishment under the Rules.
- (b) We allow this application in part and in modification of the punishment imposed by the disciplinary authority and upheld by the appellate authority, we impose the punishment of reduction of pay of the applicant to the lower stage of Rs.425-00 in the time scale of pay of Rs.425-750 for a period of one year only without cumulative or permanent effect.
- (c) We direct the respondents to refund the excess amounts that become due to the applicant in pursuance of this order from out of the amounts already recovered from him in pursuance of their orders with all such expedition as is possible in the circumstances of the case in any event within a period of six months from the date of receipt of the order of this Tribunal.

22 Application is disposed of in the above terms

But, in the circumstances of the case, we direct the parties to bear their own costs:


VICE-CHAIRMAN

MEMBER(A)