

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

DATED THIS THE 22nd DAY OF JANUARY, 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

Vice-Chairman.

And

Hon'ble Mr. L.H.A. Rego,

.. Member(A).

APPLICATION NUMBER 1702 OF 1986.

Smt. Rajeswari Ramesh,  
Office Assistant, O/o DE,  
Cable Construction,  
Bangalore Telephone, Bangalore,  
Residing at No.566, 10th cross,  
7th Block West,  
Jayanagar, Bangalore-560 082.

.. Applicant.

(By Dr.M.S.Nagaraja, Advocate)

v.

1. The Assistant Engineer Telephones,  
SMX Out-door (West),  
Shankarapuram Telephone Exchange,  
No.100, Bull Temple Road,  
Bangalore-560 019.
2. The Divisional Engineer Telephones (South)  
544/47, R.V. Road, Bangalore-4.
3. The Deputy General Manager,  
Planning and Development Wing,  
Telecom Building, Bangalore.
4. The General Manager Telephones,  
V Floor, Telecom Building,  
Bangalore 560 001.
5. The Manager (Personnel)  
Telecom Board,  
Government of India,  
Ministry of Communications,  
Department of Telecommunications,  
New Delhi-1.

.. Respondents.

(By Sri M.Vasudevarao, Addl. Standing Counsel)

--

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

ORDER

In this application made under Section 19 of the Administrative

Tribunals Act, 1985 ('the Act') the applicant has challenged order No.2-345/85-Vig.III(T) dated 15-4-1986 (Annexure-K) of the Member-(Personnel) Telecom Board('Board') and order No.DE(S)/E-7/84-85/87 dated 26-2-1985(Annexure-E) of the Divisional Engineer Telephones (South) Bangalore - Appellate Authority ('AA') and the order No.SHA O/D(W)/83-84/7 dated 5-3-1984 (Annexure-C) of the Assistant Engineer (O/D) West, Shankarapuram - Disciplinary Authority ('DA').

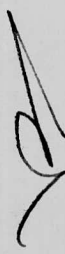
2. At the material time, the applicant was working as an Office Assistant in the office of the DA. In exercise of the powers conferred by Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('the Rules'), the DA commenced disciplinary proceedings against the applicant and issued an Article of charge and statement of imputations on 5-1-1984 (Annexure-A), which is material reads thus:

STATEMENT OF IMPUTATIONS OF MISCONDUCT

Smt. Rajeswari Ramesh while working as Office Assistant in the office of the Assistant Engineer, Shankarapuram outdoor West sub-division has prepared the Absentee Statement for the period ending 15-12-1983. The statement contains 15 names whereas there is a typing error on account of which the last serial appears as 14 instead of 15. At this 15th place, the name of Smt. Rajeswari Ramesh herself appears. While working as Office Assistant this official Smt. Rameswari Ramesh has obliterated the copies of the above referred absentee statement meant for P.C. section and AGM (Staff) by scoring the name of Smt. Rajeswari Ramesh at the 15th place, thus eliminating her own name from the said absentee statement. This has been done after the undersigned has signed the statement in token of its genuinity. However, the office copy has remained in tact.

Thus the said Smt. Rajeswari Ramesh utilising her position as Office Assistant who prepares Absentee Statement has tampered the official document to her advantage with an ulterior motive of deriving the benefit of getting full pay inspite of being absent. It has been verified from the Acquittance Roll that full pay has been drawn based on this tampered absentee statement.

From the above it is alleged that Smt. Rajeswari Ramesh while working as Office Assistant in the office of AE O/D Sha (West) failed to maintain absolute integrity at all times as a Government servant thus violated provision of Rule No.3(1)(i) of CCS (Conduct) Rules 1964."



In her reply filed on 13-1-1984 (Annexure-B) the applicant denied this accusation.


3. On an examination of the Article of charge, the reply of the applicant and the records, the DA by his order dated 5-3-1984 (Annexure-C) found that the applicant was guilty of the charge levelled against her and imposed the penalty of stoppage of next increment for a period of two years without cumulative effect. Aggrieved by this order, the applicant filed an appeal before the AA who by his order dated 26-2-1985 (Annexure-E) dismissed the same.

4. Aggrieved by the orders made by the AA and DA, the applicant presented a review petition before the Deputy General Manager-(Planning)Telecom,Bangalore ('DGM') on 6-4-1985 who by his order dated 3-5-1985 (Annexure-G) allowed the same and reversed the orders of the AA and DA. But, the General Manager,Telephones, Bangalore ('GM') taking the view that the DGM was not competent to entertain the said review petition and allow the same, advised the applicant to file a review petition before the Board, with which she complied on 9-7-1985. On 15-3-1986 the Board has dismissed the same. Hence this application.

5. Among other grounds the applicant has urged that the orders made by the Board, AA and DA were all vitiated by taking into consideration factors or materials that were never disclosed to her in the Article of charge and statement of imputations.

6. The respondents have resisted this application.

7. Dr.M.S.Nagaraja, learned counsel for the applicant, in our opinion,without rightly disputing that the DGM was not competent to entertain the review petition and make his order dated 3-5-1985



contends that the order made by the DA affirmed in appeal by the AA and in review by the Board were vitiated by taking into consideration factors and materials which were never disclosed to his client in the article of charge and statement of imputations and the same was in contravention of the Rules and principles of natural justice as held by us in R.SANTHANAM v. THE ACCOUNTS OFFICER AND ANOTHER (Application No. 514 of 1986 decided on 22-10-1986).


8. Sri M.Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for the respondents sought to support the orders of the authorities.

9. The Rules permitted the applicant to present a review petition before the Board and not before the DGM who erroneously entertained and allowed the same. In this view the DGM had no jurisdiction and power to entertain and dispose of the review petition at all. We have necessarily to ignore the order made by the DGM and examine the orders made by the Board, AA and the DA on merits, which we now proceed to do.

10. We have earlier set out the entire article of charge and statement of imputations served on the applicant. In the covering memorandum accompanying the articles of charge and statement of imputations, the DA has not set out any better particulars. Along with the statement of imputations, the DA had not furnished a list of documents or any documents as such. We have earlier noticed that the applicant squarely denied the charge levelled against her.

11. We have carefully read the fairly lengthy order made by the DA.

12. In his order the DA has referred to various facts and materials which were never disclosed in the article of charge and statement





of imputations served on the applicant on 5-1-1984. Unfortunately this defect which was fatal to the order made by the DA, though prominently urged in the appeal and review petition had been glossed over by both the AA and the Board.

13. In Santhanam's case we had occasion to examine a similar defect and express thus:

"From this, it is obvious that the DA had based his finding and punishment against the applicant on the ground that he was under an official or a legal obligation to attend the office even if there was no written or oral directions for the same. We need hardly say that this was a totally new ground or circumstance that had not been made known to the applicant in the Articles of charge and imputations served on him earlier to state his case on that aspect. We are of the view that the DA in doing so, had contravened one of the basic requirements of principles of natural justice viz., audi alteram partem and was acting illegally. In this view, we have no alternative except to quash the orders of the Appellate Authority and the Disciplinary Authority and reserve liberty to the DA to redo the matter".

We are of the view that these principles squarely govern the question raised in this case also. For the very reasons stated in Santhanam's case we have no alternative but to quash the orders with liberty reserved to the authorities to redo the matter.

14. In the light of our above discussion, we quash the orders of the Board, the AA and the DA made against the applicant. But, this does not prevent the DA or the other competent authority to redo the matter in accordance with law.

15. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

*[Signature]*  
VICE-CHAIRMAN 22/1/87

*[Signature]*  
MEMBER(AA) 22.1.87

np/