

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex(BDA)

Indiranagar

Bangalore - 560 038

Dated : 25 MAR 1988

APPLICATION NO

993

/ 87(F)

W.P. NO.

Applicant

Shri G. Balabrahmiah

Respondent

v/s The DG, Telecommunications, New Delhi & 2 Ors

To

1. Shri G. Balabrahmiah  
Section Supervisor (Operative)  
Office of the Telecom District Engineer  
Mysore - 570 001
2. Shri M. Narayana Swamy  
Advocate  
844 (Upstairs)  
V Block, Rajajinagar  
Bangalore - 560 010
3. The Director General  
Department of Telecommunications  
New Delhi - 110 001
4. The Telecom District Engineer  
Mysore - 570 001
5. The Deputy Telecom District Engineer  
Mysore - 570 001
6. Shri M. Vasudeva Rao  
Central Govt. Stng Counsel  
High Court Building  
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER ~~BOOK / INTERIM ORDER~~  
passed by this Tribunal in the above said application on 17-3-88.

*R. Venkatesh*  
DEPUTY REGISTRAR  
(JUDICIAL)

Encl : As above

*dc*

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 17TH DAY OF MARCH, 1988.

PRESENT:

Hon'ble Mr. Justice K.S.Puttaswamy

Vice-Chairman

And:

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

Member(A).

APPLICATION NUMBER 993 OF 1987.

G.Balabrahmiah,  
S/o Sri Gundappacharya,  
Aged 42 years,  
Section Supervisor (Operative),  
Office of the Telecom Dist.  
Engineer, Mysore.

.. Applicant.

(By Sri M.Narayana Swamy, Advocate)

v.

1. The Director General,  
Department of Telecommunication,  
NEW DELHI 110 001.
2. The Telecom Dist.Engineer,  
Mysore.
3. The Deputy Telecom District  
Engineer, Mysore.

Respondents.

(By Sri M.Vasudeva Rao, Addl.CGSC)

This application having come up for hearing this day, Vice-Chairman made the following:

O R D E R

In this application made under Section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged order No.2-42/87-Vig.III(T) dated 25-5-1987 (Annexure-G) of the Member (Personnel), Telecom Board, New Delhi ('Board'), Order No.Q.2977-Disc./9 dated 7-2-1986 (Annexure-E) of the Divisional



Engineer, Telegraphs, Mysore ('DET') and order No.Q.-2977/Disc./5 dated 29-11-1985 (Annexure-C) of the Deputy Engineer, Telegraphs, Mysore (Dy. DET).

2. At the material time, the applicant was working as a Section Supervisor (Operative) ('SSO') in the office of the DET. On noticing various omissions and commissions in the performance of his duties as SSO, the Dy. DET commenced disciplinary proceedings against the applicant under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('the Rules') and by his Memorandum No.C-2977/26 dated 16-8-1985 served on him the statement of imputations (charge) which reads thus:-

"On 2-5-1985 a bill for Rs.70/- received from M/s Ganesh Printers, Mysore-4, was sent by the Accounts Officer to the General Section for putting up the necessary 'Pass and Pay' order. In connection with the settlement of this bill, Shri G.Balabrahmiah, Sec. Supervisor (O) was specifically called to meet the Accounts Officer on 6-5-1985. Shri G.Balabrahmiah failed to meet the Accounts Officer on 6-5-1985 even after a message was sent to him through a Group-'D' official and Accounts Officer himself personally contacting him over PBX Extension provided to the General Branch. The Bill in question was allowed to remain unattended even after issue of clear instructions, by the Divisional Engineer as early as, on 10-5-1985. This matter was again discussed by the Accounts Officer, both with the Senior Section Supervisor and the Dealing Assistant (Shri G.Balabrahmiah) on the evening of 29-5-1985, but Shri G.Balabrahmiah argued with the Accounts Officer stating that further action can be taken only after issue of a clear directive by the Accounts Officer in the file which was totally uncalled for. On an earlier occasion also, it is seen that in a case where clear directive was given by the Accounts Officer to put up a particular bill with 'Pass and Pay' order, the file was submitted to the Divisional



Engineer, Telegraphs, direct entertaining serious doubts on the directive issued by the Accounts Officer, who is treated as the Head of the Office for the purpose of financial matters as per Rule 15 of F.H.B. Volume III".

In answer to this, the applicant filed his written statement of defence (WS) generally denying the same.

3. But, by the time the Dy.DET could consider and pass his orders on the charge, the WS had been misplaced or was not readily traceable and therefore, the Dy.DET called upon the applicant to furnish a copy of his WS with which he declined to comply. On that view, with no alternative left, the Dy.DET examined the matter and made an order on 29-11-1985 holding that the applicant was guilty of the charge levelled against him and imposed the following penalty:

"I, I.N.Krishnaswamy, Deputy Divisional Engineer, Telegraphs, Mysore, hereby order that Shri G.Balabrahmiah, Section Supervisor (Operative), be awarded the following penalty:

Next increment to the stage of Rs.470/- be withheld for a period of two years without cumulative effect.

Sd/- I.N.Krishnaswamy,  
Deputy Divl.Engineer,  
Telegraphs, Mysore-1."

  
Aggrieved by this order, the applicant filed an appeal before the DET, who by his order dated 7-2-1986 dismissed the same. Aggrieved by these orders, the applicant filed a review petition before the Board, which had dismissed the same on 25-5-1987. Hence, this application.

4. In justification of the impugned orders, the

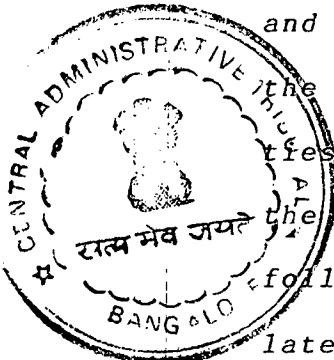
respondents have filed their reply and have produced their records.

5. Sri M.Narayanaswamy, learned counsel for the applicant contends, that the failure of the Dy.DET to permit his client to inspect the records, produce documents and afford him an oral hearing was violative of Rule 16 of the Rules, the principles of natural justice and the same vitiates the impugned orders.

6. Sri M.Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for the respondents in refuting the contention urged for the applicant, contends to the contrary.

7. Admittedly, the proceedings initiated and completed against the applicant were for imposition of a minor penalty under Rule 16 of the Rules.

8. Rule 16 of the Rules regulates the procedure to be followed for imposition of minor penalties. Rule 16 stipulates two procedures - one in case of imposition of penalties stipulated in Rule 16(1-A) and the other in all other cases. In the former, the detailed procedure for imposition of major penalties is required to be followed. In the other cases, the simple procedure of the Rule is required to be followed. The simple procedure under this Rule stipulates the Disciplinary Authority to inform the Government in writing of the proposal to take action, the imputations of misconduct or misbehaviour on which



it is proposed to take such action, afford him a reasonable opportunity of making his representation against the same, consider them and record its findings on each of the imputations of misconduct and impose one or the other minor punishments permissible under the Rules, except those excepted under sub-Rule (1A) of Rule 16 of the Rules. The punishment imposed against the applicant does not fall under sub-Rule (1A) of Rule 16 of the Rules. An examination of the proceedings discloses the DA had faithfully complied with the requirements of Rule 16(1) and (2) of the Rules.

9. When the DA decides to follow the simple procedure provided by Rule 16, then the Rule does not authorise the Government servant to inspect the documents and claim an opportunity of oral hearing also. There is no challenge to the validity of this Rule. Rule 16 of the Rules itself, dealing with the procedure for imposition of minor penalties, is a complete code in itself. If that Rule does not provide for what is claimed by the applicant and inferentially excludes the detailed procedure for imposition of minor penalties, then this Tribunal cannot read what is not provided and excluded by the Rule and import into it those rights applying the principles of natural justice. On this view the claim of the applicant for inspection of the documents and an opportunity of oral hearing cannot be upheld.



10. Even otherwise the statement of imputation

had set out in detail the alleged misconduct of the applicant. When written representations against the same are filed, they are required to be considered. On these also, the claim for inspection and an opportunity for oral hearing cannot be upheld.

11. In the statement of imputations which we have extracted earlier, the Dy.DET had stated all the necessary details and particulars on the basis of which he proposed to take action against the applicant. In his WS, a copy of which is produced by the applicant before us as Annexure-B he had not really denied the imputations levelled against him and had filed somewhat an evasive reply. We are distressed to note the intemperate language used by the applicant in his WS and the correspondence that ensued between him and the Dy.DET on furnishing a copy of the same.

12. On an examination of the imputations or charge and the records, the Dy.DET had concluded that the applicant was guilty of the imputations or charge levelled against him and a minor penalty should be imposed on him. On a further examination, both the Appellate Authority and the Reviewing Authority have concurred with the findings of the DA. We see no illegality, error or impropriety in the findings of any of the authorities.



13. Sri Narayanaswamy contends that the punishment imposed was disproportionate to the gravity of the

offence, if any, committed by the applicant, and calls for a substantial reduction.

14. Sri Rao opposes any modification in the punishment imposed against the applicant.

15. We have carefully examined the imputations or charge levelled against the applicant and the punishment imposed against him. We are of the view that the punishment imposed on the applicant is not at all disproportionate and does not call for any modification by us.

16. As all the contentions urged for the applicant fail, this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

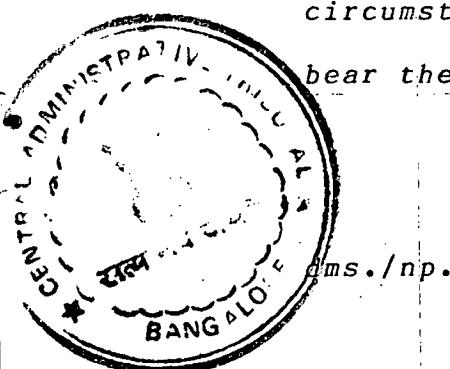
VICE-CHAIRMAN

17/3/88

Sd/-

MEMBER(A). V/17.3.88

TRUE COPY



*R. Venkatesh*  
DEPUTY REGISTRAR (JDL) — 28/3/88  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE