

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 253/90
T.A. No.

198

DATE OF DECISION 12.09.1990

Shri Govind Khikaji Gawas Petitioner

Shri R.R. Sangodkar, Advocate for the Petitioner(s)

Versus

Government of Goa & others Respondent

Shri H.R. Bharne, Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.Y. Priolkar, Member (A)

The Hon'ble Mr. N. Dharmadan, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY
CAMP AT PANAJI

Original Application No.253/90

Shri Govind Bhikaji Gawas ... Applicant

vs.

Government of Goa & Ors. ... Respondents

CORAM: Hon'ble Member (A), Shri M.Y.Priolkar
Hon'ble Member (J), Shri N. Dharmadan

Appearances:

Shri R.R.Sangodkar, Advocate,
for the applicant and Shri
H.R.Bharne, Advocate, for
the respondents.

ORAL JUDGEMENT:

Dated : 12 Sept. 1990

(Per. Shri N.Dharmadan, Member (J))

The applicant was a Peon in the office of the third respondent. Later he was promoted as a Meter Reader. While working as Meter Reader the respondents initiated disciplinary proceedings against him on the basis of Annexure D, the audit report dated 28.1.1980. The relevant portion in the report reads as follows:

"The fraud has been made to the extent of Rs.21,878.60. This is done by accepting money from the consumers towards the energy charges by the Meter Readers/ Ledger Clerks/Billing Clerks who paid them in good faith. No receipts were issued to the consumers. However, while issuing the bills of the current consumption the arrears were not shown on the original copy of the bill while arrears either shown on the duplicate copy of the bill with the same amount or different amount."

2. The charges against the applicant are as follows:

"That the said Shri G.B.Gawas while functioning as Meter Reader in the office of the Assistant Engineer, Elec.Sub-Divn-II, Bicholim, during the period from 22.4.65 to 30.9.79 defrauded an amount of Rs.21,878.60 paise in connivance with other LDCs/Bill Collectors and Ledger Clerks and Meter Readers by accepting money from the consumers towards the energy charges without issuing any official receipt of the money so received from the consumers and in furtherance of this irregularity the arrears incurred owing to the defrauding of the money of the current consumption of the consumers from whom the money was accepted in the aforesaid manner. However, the false arrears incurred owing to the defrauding of the money of the consumers was indicated on the duplicate copy of the bill with the same amount or different amount intentionally to cheat the consumers and deprive the

Govt. from collection of revenue towards energy charges.

By the aforesaid act Shri G.B.Gawas, Meter Reader has exhibited lack of integrity, conduct unbecoming of a Govt. servant thereby violating rule 3(1)(i) & (iii) of CCS Rules 1964.

ARTICLE - II

That the said Shri G.B.Gawas while functioning as Meter Reader in the aforesaid office and during the aforesaid period manipulated false documents for his own benefits in connivance with other LDCs, Bill Collectors, Ledger Clerks and Meter Readers by not showing the arrears incurred owing to the fraud on the original bills issued to the consumers and by indicating the false arrears incurred owing to the fraud, of money received from the consumers on duplicate copy of the bill which is retained as office records.

By the aforesaid act Shri G.B.Gawas has exhibited lack of integrity, conduct unbecoming of a Govt. servant thereby violating Rule 3(1)(i) & (iii) of CCS (Conduct) Rules 1964."

3. The applicant submitted a written statement of defence denying the charges, which is marked as Annexure-F. After considering the same an enquiry was conducted and the Enquiry Authority submitted the report, Annexure-G, finding the applicant guilty of the charges. This enquiry report was accepted by the disciplinary authority, who issued Annexure-H order dated 19.10.88 imposing the penalty of dismissal of the applicant from Government service. He has filed a detailed appeal, Annexure-I, before the Appellate Authority. He has raised various contentions. He has also submitted that the punishment imposed in this case is extremely severe and disproportionate to the gravity of offence. But without considering any of these aspects and the contentions the appellate authority passed Annexure-J order dated 29.5.89.

4. The applicant is challenging in this application the orders at Exhibit-H dated 19.10.88 and Exhibit-J dated 29.5.89.

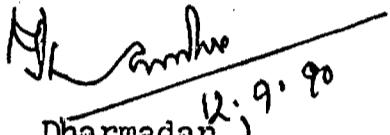
5. After admitting the matter the case was posted for hearing today. Having heard the counsel on both sides we are satisfied that this is a matter in which the statutory authorities viz. the disciplinary authority and the appellate authority have not fairly considered all the contentions raised by the applicant.

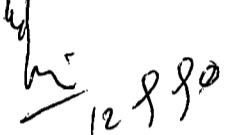
6. This is a case in which the disciplinary action was initiated pursuant to an observation in the audit report highlighting fraud on the part of a group of officers dealing with issuing bills and collecting money from electricity consumers. But disciplinary action was initiated against only Meter Readers. So the applicant had denied the charges and contended that they had not received any money from the consumers. They only recorded the meter reading. Money was collected by LDCs/Bill Collectors/Ledger Clerks, etc. There is also no proof to establish that the applicants directly received the amount indicated in the charge. Under these circumstances the applicant has pointed out that evidence produced in this case is not sufficient to find him guilty. The findings in the enquiry report are perverse. In fact there is observations in the report that there is inherent lacuna in the evidence. There is no independent consideration of the evidence either by the disciplinary authority or the appellate authority. Since these aspects have not been considered, we are of the view that the matter requires a detailed reconsideration on the facts and circumstances of this case by the appellate authority.

7. Accordingly, we quash Exhibit-J order of the appellate authority and remand the matter to the appellate authority for a de novo consideration of the case in the light of the observations made above and the evidence available in this

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case. The appellate authority shall consider the case and pass final orders as indicated above within a period of three months from the date of receipt of a copy of this judgement. We also direct the appellate authority to give an opportunity of being heard to the applicant before passing final orders in terms of our directions. The application is allowed to the extent indicated above. There will be no order as to costs.


(N. Dharmadan)
Member (J)


(M.Y. Priolkar)
Member (A)

12.9.90

12.8.90