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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PRESCOT ROAD, BOMBAY-1

STAMP APPLICATION NO.379/91 (OA 526/91)

Wasudeo Janardhan Vaidya
D.E.T. Installation Cross Bar Exchange
Station Road, Near Pathan Pura P.O.
Chandrapur

..Applicant

V/s.

Union of India through
Member (Personnel)
Telecom Board,
Sanchar Bhavan
New Delhi

2. Chief General Manager
Telecom, Maharashtra Circle,
Bombay-1

3. General Manager
Telecom Vidarbha Area
CTO Compound, Nagpur

4. Telecom District Manager
office of the General Manager
Vidarbha Area; CTO Compound;
Nagpur

5. Telecom District Engineer
Nanded, Taluq and Dist. Nanded

.. Respondents

CORAM: Hon.Shri P S Chaudhuri, Member(A)
HON.Shri T C Reddy, Member (J)

ORAL JUDGMENT

DATED: 18-7-1991

(PER: P S Chaudhuri, Member(A))

This application under section 19 of the Administrative Tribunals Act, 1985 was filed on 18.7.91. In it the applicant, who was appointed as T.S. Clerk in the Telecom Department, is challenging the order dated 20.5.1991 by which the penalty of reduction from the post of S.S. (Offg.) to the lower post of Telecom Office Assistant at the minimum of the scale of Rs.975-1660 is imposed on him.

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2. We have heard the applicant in person and gone through the application.

3. The applicant was issued with a chargesheet dated 31.7.1984. An inquiry was conducted, By order dated 17.11.1986 the above mentioned penalty of reduction was imposed on him. He submitted an appeal dated 22.1.1987 against this penalty. By order dated 4.2.1988 the Appellate Authority set aside the penalty of reduction to a lower post at the minimum of the time scale of pay of the lower post and imposed the lesser penalty of reduction to the minimum of his existing scale of pay for a period of 3 years with cumulative effect. The applicant preferred a petition dated 12.9.1988 to the Member (Personnel), Department of Telecom, New Delhi. By order dated 5.12.1989 as modified by order dated 12.2.1990, the Competent Appellate Authority ordered the competent Disciplinary Authority to conduct 'DENOVO TRIAL' from the stage of receipt of the inquiry report. Based on these directions the impugned order of penalty was passed. It is the applicant's contention that he has not submitted an appeal against the impugned order of penalty because the very same authorities who have already dealt with the case at various stages will once again deal with it and so no useful purpose will be served by filing a fresh appeal. It is his contention that, therefore, this case constitutes a fit case for exercising the discretion vested in the Tribunal under Section 20 of the Act. We find ourselves unable to go along with the applicant. The concept of ordering a de novo trial is not uncommon and there is no rule which requires that such a trial shall only be conducted by a person who has not been connected with the earlier proceedings. The position in this regard is quite clear from Clause (ii) of Rule 24 of the CCS (CCA) Rules,



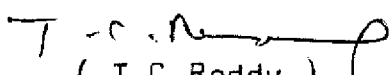
1965 dealing with Appellate Authority which says:

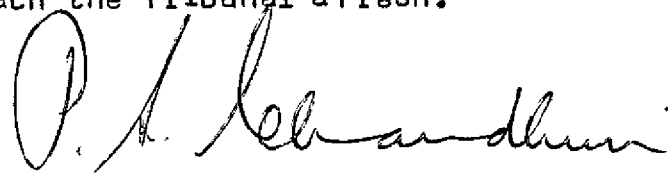
"where the person who made the order appealed against becomes, by virtue of his subsequent appointment or otherwise, the appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate".

This rule makes it quite clear that ^{the} only restriction which applies is that where the person who made the order appealed against becomes the appellate authority, an appeal against such order shall lie to the higher authority. Such a case has not been made out in this application and so this restriction does not apply. In any event, there is no provision in the rules for dispensing with the appellate procedure.

3. In this view of the matter we are of the view that this application is premature.

4. The application is accordingly summarily rejected under Section 19(3) of the Act. If the applicant continues to remain aggrieved after exhausting all the departmental remedies available to him, he is at liberty to approach the Tribunal afresh.


(T C Reddy)
Member(J)


(P S Chaudhuri)
MEMBER (A)