

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
BANGALORE- 560 038.

Dated: 1 MAR 1995

APPLICATION NO: 4 of 1994.

APPLICANTS:- R.Rangaswamy,  
V/S.

RESPONDENTS:- The Disciplinary Authority and Sub-Divisional  
Officer(Telegraphs), Deptt. of Telecommunications,  
Arsikere, Hassan Dist, and two others.,

To

1. Sri.M.B.Nargund, Advocate,  
No.799, Third Main Road,  
Fourth Block, Rajajinagar,  
Bangalore-560 010.
2. Sri.M.Vasudeva Rao,  
Addl. Central Govt. Stng. Counsel,  
High Court Bldg, Bangalore-1.

Subject:- Forwarding of copies of the Order passed by the  
Central Administrative Tribunal, Bangalore.

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Please find enclosed herewith a copy of the ORDER/  
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above  
mentioned application(s) on 21st February, 1995.

Issued on  
01/03/95

*[Signature]*

*7c*

*for*

*[Signature]*  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

gm\*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

O.A. No.4/94

TUESDAY THIS THE TWENTY FIRST DAY OF FEBRUARY 1995

Shri V. Ramakrishnan ... Member [A]

Shri A.N. Vujjanaradhya ... Member [J]

R. Rangaswamy,  
Major,  
Technician,  
Telephone Exchange,  
K.R. Pet, Distt. Mysore.

... Applicant

[By Advocate Shri M.B. Nargund]

v.

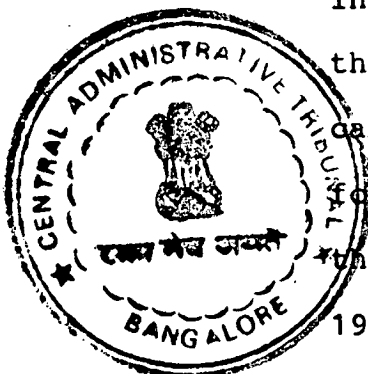
1. The Disciplinary Authority and Sub-Divisional Officer [Telegraph], Department of Telecommunication, Arsikere, Distt. Hassan.
  2. The Telecom District Engineer, Hassan District, Hassan.
  3. The Secretary to the Ministry of Communication, Department of Telecommunication, New Delhi.
- ... Respondents

[By Advocate Shri M. Vasudeva Rao ...  
Addl. Standing Counsel for Central Govt.]

O R D E R

Shri A.N. Vujjanaradhya, Member [J]:


1. Aggrieved by the order of the Disciplinary Authority ['DA' for short] imposing the penalty of withholding of increments of the applicant for a period of three years without cumulative effect which order came to be confirmed by the Appellate Authority ['AA' for short] and Revisional Authority ['RA' for short], the applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985.



2. Briefly stated the facts are as below:

The applicant who was working as Technician in the Department of Telecommunication, was proceeded against departmentally for certain derelictions of duties as detailed in the articles of charges as in Annexure A-1 and its enclosures dated 20.4.1989. The applicant who was called upon to explain, did not offer any explanation but went on seeking extensions of time for offering such explanation. Consequently, the DA who proceeded against the applicant under Rule 16 of the Central Civil Services [Classification, Control and Appeal] Rules, 1965 ['Rules' for short], proceeded ex-parte and for the reasons discussed in the course of his order dated 13.7.1989 as at Annexure A-3 imposed the penalty of stoppage of three increments without cumulative effect. The AA passed order dated 27.9.1990 as in Annexure A-4 confirming the penalty and rejected the appeal. The Revision also met with the same fate as can be seen from Annexure A-5 dated 21.12.1992. Subsequently after the applicant was allowed to cross efficiency bar he was granted increment during the year 1992. The said orders passed by the DA, AA and RA are being challenged by the applicant.

3. The Department has sought to support the orders and consequently urge for the dismissal of the application.




4. We have heard Shri M.B. Nargund, learned counsel for the applicant and Shri M.Vasudeva Rao, learned Standing Counsel for the respondents and also perused the records made available by the department.

5. Shri Nargund has advanced the following contentions. Inclusion of charge that the applicant had made false entry in Technicians Visit Book is not proper inasmuch as the reply of the applicant was accepted. The preparation of ICC statement was not the duty of the applicant and the applicant had questioned the authority to entrust such duty and so the DA was biased against him. The applicant has also questioned the delay in initiation of action contending that the DA had predetermined to punish the applicant. Learned counsel also contended that a regular enquiry under Rule 14 of the Rules ought to have been held and not the one under Rule 16 and Revanagowda and Srinivasa who were required to be examined have not been so examined and the same has resulted in miscarriage of justice. Further contention of the applicant's counsel is that there is denial of opportunity to the applicant after 30.6.1990 which had violated the principles of natural justice. It was also pointed out that in view of the circular dated 15.6.1990, the charge relating to work to rule period is improper. Consequently learned counsel urged for our interference with the action of the department.



5. Shri Rao has pointed out that even though several opportunities were afforded to the applicant he did not avail the same and there was no proper representation made by the applicant and, therefore, he cannot be heard to put forth the present contentions at this stage.

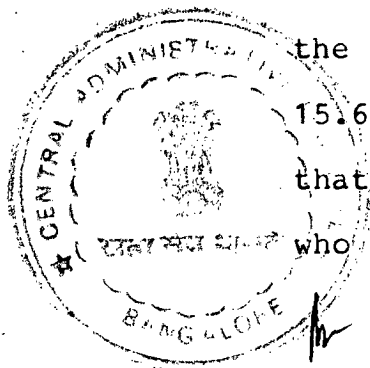
7. The applicant was issued with the charge sheet dated 20.4.1989 based on specific misconduct committed by him as per rules affording him the opportunity to represent against the charges. But the applicant put forth his request for extension of time by his letters dated 3.5.1989, 5.5.1989 and 10.5.1989. Though the applicant was granted several opportunities, he did not offer any explanation for the charges levelled against him. Consequently the DA proceeded to pass the order dated 13.7.1989 as in Annexure A-3 finding the charges as proved and imposed the penalty of stoppage of increment for a period of three years without cumulative effect. The appeal filed by the applicant was considered by the AA and by order dated 27.9.1990 [Annexure A-4] confirmed the order of DA and rejected the appeal. The RA rejected the petition having considered all the contentions of the applicant by order at Annexure A-5. The DA, AA and the RA have passed the respective orders by due consideration and proper reasoning. If the applicant had not availed the opportunity of making representation to the articles of charges inspite of being granted to him, it is not



open to him to turnaround and contend that he was denied reasonable opportunity and the same has resulted in violation of principles of natural justice. It is set out in the order of DA that applicant did peruse the records as per permission granted to him but did not offer any explanation. Consequently we are unable to agree and uphold the contention of the applicant that he was denied the opportunity of defending himself in spite of request made by him.

8. Coming to the question of delay in the initiation of action we have to observe that the articles of charge dated 20.4.1989 was served on the applicant on 20.4.1989 and he himself has sought and obtained extension of time to make his representation and ultimately on 13.7.1989 the DA has passed the impugned order as in Annexure A-3. Subsequent orders of AA and RA have also been passed within reasonable time and, therefore, there is no merit in the contention that there was delay in initiation of the action and the same indicates that the DA had predetermined to punish the applicant.

9. It is the contention of the applicant that the charge relating to the period where the work to rule agitation was resorted was improperly included in the charge sheet and in view of of circular dated 15.6.1990 as in Annexure A-6, it was already decided that instructions to take action against such persons who had resorted to agitation was to be treated as



withdrawn and, therefore, such inclusion of the lapse relating to that period is improper. The respondents in para 6 of their reply have specifically pleaded that the circular referred to in the application relating to the agitation during the period of work to rule from 25.6.1988 to 28.9.1988 has no relevance implying thereby that none of the articles of charges is in respect of the said agitation. Applicant has not made out that any portion of the charge had related to work to rule period.

10. The applicant, it is stated, had made false entry in the Technicians visit book of Moosalehosahalli Exchange as if he had visited the said Exchange on 14.12.1987 and attended to the faults therein. The said entries was noticed by the JTO when he visited the said Exchange on 12.12.1987. In respect of the said entry, the applicant was called upon to explain and he had filed a reply. But the contention of the learned counsel is that that reply was accepted and that the inclusion of the said article of charge relating to 14.12.1987 was improper and the delay shows predetermination in the mind of the DA to punish the applicant. There is no material brought on record by him to show that the reply given by the applicant to the alleged false entry in the Technicians visit book was accepted and the matter was closed. If at all the applicant simply draws inferences we are unable to accept the same particularly in the absence of

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any explanation offered by the applicant for the articles of charge. The allegation of delay in taking action against the applicant in this regard will not have the effect of mitigating the charges levelled against him, nor will it indicate any predetermination as alleged.

11. Learned counsel for the applicant next contended that regular enquiry under Article 14 of the Rules ought to have been resorted to by the department and not under Article 16 and that Revanagowda and Srinivas who were material witnesses have not been examined. The department has proceeded under Rule 16 of the rules because the it had perhaps intended to impose only minor penalty and, therefore, we see no good ground to accept the contention that action ought to have been initiated only under Rule 14 and not under Rule 16 of the Rules. Question of examining Revanagowda and Srinivasa also did not survive inasmuch as their statement were already available on record and the applicant did not choose to offer any explanation for the articles of charges. Under the circumstances we are unable to accept even this contention that the non-examination of Revanagowda and Srinivasa by the EO has resulted in causing injustice to the applicant and that initiation of action under Rule 16 is bad. The applicant himself is responsible for his inaction and consequently he cannot turn around and put forth and blame on the respondents.

12. For the reasons discussed above we see no prima

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- 8 -

facie material to interfere with any of the impugned orders. The orders have been justifiably passed. In the result the application fails and the same is hereby dismissed with no order as to costs.

Sd/-

MEMBER [J]

Sd/-

MEMBER [A]



TRUE COPY

*[Signature]*  
Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangalore