

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

O.A. 1009/97.

Dated this Friday, the 12th day of October, 2001.

J. K. Kalekar, Applicant.

None present. Advocate for the Applicant.

VERSUS

Union of India & 3 others, Respondents.

Shri V. S. Masurkar, Advocate for Respondents.

CORAM : Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J).

Hon'ble Shri B. N. Bahadur, Member (A).

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other Benches of the Tribunal ?

(iii) Library. —

*Lakshmi Swaminathan*

(Smt. LAKSHMI SWAMINATHAN)  
VICE-CHAIRMAN.

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Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J).

Hon'ble Shri B. N. Bahadur, Member (A).

J. K. Kalekar,  
Ex Wireman Staff No. 18739,  
O/o. SDE (Store Depot),  
Mahanagar Telephone Nigam Ltd.,  
Parel-Mumbai 400 012.

... Applicant.

(By Advocate - none present)

VERSUS

1. Shri K. K. Chaubey,  
Asstt. Director (CCF),  
Maharashtra Telecom Circle,  
2nd floor, Telephone House,  
V.S. Marg, Dadar (West),  
Mumbai - 400 028.

2. The A.G.M. (CCF),  
O/o. the Dy. G.M. (CCF),  
2nd floor, Telephone House,  
Dadar, Mumbai - 400 028.

3. The Chief General Manager,  
Mahanagar Telephone Nigam Ltd.,  
Telephone House, Dadar (W),  
Mumbai - 400 028.

4. Union of India through  
the Chairman,  
Telecom Commission,  
Sanchar Bhavan,  
New Delhi - 110 001.

... Respondents.

(By Advocate Shri V. S. Masurkar).

O R D E R (ORAL)

Hon'ble Smt. Lakhsmiti Swaminathan, Vice-Chairman (J).

In this application, the applicant has impugned the order passed by the disciplinary authority dated 29.8.1996. The O.A.

has been filed on 13.11.1997. The applicant had filed an appeal which was disposed of by the appellate authority vide his order dated 11.12.1997 and thereafter, the O.A. was admitted on 5.1.1998. The applicant has not amended the O.A. thereafter to challenge the order passed by the appellate authority till date.

2. The aforesaid penalty orders have been passed by the respondents after holding a departmental enquiry against the applicant under Rule 14 of the C.C.S. (C.C.A) Rules, 1965. He was issued a memorandum of charges on 10.2.1995. There were five charges levelled against him, namely - (i) that the applicant while functioning as Wireman had remained absent from duty from 23.5.1987; (ii) that he is a bad character and known criminal as per the records of Worli Police Station; (iii) that the applicant was detained <sup>under 18</sup> with the National Security Act vide order dated 20.1.1986 and was lodged in Nasik Road Central Prison from 17.7.1986 to 25.8.1986; (iv) that he was involved in the murder of one Anand Murlidhar Chandanshive alongwith his associates on 24.5.1987 under Section 302, 34 I.P.C. and was in jail custody and (v) that as a Government servant he was duty bound to intimate the fact of his arrest to the department, which it was alleged, was not done by him.

3. The Inquiry Officer who was appointed to enquire into the charges, submitted his report on 26.4.1997 and copy of the same

was given to the applicant, who made a representation on 22.5.1996. The disciplinary authority in his order dated 29.8.1996 has stated that he has gone through the records of the proceedings, including the representation of the applicant and has recorded that while he agrees with the finding of the Inquiry Officer with respect of articles I and V, he did not agree with his finding in the other 3 Articles of charge. He had accordingly recorded his reason for such disagreement, which was communicated to the applicant, who had also been given opportunity to represent against the same. The disciplinary authority has come to the conclusion that the applicant was absent from duty without permission from 23.5.1987 inspite of periodical notices being sent to him and he held the charge proved. The disciplinary authority has stated, inter alia, with regard to Articles of charge-II, III and IV, that the privilege of being a Government servant warrants a person to conduct his official as well as public life in full conformity with Conduct Rules and getting arrested and landing in jail frequently is not one of them. Learned counsel for respondents has submitted that the very conduct of the applicant being arrested several times and landing in jail under the National Security Act shows that he was a bad character and his conduct shows moral turpitude. With regard to Articles of Charge-V that the applicant had reportedly failed to intimate his superior officers about his detention in police custody, both, the enquiry officer and the disciplinary

authority have held the charges proved beyond doubt. In the facts and circumstances of the case, the disciplinary authority had come to the conclusion that all the five charges are held proved, as the conduct of the applicant amounts to unbecoming of a Government servant and has also stated that all reasonable opportunities to defend the case had been afforded to the applicant.

4. In this regard, we note in para 4.3 of the O.A. that the applicant himself has stated "that there was a full fledged enquiry into the alleged charges against him...." One of his contentions is that the enquiry officer has exonerated him of all the charges. We are unable to agree with this contention having seen the findings of the enquiry officer in regard to at least articles I and V. With regard to other Articles of charge, as mentioned above, the disciplinary authority has disagreed with the findings of the enquiry officer with reasons and had also afforded an opportunity to the applicant to make his representation. Therefore, the procedure adopted by the disciplinary authority is in accordance with the provisions of C.C.S. (C.C.A) Rules, 1965, and also in accordance with the judgement of the Hon'ble Supreme Court in Kunj Bihari Mishra V/s. Punjab National Bank (1999 (1) SC SLJ 271). It is, therefore, seen that the respondents have complied with the procedural provisions for holding the departmental enquiry as well as the principles of natural justice.

5. We have seen the grounds taken by the applicant in paragraph 5 of the O.A. These grounds are rather general in nature. Having perused the documents on record, including the disciplinary authority's order dated 25.8.1996 and the provisions of settled law in such matters <sup>See P.</sup> Union of India v/s. Parma Nanda (AIR 1989 SC 1185) and Govt. of Tamil Nadu v/s. A. Rajapandian (AIR 1995 SC 561), we, therefore, find no good grounds to interfere in the matter.

6. It is also relevant to note that before the O.A. was admitted vide order dated 5.1.1998, the appellate authority had already passed the order dated 11.12.1997 disposing of the appeal submitted by the applicant against the disciplinary authority's order. A copy of the appellate authority's order has been annexed by the respondents to their reply in affidavit filed on 27.2.1998. It is relevant to note that the applicant has neither filed any rejoinder nor filed any M.P. for amendment of the O.A. to impugn the appellate authority's order which has dismissed the applicant's appeal and confirmed the penalty imposed on him by the disciplinary authority of dismissal from service.

7. In the result, for the reasons given above, we find no merit in this application to set aside the impugned order passed

or built in, and, as such, need not be concerned with the question of whether or not the building is a *residence* within the meaning of the term as used in the statute.

by the disciplinary authority dated 29.8.1996. That order has been confirmed by the appellate authority by order dated 11.12.1997.

8. The O.A. is accordingly dismissed. No order as to costs.

B. N. Bahadur  
(B. N. BAHADUR),  
MEMBER (A).

Lakshmi Swaminathan  
(Smt. LAKHSMI SWAMINATHAN)  
VICE-CHAIRMAN.

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