

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA 1129/92 : Date of order 14.9.94 (N)

Padam Chand Jain : Applicant

V/s

Union of India & Others : Respondents

Mr. P.V. Calla : Counsel for the applicant.

Mr. V.S. Gurjar : Counsel for the respondents.

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Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Mr. O.P. Sharma, Member (Administrative)

PER HON'BLE MR. O.P. SHARMA, MEMBER (ADMINISTRATIVE)

Shri Padam Chand Jain in this application u/s 19 of the Administrative Tribunals Act, 1985, has prayed that the memo dated 12.4.91 (Annexure A-1) may be quashed and the enquiry proceedings under this memo may be declared to be illegal and the respondents may be directed to drop the proceedings of enquiry against the applicant.

2. The facts of the case as stated by the applicant are that a charge sheet dated 26.8.89 (Annexure A-2) was issued to him relating to his misconduct while working as Telephone Operator at Telephone Exchange Lalsot. On the applicant's denying the charges, inquiry under Rule 14 of CCS(CCA) Rules was held. Vide report Annexure A-5 dated 20.6.90, the Inquiry Officer held the charges against the applicant as not established. The Disciplinary Authority after disagreeing with the Inquiry Officer, imposed on the applicant the penalty of stoppage of one next annual increment for a period of one year without future effect, vide order dated 29.6.90 (Annexure A-4). The applicant did not prefer any appeal against the said penalty order. Thereafter the Appellate Authority viz. The Deputy General Manager, Telecom District Jaipur, issued a letter (Annexure A-6) dated 19.11.90 proposing to revise the penalty order under Rule 29 of the CCS(CCA) Rules. Thereafter the Appellate Authority issued memorandum (Annexure A-1) dated 12.4.91 which is

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a charge sheet under Rule 14 of the CCS(CCA) Rules. The applicant's case is that the charge sheet contains charges which are identical to those, which were framed in the charge sheet (Annexure A-2) dated 26.8.89, in respect of which inquiry has already been held and penalty has also been imposed. The applicant replied to this new charge sheet by Annexure A-6 dated 23.8.91, pointing out that these charges have been enquired into and that a penalty has also already been imposed on him. Thereafter however the Inquiry Officer was appointed and he also started the inquiry proceedings. According to the applicant, no fresh disciplinary proceedings can be initiated on the same charges which were the subject matter of inquiry earlier and on the basis of which a penalty has also been imposed on the applicant.

3. The respondents in their reply have stated that the action taken by them is in accordance with rules.

4. We have heard the learned counsel for the parties and have perused the records.

5. There is no dispute that the charges contained in Annexure A-1, the new charge sheet issued to the applicant by memorandum dated 12.4.91, are identical with those contained in the first charge sheet (Annexure A-1) dated 26.8.89. A inquiry in respect of the charges contained in the first charge sheet has already been held and appropriate penalty has already been imposed on the applicant. No doubt, the Appellate Authority has a right to revise the order of penalty under Rule 29 of the CCS(CCA) Rules, if he is of the view that the penalty imposed is inadequate having regard to the evidence on record and the facts and circumstances of the case. It was in pursuance of the intention to revise the penalty that letter (Annexure A-5) dated 19.11.90 was issued to the applicant. However, it appears that this exercise was abandoned midway by the Appellate Authority and instead he issued charge sheet (Annexure A-1) repeating the charges which were contained

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in earlier charge sheet (Annexure A-1). The charges which have been framed once and inquired into and have ~~been~~ culminated in the imposition of a penalty cannot be the subject matter of a fresh inquiry. The Appellate Authority could have brought the notice (Annexure A-5) dated 19.11.90 proposing to revise earlier penalty order to its logical conclusion by passing an order in revision or could have remitted the earlier enquiry proceedings for fresh inquiry from an appropriate stage, in accordance with the Rules. However, he has no right under the Rules to issue another charge sheet containing the same charges, which have been inquired into earlier and have culminated into the imposition of a penalty. The Appellate Authority has no right to order another inquiry merely because he possibly did not agree with the findings contained in report of inquiry conducted earlier. He could have disagreed with the findings of the Inquiry Officer and imposed an appropriate penalty while exercising his powers of the revision under Rule 29 of the CCS(CCA) Rules. However, what he has done now is something not in accordance with the rules and is bad in law.

6. In the circumstances, we allow the application and quash the memorandum (Annexure A-1) dated 12.4.91, which is the charge sheet issued by the Appellate Authority. We further direct that no fresh inquiry shall be held under Rule 14 in respect of the charges contained in the said charge sheet.

7. The OA is allowed accordingly, with no order as to costs.

(O.P. SHARMA)
MEMBER(A)

G.Krishna
(GOPAL KRISHNA)
MEMBER(J)