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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 718 of 1987

Date of Order: 09/02/1990

M.Satyanarayana

..Applicant

Versus

Union of India, represented by the
Director General, Telecommunications,
New Delhi. and others

..Respondents

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For Applicant: Mr.J.V.Lakshmana Rao Advocate

For Respondents: Mr.E.Madan Mohan Rao, SC for the
Department.

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER(JUDICIAL)

(Judgment delivered by Shri D.Surya, Rao, Member(Judicial))

1. The applicant herein was formerly an employee in the office of the Divisional Engineer, Phones, Gowliguda, Hyderabad. In this application, he seeks to question order no. DEP/OD/Disc/MS/86-87, dated 22-7-86 passed by the Divisional Engineer Phones, Gowliguda, Hyd, removing him from service. He also seeks to question the order of the appellate authority no. SD-1585/10, dated 5-6-87, rejecting his appeal.

2. The applicant's case is that while working as Technician under the control of the 3rd respondent, he had submitted an application for Earned Leave for the period 1-1-1984 to 31-5-1984. The said period of leave was sanctioned. Meanwhile, there were certain land disputes

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and family problems. He, therefore, had to extend the leave from 1-6-1984 onwards. These disputes were quite sharpened creating no mental peace to the applicant and it resulted in certain psychological imbalance in him. During his absence, it appears that the respondents issued a charge-sheet under Rule 14 of CCS(CCA) Rules, 1965 and notices were sent for holding the enquiry. The applicant states that he never received the same and hence did not file any Written Statement. When he reported back to duty, the Divisional Engineer, Phones, - 3rd respondent, refused to take him back to duty on the ground that he had already been terminated. The applicant contends that the punishment order and the enquiry report were not supplied to him for submission of a detailed appeal. However, he submitted an appeal to the Deputy General Manager, Telecom Dist., % G.M. Telecom District, Hyderabad. The appellate authority merely confirmed the ~~app~~ the order of punishment. It is contended that the order of appellate authority dated 5-6-87 is not a speaking order and does not discuss the evidence on record and that it is illegal. It is contended that this is a case of overstaying on leave and cannot be termed as unauthorised absence. It is further contended that non-supply of the charge-sheet, Enquiry Officer's report or the order of removal vitiates the proceedings and the appellate authority's order suffers from non-discussion of evidence. Hence, the applicant has filed this application praying to set-aside the impugned order of dismissal dated 22-7-86 as confirmed by the appellate authority in its order dated 5-6-1987.

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3. On behalf of the respondents, a counter has been filed stating that the applicant was granted Earned Leave as follows:

1-1-1984 to 31-1-1984
1-2-1984 to 31-3-1984
1-4-1984 to 31-5-1984

He sought for extension of leave from 1-6-1984 to 30-9-1984 which was not sanctioned. Two telegrams dated 21-6-1984 and 6-7-1984 followed by a registered letter dated 6-8-1984 were issued directing him to report back for duty. But, the applicant failed to do so. Hence, disciplinary action was initiated against him on 11-9-1985, on the charge of unauthorised ¹⁰ absence from duty. The charge memo was despatched to the last known address as given on the applications for earned leave. They were returned back. Intimation regarding appointment of Enquiry Officer was also sent, but the same was also returned. The Enquiry Officer thereafter gave notice about holding an inquiry on 15-11-85, but, the applicant did not turn up. Another letter was issued fixing 28-11-1985 and stating that if he does not present himself for the inquiry, the same will be conducted ex-parte. The applicant did not appear on this day also. The enquiry was conducted ex parte in his absence. The enquiry officer submitted his report on 4-7-1986 holding the applicant guilty of the charge. The disciplinary authority - 3rd respondent after careful perusal of the disciplinary proceedings and the finding of the Enquiry Officer, imposed the punishment of removal from service vide his order dated 22-7-1986. It is contended that the disciplinary authority sent various registered letters to the address given by the applicant

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and the same were returned with the remarks "Addressee left India, returned to Sender". It is, therefore, contended that sufficient and ample opportunity was given to the applicant to present his case. The counter also states that his appeal has been rejected for proper or valid reasons. It is further stated that the applicant was furnished with a copy of the punishment order and the enquiry report on 11-11-1986 and the applicant acknowledged the same. For these reasons, the respondents oppose this application.

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4. We have heard the learned counsel for the applicant Shri Laxman Rao and Shri E. Madan Mohan Rao, Addl. CGSC for the respondents. Shri Laxman Rao states that the appellate authority did not give an opportunity to the applicant of being heard personally before disposing of the case. He relies on the judgment of the Full Bench of the Tribunal reported in AISLJ 1989(2) CAT 681 (Shankar K. Damle Vs. Union of India and others) wherein the Full Bench, after considering the Supreme Court decision in Ramchander Vs. Union of India (AIR 1986 SC 1173) and while answering a question posed viz., "when the appellate authority has decided the appeal, without giving a personal hearing to the appellant and without discussing and deciding all the relevant points, is it necessary in every such case to remand the case to the appellate authority, deciding the appeal on merits and after giving a personal hearing to the appellant?", it answered "ordinarily yes". Shri Laxman Rao urges that having regard to the facts of the case, viz., that the disciplinary enquiry was ex parte, the applicant's chance of assailing evidence against him was only available at the appellate stage. The personal hearing, therefore, was of utmost importance in explaining

his case to the appellate authority. Having regard to these submissions, we find considerable force in the contention of Shri Laxman Rao. We, therefore, remand the case of the applicant and direct the appellate authority to give ^a personal hearing to the applicant and pass a reasonable order on the appeal giving due considerations to the points urged by the applicant, within a period of three months from the date of receipt of this order.

5. The application is accordingly allowed. There will be no order as to costs.

(Dictated in the open Court).

B. Jayasimha

(B. N. JAYASIMHA)
Vice Chairman

D. Surya Rao
(D. SURYA RAO)
Member (Judl.)

Dated: 9th February, 1990.

S. Venkatesh
DEPUTY REGISTRAR (J)

TO:

1. The Director General, (Union of India) Telecommunications, New Delhi.
2. The General Manager, Telecom. Dist. Suryalok complex, Gunfoundry, Hyderabad-500 033.
3. The Divisional Engineer, Phones, Gowliguda Exchange, Hyderabad-500 012.
4. One copy to Mr. J. V. Lakshmana Rao, Advocate, Flat No. 3, Ground Floor, Balaji Towers, Hyderabad-500 380.
5. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyd.
6. One spare copy.

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