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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

D.A.No. 276 of 1987

Date of order: 24/11/1989

V. Peerayya Pantulu

.. Applicant

Versus

Union of India, rep. by Member  
(Personal) Telecom Board  
and others

.. Respondents

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For Applicant:

Mr. K.G. Kannabiran, Advocate.

For Respondents:

Mr. Parameshwar Rao, for  
Mr. P. Ramakrishna Raju, Senior  
Standing counsel for the  
Department.

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C O R A M:

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

HON'BLE SHRI J.N. MURTHY : MEMBER (JUDL)

(Judgment delivered by Shri B.N. Jayasimha, Vice-Chairman)

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1. This is an application filed by an Ex- Telephone Inspector, Office of the Sub-Divisional Officer (Phones), Secunderabad, against his removal from service by the Disciplinary authority i.e. Respondent no. 3 Under Order No. 1-5/86-Viz-III, dated 13-10-1986.

2. The applicant states while he was serving as a Telephone Inspector, under the Divisional Engineer, Phones, Secunderabad, he was issued a charge-memo dated 17-11-1980. It was alleged that he did not maintain devotion to duty while he was on leave and thus violated the provisions of Rule 3(i) (iii) <sup>and 7(ii)</sup> of the CCS (Conduct) Rules, 1964. The other charges were that he absented himself from duties during the period from 8-8-1980 to 27-8-1980 without obtaining prior sanction of leave from the competent authority, that he left Head

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quarters without obtaining prior permission from the Junior Engineer, Zone -II as required under Rule 66 of the P&T Manual volume-III, and that he proceeded to Ongole and instigated a strike by line staff at Ongole. Respondent no.3 in his memo dated 6-1-1981 appointed Sri V. Sitaramamurthy, Accounts Officer as the Enquiry Officer and the first sitting of the enquiry was held on 25-2-1981. The applicant requested the General Manager, Telephones, Hyderabad, for changing the enquiry officer on grounds of bias and prejudice as the Accounts Officer was under the direct control of the Disciplinary authority. His representation was rejected. Again on 20-4-1981, enquiry was held when the applicant took adjournment for studying the proceedings of the appellate authority regarding the appointment of enquiry authority. The enquiry was called on 11-5-1981, but the applicant had no intimation of it. Subsequently, the enquiry was postponed to 6-7-1981 and thereafter to 24-7-1981 and 27-7-1981. Through his letter dated 10-8-1981 addressed to the Enquiry Officer, the applicant nominated Sri. B.V. Subba Rao, Sorting Assistant, RMS Office, Ongole, as his defence Assistant for the enquiry.

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The Enquiry Officer in his letter dated 26-8-1981, turned down the request of the applicant and advised him to choose another Government servant working at Hyderabad

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Telephones. The enquiry was thereafter postponed ~~from~~ to 16-9-81. The applicant went on EL from 15-9-81 to 2-1-1982 and the leave was granted by the Competent Authority. While on leave, the applicant fell sick mentally and he was under the treatment upto September, 1983. On 3rd October, 1983, the applicant reported for duty at Sub.Divisional Officer (Phones) Secunderabad. The applicant was advised to see the Divisional Engineer (Phones), Secunderabad, who informed him that he was removed from service w.e.f. 8-9-1982 and therefore he could not be taken on duty. He was also advised to prefer an appeal to General Manager, Telephones, Hyderabad which the applicant did in the month of October, 1983. The applicant contends that the enquiry was conducted in his absence and that the original Enquiry Officer was replaced by Sri K.Satyanarayana and this fact was not informed to the applicant. Shri K.Satyanarayana conducted the enquiry ~~exparte~~ on 21-11-81, 11-1-82 and 28-1-82, though the applicant was on leave. This is contrary to Rule 63 of P & T Manual Vol.III. ~~The Enquiry Officer vitiated the provisions of CCS(CGA) Rules and~~ thereafter the Divisional Engineer, Telephones, imposed the penalty. The applicant contends that the Divisional Engineer Telephones, Secunderabad cannot impose <sup>a</sup> major penalty on the applicant as he is not the appointing authority. The appointing authority in his case is Deputy General Manager and the Divisional Engineer is subordinate to him. The applicant preferred an appeal to the General Manager (Telephones). This appeal was disposed of by the Vigilance Officer as is evident from the letter dt.18-11-83.

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The applicant states that under the rules the appellate authority himself must consider the appeal and he has no power to delegate the same. The applicant contends that the enquiry is vitiated for the reasons that it was held while the applicant was on leave. Para 94 of P&T Manual Volume II says that even if the delinquent official fails to attend the enquiry or refuses to participate in the enquiry, a copy of various pieces of oral or documentary evidence let in during the enquiry should be supplied to the accused officer. None of these copies were supplied to the applicant even on demand. The applicant further contends that Rule 14(18) of the CCS(CCA) Rules, 1965, was not followed, inasmuch as he was not allowed to examine himself, and that the punishment awarded is grossly disproportionate to the charges levelled. Hence, the applicant filed this application.

3. The respondents have filed a counter denying the contentions taken by the applicant.

4. We have heard Sri K.G.Kannabhiran, learned counsel for the applicant and Sri Parameshwar Rao for Mr.P.Ramakrishna Raju, Senior Standing Counsel for the Department.

5. The first point urged by Sri Kannabhiran, learned counsel for the applicant is that the Divisional Engineer (Phones) who acted as the "Disciplinary Authority" and removed the applicant from service by his order dated 8-9-1982 is not competent to impose the punishment. He states ~~that~~ <sup>to</sup> According to the Schedule/ Central Civil Services (Classification, Control and Appeal) Rules, 1965 and Schedule of Administrative Powers of Officers (Fourth Edition (reprint) (Posts & Telegraphs Manual Vol.3) at page 261, the Authority competent to impose major

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penalty is the Deputy General Manager or the Director.

6. We have considered this submission. We may at this stage reproduce the relevant part of the Posts and Telegraphs Manual Volume 3 relating to the Phones Inspector.

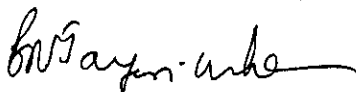
Part VI - General Central Services, Class III.


Description of post.	Appointing Authority.	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in Rule 13).			Appellate Authority.
		Authority.	Penalties.		
(1)	(2)	(3)	(4)	(5)	

Office of the General Manager, maintenance and other offices under his jurisdiction.

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Staff in higher or lower selection grade or on identical scale of pay, Junior Engineer Building Overseer, Repeater	Deputy General Manager/Director.	Deputy General Manager/Director.	All.	General Manager.
Station Assistant, Sgno-grapher to the Head of the Circle, Lower Selection Grade Telegraph-Master, Assistant Telegraphmaster, Junior Supervisor, Selection Grade Draftsman, Line Inspector, <u>Phones Inspector</u> , Telegraph Traffic Supervisor, Class III.		Divisional Engineer/Regional Engineer. Maintenance/ Regional Traffic Superintendent/ Regional Controller Telegraph Traffic.	(i) to (iv)	Deputy General Manager/Director

8. It is seen from the Rules extracted above, it is only the Deputy General Manager who can impose the punishment of removal from service. In this case, the order has been passed by the Divisional Engineer, Telephones who is not competent to pass the orders. In the circumstances, the application has to be allowed on this ground alone. Accordingly we set aside the impugned order and we direct the respondents to reinstate the applicant into service. The application is allowed accordingly. No costs.

  
(B.N. JAYASIMHA )  
VICE CHAIRMAN  
24-11-1989

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(J.N. MURTHY)  
MEMBER (JUDL)  
24-11-1989.

vcr.

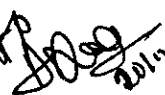
  
DEPUTY REGISTRAR (J)  
24/11/89

TO:

1. The Member, (Personnel), Union of India, Telecom Board, New Delhi-110 001.
2. The General Manager, Telephones, Telephone Bhavan, Hyderabad-500 033.
3. The Divisional Engineer (Phones) (presently outdoor), Secunderabad-500 003.
4. One copy to Mr. K.G. Kannabiran, Advocate, 10-3-29/2, 128, East Marredpally, Secunderabad, A.P.
5. One copy to Mr. P. Ramakrishna Raju, Sr. CGSC, CAT, Hyderabad.
6. One spare copy.

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6/11/89  
  
20/11/89