

50

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

Fri DAY THE eleventh DAY OF September
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN

: PRESENT :

THE HON'BLE MR. B.N.JAYA SIMHA: VICE-CHAIRMAN
AND
THE HON'BLE MR.D.SURYA RAO: MEMBER.

ORIGINAL APPLICATION NO. 395 of 87.

Between:-

K.Venkata Ratnam

.....Applicants.

And

- 1) The Divisional Engineer
Telecommunications, Rajahmundry - 533150
- 2) The General manager
Telecommunications, A.P. circle, Hyderabad - 500001, A.P.
- 3) The Director of Telecommunications,
Visakhapatnam - 53003- A.P.

.....Respondents.

Application under Section 19 of the Administrative Tribunals Act, 1985 praying that in the circumstances stated therein the Tribunal will be pleased to declare that the proceedings issued by the 1st respondent in his proceedings, NO. X 1 DET 1 DIS 1 KVR 186-87, dated 12 - 5 - 87 is illegal, arbitrary, unconstitutional and malafide and to quash the same.

The applicant, who was working as Senior Section Supervisor in Rajahmundry Telecommunications Division, filed this application questioning the order dated 12-5-1987 issued by the Divisional Engineer, Telecommunications, Rajahmundry proposing to hold an inquiry under Rule 14 of the CCS(CCA)Rules, 1965, in regard to certain charges framed against him. The applicant had given a notice to the Director of Telecommunications, Visakhapatnam on 29-12-1986 and sought voluntary retirement from service with effect from 30-6-1987. On 19-2-87, the Respondent no.2 asked him to furnish certain documents including a formal application for voluntary retirement. On 2-4-1987 his request for voluntary retirement was rejected by the first respondent, viz., DE, Telecom., Rajahmundry on the ground that he is required as a Prosecution Witness in another inquiry. On 8-4-1987, the applicant replied that his colleague, viz., Sanyasi Rao, a prosecution witness was allowed to retire w.e.f. 31-3-1987 and as such

he may also be allowed to retire. On 12-5-1987,

a charge-memo. was issued against the applicant,

wherein the following two charges were framed against

the applicant :

"Article I"

"Sri K.Venkataratnam while working as Section Supervisor incharge of Establishment and Recruitment section in the office of D.E.T., Eluru between the period 1977 to 1982 did not take action nor caused action to be taken for verification of genuineness of educational certificates/marks of the selected candidates as Telephone Operators recruited for :-

- (a) first and second half years of 1979
- (b) first and second half-years of 1980
- (c) first half year of 1981, and

Telecom. Office Assistants recruited for :

- (a) second half year 1980
- (b) first half year 1981
- (c) first and second half years of 1982.

With the concerned educational authorities which has resulted in the entry of the candidates who would not otherwise become eligible for appointment / entry into the Eluru Telecom.Engineering Division.

Article-II

That Sri K.Venkataratnam while working as Section Supervisor of Establishment and Recruitment Section in the office of the D.E.T. Eluru during the period 1977 to 1982 did not ensure nor caused action for proper upkeep and preservation of records relating to the candidates recruited in the recruitments

referred in Article I which has resulted in the loss of records in the personal files of the candidates. Thus Sri K. Venkatarathnam by his above acts exhibited lack of absolute integrity and devotion to duty and acted in a manner unbecoming of a Government Servant and contravened Rule 3(1)(i) to (iii) of CCS(Conduct)Rules, 1964 and has also acted in a way of unbecoming of a supervisory official thereby contravened Rule 3(2)(i) of CCS (Conduct)Rules, 1964."

The applicant states that earlier on 22-1-86, a statement was recorded from him in regard to the very same subject which forms the subject-matter of the charter and that till 12-5-1987, no further action was taken against him. On the other hand on 26-1-1987, the General Manager, Telecommunications, Hyderabad issued a letter to the first respondent stating that there was no vigilance case against the applicant. It is contended that the framing of charges and not allowing him to retire voluntarily is based upon extraneous considerations.

2. On behalf of the respondents, a counter has been filed stating that in January, 1984 there were certain complaints regarding recruitment of candidates

contd..4

based on bogus certificates in Eluru Telegraph

Division and this was the subject matter of the
newspapers' report ... and anonymous complaints.

The matter was taken up for investigation and

statement of the
it was at that time the/applicant who was the

Section Supervisor in-charge of the Establishment

and Recruitment Section of the DE's Office was

recorded. Till January, 1987, that is, even on

the date of issue of Vigilance Clearance Certifi-

cate, the Department could not arrive at the con-

clusion that there was a prima facie case against

the applicant. It is under these circumstances

that the Vigilance Clearance was issued on 26-1-1987.

It is stated that the Department came to the conclu-

sion that there was a prima facie case against the

applicant subsequently that is, after refusing the

request of the applicant for voluntary retirement.

Hence, proceedings against him under Rule 14 of the

CCS(CCA)Rules, 1965 were initiated. The contention

of the applicant that the disciplinary proceedings

contd..5

were initiated against him due to mala fide intentions or on extraneous considerations was denied by the respondents. In regard to Sanyasirao's case, it is stated that there was no vigilance / disciplinary case pending against him at the time of accepting his R.O request for voluntary retirement. It is also stated that the Rule 34 inquiry was commenced against the applicant a for not ensuring proper preservation of records of recruitment during 1977-82 and for not taking up verification of the genuineness of the original certificates and other particulars furnished by the candidates, which resulted in entry/recruitment of the candidates who otherwise would not have become eligible to enter the Department. It is, therefore, stated that the commencement of disciplinary enquiry against the applicant is not bad and the application is liable to be dismissed.

3. We have heard Learned Counsel for the applicant and Sri R.Sreeramulu, Addl.Central Government Standing

- page six -

Counsel. Admittedly, charges have been framed against the applicant for certain acts of alleged misconduct and this is the subject matter of a Departmental inquiry against him, which is in progress now. The main contention of the Learned Counsel for the applicant is that there is considerable delay in the matter. Facts which have given rise to issue of charge-sheet came to light as long ago as 1984, whereas the charges were actually framed against him only in 1987 after his request for voluntary retirement. The Department accepts that there was such a delay, but, this was because of the fact that the Department could not come to a *prima facie* conclusion that there was a case against the applicant till they verified the *due* records which had been misplaced and ~~also~~ after they verified the records with reference to the statements given by the applicant. In the circumstances, mere delay cannot be a bar for proceeding with the Departmental Inquiry. When a Government Servant is facing charges involving grave irregularities, it is open

contd..7

to the Department to refuse permission for his retirement. We, therefore, see no valid reason for interfering in the matter and quashing the impugned order dated 12th May, 1987. The application is accordingly dismissed. There will be no order as to costs.

B.N.Jayasimha
(B.N.JAYASIMHA)
Vice-Chairman.

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

11th September, 1987.

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P.94
102
2