

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

G.A.No.191 of 1989 ✓

Dt.04-10-1989. ✓

Kum.Aria .

....Applicant ✓

Versus

Union of India, represented  
by the Secretary,  
Ministry of Communications,  
New Delhi-1 and 2 others ✓

...Respondents ✓

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Counsel for the Applicant : Shri T.Jayant ✓

Counsel for the Respondents : Shri <sup>N. Bhaskara Rao</sup> ~~E. Meden Mohan Rao~~ , Addl. Secy

CORAM

Honourable Shri B.N.Jayesimha, Vice-Chairman ✓

AND

Honourable Shri D.Surya Rao, Member (J1) .

(Judgment of the Bench delivered by Hon'ble  
Shri D.Surya Rao, Member (J1) ).

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The applicant herein was working as Lower Division Clerk in the office of the Director Telecom at Hyderabad. She has filed this application to quash the order No.TAH/ST/25-99 dated 21-06-1988 ✓ passed by the 3rd respondent removing her from service as a major punishment.

2. The charge framed against her was, <sup>that</sup> she gave a false statement in her application for appointment to the post of clerk i.e. she appeared for Clerks Grade Examination conducted by the Staff Selection Commission in the year 1980 at Mahabubia Junior College, Secunderabad Centre whereas the same was not one of the sub-centres for the said examination. The applicant alleges that one of the documents asked at the <sup>for</sup>

time of enquiry was not furnished to her. The applicant further submitted a list of three defence witnesses in support of her defence case. But the Enquiry Officer informed the applicant that he decided to drop them as they declined to depose before Enquiry Officer. The other ground raised by the applicant that a copy of the Enquiry Officer's report after completion of the enquiry was not furnished by the 3rd respondent before passing the impugned order dated 21-06-1988 to the applicant.

3. We heard Shri T. Jayant, learned counsel for the applicant and Shri Naram Bhaskar Rao, Additional Standing Counsel for the Department. Shri Jayant says that the matter is covered by the Full Bench decision of the Central Administrative Tribunal held by the New Bombay Bench in Premnath K. Sharma Vs. Union of India and others reported in 1988(6)ATC page 904. The decision is as follows :-

" Even after the amendment of Article 311(2) by the 42nd amendment, the constitution guarantees a reasonable opportunity to show cause against the charges levelled against the charged officer during the course of the enquiry. In order to fulfill the constitutional requirement he must be given an opportunity to challenge the enquiry report also. The Enquiry Officer enquires into the charges, the evidence is recorded and the charged officer is permitted to cross-examine the witnesses and challenge the documentary evidence during the course of the enquiry. But the enquiry does not conclude at that stage. The enquiry concludes only after

the material is considered by the Disciplinary Authority, which includes the Enquiry Officer's report and findings on charges. The enquiry continues until the matter is reserved for recording a finding on the charges and the penalty that may be imposed. Any finding of the Disciplinary Authority on the basis of the Enquiry Officer's report which is not furnished to the charged officer would, therefore, be without affording a reasonable opportunity in this behalf to the charged officer. It therefore follows that furnishing a copy of the enquiry report to the charged officer is obligatory." ✓

But Shri Bhaskar Rao seeks to contend that the CCS (CCA) Rules <sup>are not</sup> struck down or ammended, <sup>that these rules do</sup> and not provide for supplying a copy of Enquiry Officer's Report to the charged officer before a final order, <sup>and</sup> therefore, the question of furnishing a copy of Enquiry Officer's report will not arise. ~~This is a question of rules not providing for a copy of Enquiry Officer's Report prior to passing final orders.~~ <sup>now raised by</sup> Therefore the contention of the standing counsel <sup>in the Full Bench decision that despite no provision in the rules,</sup> has been considered and it has been held ~~that~~ <sup>that</sup> non-furnishing of Enquiry Officers report would be violative of the principles of natural justice and therefore the order of punishment could be vitiated. In this circumstances the contention now being sought to be raised by the Standing

contd...4..

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Counsel is untenable <sup>and</sup> this matter is covered by the Full Bench decision.

4. For the aforesaid reasons, we hold the enquiry is vitiated and the order imposing the penalty of removal from service must be quashed. This, <sup>order</sup> however, will not preclude the respondents from supplying a copy of the enquiry report to the applicant and giving her an opportunity to make her representation and proceeding to complete the Disciplinary Proceedings from that stage. The application is allowed to the extent indicated above but in the circumstances we make no order as to costs. If the respondents choose to continue the disciplinary proceedings and complete the same, the manner as to how the period spent in the proceedings should be treated would depend upon the ultimate result.

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

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

Dt. 4th October, 1989.  
Dictated in open court

*S. Venkata*  
By: Registrar 3/11/89

- To
- AVL.
- 1) The Secretary, Min of Communications  
New - Delhi -
- 2) The General Manager Telecommunication  
Hyderabad
- 3) The Director Telecom, Hyderabad  
Area, Secunderabad.
- 4) one copy to Mr. T. Jayant Advoca
- 5) one copy to Mr. N. Bhaskar Reddy, Secy
- 6) one spare copy.

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CHECKING BY

D.R.

TYPED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

HON'BLE MR. B. N. JAYASIMHA: V.C. ✓

AND ✓

HON'BLE MR. D. SURYARAO: MEMBER (J)

~~AND~~

~~HON'BLE MR. D. K. CHAKRAVORTY: M (AD.)~~

~~AND~~

~~HON'BLE MR. J. NARASIMHAMURTHY: M (J)~~

DATED : 4/10/89.

~~ORDER/JUDGMENT~~

~~F.A. NO.~~ / ~~(W.P. No.~~

O.O.A. No. 191 / 89.

Allowed ✓

Dismissed

Disposed of

Ordered

No order as to co

PSR

