

91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.330/90

DATE OF JUDGEMENT: 16-8-93 1993

Between

D. Seshu Babu

.. Applicant

and

1. Chairman, Telecom Commission, New Delhi
2. Chief General Manager, Telecom, Hyderabad
3. District Manager, Telecom, Eluru
4. Divisional Manager, Telecom, Eluru
5. A.A.Kumar, Inquiry Officer, SDO Telephones Eluru

.. Respondents

Counsel for the Applicant :: Mr, KSR Anjaneyulu

Counsel for the Respondents :: Mr NVRamana, Addl.CGSC

CORAM:

HON'BLE SHRI A.B. GORTHI, MEMBER(ADMN)

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

JUDGEMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE

SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

This is an application filed under Section 19 of the Central Administrative Tribunals Act, to set aside the order of the Divisional Engineer, Telecom, Eluru, dated 31.10.1988 dismissing the applicant from service as illegal and direct the respondents to reinstate the applicant in service with all consequential benefits.

2. The facts giving rise to this OA in brief, are as follows

T - c - n - f

..2

15/8/93

92

3. The applicant herein submitted an application dated 24.3.1982 to the post of Telecom Office Assistant. He had stated in his application that he secured 79.6 % marks excluding Hindi in the SSC examination. The applicant, along with his application had submitted a true copy of certificates showing that he secured 79.6% marks in the SSC examination. On the basis of the marks, the applicant was said to have obtained selection to the post of Telecom Office Assistant and was ultimately appointed as Telecom Office Assistant. While so, it ~~became~~ came to the notice of the respondents that the applicant had obtained the said post of Telecom Office Assistant by submitting false certificates with inflated marks. So, a regular departmental enquiry was ordered as against the applicant. The Enquiry Officer after conducting a ~~xxxxxx~~ regular departmental inquiry, gave his finding that the applicant, had in fact, got appointed to the post of Telecom Office Assistant in the year 1982 on the basis of bogus certificates and the applicant had not obtained 79.6% marks in the SSC examination as stated by him. The Disciplinary Authority accepted the findings of the Inquiry Officer and dismissed the applicant from service. The applicant preferred an appeal as against the orders of the Disciplinary Authority. The appellate authority agreed with the Disciplinary authority and dismissed the appeal of the applicant. So, the applicant has filed in the present OA for the relief(s) as already indicated above.

4. Counter is filed by the respondents opposing this OA.

5. We have heard Mr KSR Anjaneyulu, counsel for the applicant and Mr NV Ramana, Standing counsel for the respondents.

T. C. Anand

2nd 8/

[Handwritten signature]

T. Cant

94

..4..

his evidence that the applicant was admitted in Intermediate course on 27/7/77 based on the memoranda of marks of matriculation examination held in March, 1976 and September 1976 with Regn.Nos.5033 and 1723 respectively, and, that, he ^{can only} had secured 38.8% of marks in aggregate. PW 2 & PW3 are responsible persons. It is with reference to records that they have given evidence before the Inquiry Officer. They had no grudge as against the applicant. As a matter of fact, nobody had grudge against the applicant including the respondents herein. From the evidence of PW 2&3 that were examined during the course of Inquiry, there cannot be any doubt about the fact that the applicant had appeared privately for the SSC examination in March and September, 1976 with Regn.Nos.5033 and 1723 respectively and that, he had secured only 38.8% marks in aggregate in the said SSC examination.

8. As already pointed out, in the application which the applicant had put in for the post of Telecom Office Assistant, he had stated that he had secured 79.6% marks excluding Hindi. There cannot be any doubt about the fact that the applicant had submitted false statement of ~~marks~~ regarding his marks, namely 79.6% excluding Hindi and in support of the same, had produced bogus certificates. So, the applicant with 38.8% of marks which he had ~~x~~ obtained, admittedly, was not eligible to be appointed to the post of Telecom Office Assistant as there were many others who had secured high percentage of marks and had not been ^{selected} appointed to the said post due to the fraud played by the applicant. So, this is a case where the applicant had played fraud on the department and had secured

T. C. n. d. f.

..5

104

(95)

..5..

the job of Telecom Office Assistant. So, for the fraudulent act of the applicant in securing the job, the applicant had been rightly dismissed from service and hence, we find no reason to interfere in the action of the respondents in dismissing the applicant from service.

9. Mr KSR Anjaneyulu, counsel for the applicant made a vain attempt before us by contending that the applicant had simply signed the application form, without knowing its contents and some well-wisher of the applicant might have filled up the application form, so as to enable the applicant to get the job and so the fact, that the applicant had made a false statement with regard to his marks cannot be accepted. When application, that has been duly filled up is signed by a candidate, the inference that has got to be drawn is that all information ^{contained in that application is} furnished by the candidate ^{application} only, who had signed the ~~form~~. We are unable to believe that some well-wisher of the applicant had entered inflated ^{in the Application of the Applicant} marks so as to help the applicant and the responsibility ^{is not} is not of the applicant.

10. It is contended by the learned counsel for the applicant, that certain documents which the applicant wanted were not furnished to him and, that, he did not have a fair trial and in view of this, that the dismissal order of the respondents is liable to be set aside. We have gone through the records. The applicant, as seen, had asked for 31 documents. Out of the 31 documents relevant documents were permitted to be perused by the applicant and as a matter of fact, the applicant had perused those documents.

T. S. R. S.

..6

107

(96)

..6...

Documents that were irrelevant were not permitted to be perused by the applicant nor copies of them had been furnished to the applicant. So, as relevant documents have been permitted for perusal of the applicant, it is not open for the applicant to say that he is prejudiced by any way because of non-supply of required documents. The inquiry has been held in accordance with CCS Rules and we do not see any error ^{or} having been ~~done~~ ^{committed} in the procedure that ~~had~~ ^{was} been followed in conducting the inquiry. ^{principles} ~~Perhaps~~ natural justice had been fully followed ^{in conducting the enquiry} ~~in this case~~. So it is not open for the applicant to contend that ~~he~~ ^{he} reasonable opportunity was denied to him. Even accepting for arguments sake, that certain procedural irregularities ^{might have} ~~had~~ been committed in the conduct of the inquiry, the question is, whether the termination of the applicant in the circumstances of the case, can be said to be an act of punishment. In AIR 1958 SC 419

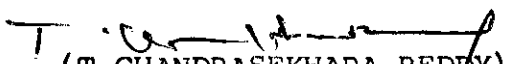
KS Srinivasan Vs Union of India, the Supreme Court has said if the appointment is not validly made by the competent authority, the same confers no right on the incumbent to the post and further the Supreme Court ^{had} ~~laid~~ ^{down} that if the appointment of a ^{person} ~~man~~ to a post in invalid, the termination of the appointment cannot be said to be an act of punishment. So, when the termination of the services of the applicant is not by way of punishment, and as his services are terminated in view of the fraud played by him in securing the job, it may not be necessary to follow a regular departmental inquiry under the CCS/CCA rules. It may be sufficient to provide a reasonable opportunity to the applicant to show ^{cause for the} ~~that he had~~ ^{action to be taken} ~~committed fraud in securing the job~~. The applicant, as a matter of fact, had every opportunity to show that he had not secured the job by fraudulent means namely by producing bogus certificates with inflated marks. In view of the fact that the applicant had

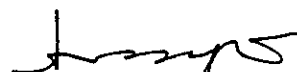
T. C. N. S. S.

..7

97

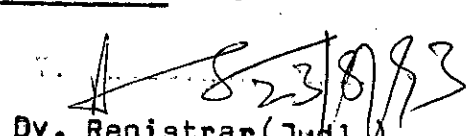
obtained job by fraudulent means by producing bogus certificates with inflated marks, the termination orders of the applicant have got to be held as valid in law. So, we see no merits in this OA and hence this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.


(T. CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTHI)
Member (Admn)

Dated: 16-8- 1993

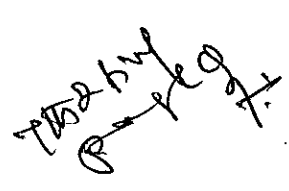
mvl


Dy. Registrar (Judl.)

Copy to:-

1. Chairman, Telecom Commission, New Delhi.
2. Chief General Manager, Telecom, Hyderabad.
3. District Manager, Telecom, Eluru.
4. Divisional Manager, Telecom, Eluru.
5. Sri. A.K. Kumar, Inquiry Officer, SDO Telephones, Eluru.
6. One copy to Sri. K.S.R. Anjaneyulu, advocate, CAT, Hyd.
7. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
8. One copy to Library, CAT, Hyd.
9. One spare copy.

Rsm/-



O.A. 330/90

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 16/8/93 -1993

ORDER/JUDGMENT:

~~M.A./R.A./C.A.No.~~

in

O.A.No.

330/90

~~T.A.No.~~

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Dejected/Ordered

No order as to costs.

Central Administrative Tribunal
DISPATCH
30 AUG 1993
HYDERABAD

pvm

10