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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.A.No.28/90.

Date of Judgment:7-1-1991.

P.Venkateswara Rao

....Applicant

Vs.

1. The Divisional Engineer, Telecommunications,
Eluru, O/o Telecom District Manager, West
Godavari District, Eluru-534 050.

2. The Telecom District Manager, West Godavari
District, Eluru-534 050.

....Respondents

Counsel for the Applicant : M/s J.Venugopal Rao,
N.Johnson &
G.Sagar Reddy

Counsel for the Respondents : Shri E.Madan Mohan Rao, Addl.CGSC

CORAM:

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

THE HON'BLE SHRI J.NARASIMHA MURTHY : MEMBER (J)

(Judgment of the Division Bench delivered by
Hon'ble Shri B.N.Jayasimha, Vice-Chairman)

The applicant is a Telephone Operator in the office
of the Sub-Divisional Officer, Telegraphs, Nidadavolu,
West Godavari District. He has filed this application
questioning order No.E/Disc/PVR/88-89 dt.31-3-89 passed
by the Divisional Engineer, Telecom dismissing him from
service.

2. The applicant states while he was working as
Telephone-Operator, the D.E.T.Eluru asked the applicant on
8-5-84 to submit original certificates of Metriculation,
Intermediate marks memos, copies of which he had already
submitted at the time of selection as Telephone-Operator.

bns

It was further ~~stated~~ that in case no originals are available with the applicant, he must obtain duplicate copies of the same from the authorities concerned and submit the same. The applicant in his letter dt.28-5-84 stated that he had already submitted his original certificates in DET Office, Eluru in February, 1981 at the time of interview and the same were not returned to him. The ~~the applicant~~ that the statement of DET, Eluru in his letter dt.2-7-84 informed/ the applicant that he had submitted the original education certificates to the then Section Supervisor and the then Divisional Engineer was incorrect as no records were available to that effect. He therefore asked the applicant to produce duplicate copies of the certificates on or before 20-7-84. The applicant thereafter requested the DET, Eluru to furnish ~~the~~ true copies of the certificates which were said to be available in the office in order to get duplicate certificates of the same. On 15-12-1984 a memo given to the applicant to produce any evidence in token of having made over the certificates. Thereafter a charge memo was issued on 12-2-1986, and an enquiry was conducted into the charges by an Enquiry Officer appointed by the DET, Eluru. The applicant contend~~s~~ that the enquiry was rushed through with bias and contrary to the rules of natural justice.

bmr *Engg*

contd...3...

Basing on the report of the Enquiry Officer, the Disciplinary Authority i.e. the Divisional Engineer, Telecommunications, Eluru passed the impugned order. The applicant submitted an appeal on 1-5-1989 to the District Manager, Telecom, Eluru, who is the appellate authority questioning the dismissal order and the same was not disposed-of. Hence he has filed this application raising several grounds questioning the impugned order.

3. We have heard Shri J. Venugopal Rao, learned counsel for the applicant and Shri E. Madan Mohan Rao, learned standing counsel for the Respondents. Shri Venugopal Rao contends that the orders of the Disciplinary Authority is liable to be set aside on the ground that the Disciplinary Authority proceeded to pass the impugned order on the basis of the Enquiry Officer's report, without giving an opportunity to the applicant to make his representation against that report.

4. He contends that this is contrary to the law laid down by the Supreme Court in Union of India & others Vs. Mohd. Ramzan Khan (JT 1990 (4)SC 456). It is not disputed that the Disciplinary Authority proceeded to pass the orders without furnishing a copy of the Enquiry Officer's report to the applicant and without giving him an opportunity to make representation against that report. The Supreme Court in Union of India & others Vs. Mohd. Ramzan Khan (JT 1990 (4)SC 456) observed as follows :-

fnr

To

1. The Divisional Engineer, Telecommunications,
Eluru,
O/o Telecom District Manager,
West Godavari District, Eluru - 534 050.
2. The Telecom District Manager, West Godavari
District, Eluru - 534 050.
3. One copy to Mr.J.venugopal Rao, N.Johnson & G.Sagar Reddy,
Advocates
Advocates Association, High Court Buildings, Hyderabad.A.P.
4. One copy to Mr.E.Madanmohan Rao, Addl. CGSC. CAT Hyd.Bench.
5. One copy to Hon'ble Mr. J.Narasimha Murty, Member(J) CAT.Hyd.Bench
6. One spare copy.

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"We make it clear that whenever there has been an Inquiry Officer and he has furnished a report to the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter."

Applying the above decision, the impugned order ~~cannot~~ be ~~sustained~~ and accordingly we set aside the same and allow the application. ~~It is clarified~~ that this decision will not preclude the disciplinary authority from revising the proceedings and continuing with it in accordance with law from the stage of supply of the inquiry officer's report. There will be no order as to costs.

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

M.S
(D.NARASIMHA MURTHY)
Member (Judicial)

Dated: 7th January, 1991.
Dictated in Open Court

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Deputy Registrar (Jud)

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CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.B.N.JAYASIMHA : V.C.

AND

THE HON'BLE MR.D.SURYA RAO : M(J)

AND

THE HON'BLE MR.J.NARASIMHA MURTY:M(J)

AND

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

Dated: 7 - 1 - 1991.

ORDER / JUDGMENT:

M.A./R.A. / C.A. NO.

in

T.A. NO.

W.P. No.

C.A. No.

28 / 90

Admitted and Interim directions
issued.

Allowed

Disposed of with direction

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs

