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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

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ORIGINAL APPLICATION NO.38/90

DATE OF JUDGEMENT: 23-1-1993

Between

Smt Sujan Rahel

.. Applicant

and

1. The Secretary to Government &  
Chairman, Telecom Commission  
New Delhi

2. The Deputy General Manager,  
Telecom District, Vijayawada

3. The Divisional Engineer(Admn)  
Office of Telecom District Manager  
Vijayawada

.. Respondents

Counsel for the Applicant :: Mr KSR Anjaneyulu

Counsel for the Respondents :: Mr NR Devraj, Sr.CGSC

CORAM:

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

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

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JUDGEMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE  
SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

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This application is filed under Section 19  
of the Administrative Tribunals Act, to declare the order  
of dismissal passed by the Deputy General Manager, Telecom  
District, Vijayawada as per his memo dated 28.12.89 as  
arbitrary, illegal and set aside the same by directing  
the respondents to reinstate the applicant with all conse-  
quential benefits.

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2. The facts giving rise to this OA in brief, may be stated as follows:

3. The applicant had passed the SSC examination by securing only 47.49% marks excluding the marks obtained in Hindi. Subsequently, she had passed intermediate examination. Certain advertisements were made in the year 1978 for filling up the posts of Telecom Office Assistants in Eluru Division. The applicant was one of the candidates who had applied for the said post. The applicant belongs to Scheduled Caste community. According to the applicant, she had shown the correct percentage of marks in her application which she submitted for appointment, (i.e., 47.49% in the SSC examination). She was selected and appointed in the said post at Eluru Division on 19.9.1978, by the competent authority according to the applicant, on the basis of the marks shown by her at the time of appointment.

4. While so, the applicant was served with a charge memo dated 5.3.1986, alleging that, she got selected as Telecom Office Assistant in the year 1978 by producing ~~bogus~~ bogus certificates with inflated marks. The applicant denied the charge. An Enquiry Officer was appointed and a regular departmental enquiry was conducted. The Enquiry officer held ~~that~~, as certain documents that were relevant to the inquiry and were sought to be produced, could not be produced by the respondents, that the charges as against the applicant were not made out.

5. The Disciplinary Authority upheld the findings of the Enquiry Officer. The Deputy General Manager, Telecom District, Vijayawada, who is the revising authority, after giving due notice to the applicant, and also after affording an opportunity to the applicant as per his orders dated 28.12.89,

set aside the order of the Disciplinary Authority, exonerating the applicant, from the charge that she secured job by surreptitious means by producing false and bogus certificates and held, that the charges as against the applicant were proved and dismissed the applicant from service. Hence, the present OA is filed by the applicant to set aside ~~the charges recommended 5.3.86~~ served ~~served on the applicant and~~ the dismissal order of the Deputy General Manager, Telecom District, Vijayawada, dated 28.12.89.

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

7. In the counter filed by the respondents it is maintained that, the applicant had actually obtained only 47.49% in the SSC examination and a bonus 7% marks were awarded as the applicant had passed intermediate at the time of interview for the post of Telecom Office Assistant. <sup>total</sup> and that, the percentage of marks works out to ~~is~~ 54.49% and hence, the applicant was not eligible to be appointed as Telecom Office Assistant with the percentage of marks of 54.49 which she had secured. It is further maintained that the applicant had filed along with her application bogus certificates as having obtained 74% marks in SSLC and that the same is reflected in the relevant sheet of Z Register that is maintained in the regular course of business in the office of the respondents. It is also further maintained that other SC candidates who had also competed along with the applicant in the said examination

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though secured higher marks than the applicant herein, were denied appointment and but, for the bogus marks, the applicant would not have been selected for the post at all. It is the case of the respondents, that the applicant had been rightly dismissed from service.

8. We have heard Mr KSR Anjaneyulu, Counsel for the applicant and Mr NR Devraj, Standing Counsel for the respondents.

9. The fact that the applicant, in her SSC examination had secured only 47.49% is not ~~now~~ disputed in this OA. It is the case of the applicant that, at the time of applying for the job, she had shown the correct marks which she had obtained in the SSC examination and on the basis of the marks she had obtained in SSC and with the bonus marks given for her pass in Intermediate examination, that ~~she~~ (applicant) had been selected and appointed by the competent authority. It is also contended on behalf of the applicant, that the sheet in the Z reg showing the marks secured by the applicant cannot be relied upon by the respondents to substantiate their case that the applicant had secured the job by surreptitious means. It is also strongly contended on behalf of the applicant, that, during the course of the enquiry, even though the applicant specifically requested for production of her application for the post of Telecom Office Assistant that the same was not produced by the respondents and so, from the non-production of the application of the applicant, which she had submitted for securing the appointment, the fact that the applicant had furnished false information and secured job by surreptitious means cannot be accepted.

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10. During the course of hearing, it became evident, that every trace of evidence of information that had been furnished by the applicant at the time of her appointment had been destroyed. The only material that is available to decide this OA is the sheet of paper in the Z register of the respondents, wherein, the percentage of marks obtained by each of the candidates including the applicant herein in SSC examination, as well as bonus marks awarded to them had been entered. So, on the basis of the sheet contained in the Z register of the respondents, this OA is liable to be decided.

11. As a matter of fact, the revising authority had placed reliance on the said sheet in the Z Register and had come to the conclusion that the applicant had obtained job by furnishing false information and, hence, had passed the orders of dismissal.

12. As already pointed out, a regular paper advertisement calling for the application for the post of Telecom Office Assistants was floated by the respondents. As per the said advertisement, applications of 12 SC candidates have been considered for 3 SC vacancies in the Eluru Division and the marks obtained by them in the SSC examination and the bonus marks awarded to them are shown in the sheet in the Z Register. As against the name of the applicant, in the sheet of the Z register it is shown that applicant had secured 74% in SSC and

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that, bonus marks of 7 had been given for her passing intermediate examination, thus making a total of 81%. The sheet in the Z register further indicates that the applicant and one other SC candidate were selected on the basis of the percentage of marks obtained by them which is 81.00 and 75.00 respectively. Six other SC candidates who had appeared are found below the applicant and on the basis of their marks, were kept in the waiting list. The percentage of the marks obtained by the six waiting list candidates are shown as 73.40, 72.80, 71.80, 69.40, 66.60, 66.00 respectively. Four SC candidates have been left out as not selected. It is the contention of the respondents, that the entries in the Z register are based on the information furnished by the applicants and information in the said sheet in the Z register has also been duly checked and signed by Assistant Director (Rectt.) and other top officials who were involved in the selection process of the applicant, and so, due weight has got to be given to the sheet contained in the Z register. It is maintained that it was evident from the Z register that the applicant had furnished false information with regard to her marks for securing job and that the same can easily be accepted as the sheet in the Z register had been prepared purely on the basis of the information of each of the selected candidates, waiting list candidates and candidates not selected.

134 During the course of the Departmental enquiry, no oral evidence had been let in. Only on the basis of the documentary evidence, the enquiry officer had sent his

report. In the article of charge memo that was served on the applicant, it has been stated that-

"Smt M.Sujan Rahel, the suspected Govt. servant had therefore been selected for the post of T.A. T.O.A basing on the 81% of marks as indicated in her application for the said recruitment. The 'Z' register is one of the authentic records of the recruitment. For verification of original educational qualifications, the suspected Govt. servant was directed to produce her original educational qualification certificates.

As per the original SSC certificates, the following are the marks secured in the SSC.

1. First Language (Telugu)	- 59%
2. Second Language (Hindi)	- 44%
3. Third Language (English)	- 55%
4. General Maths	- 33%
5. General Science	- 42%
6. Social studies	- 48%

She has, therefore, secured only 47.40% of marks (excluding the marks obtained in Hindi) in the SSC as against 74% indicated in the application for the post. It is, therefore, alleged that Smt. M.Sujan Rahel, had entered in the Department by surreptitious means producing false and bogus educational qualification certificates for the sake of obtaining higher percentage of marks. She is, therefore, charged with violation of Rule 3(i)(i) and 3(i)(iii) of CCS(Conduct)Rules, 1964."

*Like A. M. C. -*

Annexure III is the brief submitted by (Smt Sajan Rahel) during the course of Enquiry to the Enquiry Officer.

She has stated therein, that she was not aware of the contents of the Z register and that the contents of the Z register were shown to her only at the time of enquiry

wherein she found that the entries in column Nos. 6 & 8 therein are not relegated to her. She admits the information contained in other columns against her name. The contents in the sheet of the said Z register should have been entered on the basis of the information furnished by each of the candidates either in their applications or on the basis of the mark sheets produced along with their applications. It would be absurd to say, that if the applicant had shown correct percentage of marks in her application, that some one would have entered therein that the applicant had secured 74% in the SSC examination. So, as the sheet containing the particulars of the selected candidates and others in the sheet of Z register is maintained in the course of discharge of official duties the same is liable to be held as true and genuine document. Tribunals repose great confidence in the validity and accuracy of official documents that are kept in due course of business properly and regularly. As already pointed out, the said sheet should have been prepared on the basis of information furnished by the applicant and other for the said post of Telecom Office Assistant. So, that being the position, we do not have any hesitation to come to the opinion on the basis of the sheet of the information contained in the Z register that the applicant, at the time of her appointment, had given information that she had secured 74% of marks in the SSC examination, even though actually she had secured 47.49% marks. It is possible in her attempt and anxiety to secure a job, the applicant might have fabricated documents to show that she had secured 74%

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marks in the SSC examination. As could be seen, the Z Register sheet contains information regarding the percentage of marks and bonus marks and total marks awarded to the candidates therein, who ~~appeared~~ for the said post. The applications received from the candidates for the said post were processed by responsible persons in the office of the respondents. As already pointed out, <sup>in the year 1978</sup> the Z register had been signed by Assistant Director (Recrt.) and other top officials concerned with the recruitment ~~as~~ of Telecom office assistants. It is not a document that is forthcoming for the first time before this Tribunal. The said sheet in the said Z register was available with the respondents, even before the enquiry had been initiated as against the applicant, and, as already pointed out, there is a mention about the sheet of the Z register in the charge memo served on the applicant and the applicant had also been confronted with the said sheet of the Z register during the course of the enquiry. All these circumstances would invest the sheet of the Z register with genuiness. As a matter of fact, nobody will be interested in getting the applicant dismissed from service provided if appointment had been made on the basis of the actual marks she had obtained in the ~~SSC~~ examination.

14. As seen from the sheet of the Z register, SC candidates who have secured more than 65% marks also had not been selected. If the applicant had shown as having obtained ~~47.49%~~ marks in the SSC examination, it is

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unthinkable how she would have been selected for the post. So, for all these reasons, we have to come to the conclusion that the applicant had secured the job by fraudulent means by producing bogus certificates and false information with regard to her marks in the SSC examination. In view of this position, the action of the respondents in dismissing the applicant from service is liable to be held as valid and legal.

15. It is contended on behalf of the applicant, that her application for the post of Telecom Office Assistant was not made available by the respondents and hence, it will not be fair to infer that the applicant had furnished false information to the respondents in securing a job. As a matter of fact, the said contention found favour with the Enquiry Officer and the Disciplinary Authority. The said contention ~~anyhow~~ did not find favour with the Revising authority. In this context, we may refer to the order of the revising authority dated 28.12.89 wherein para 15-17 at Page 4 reads as under:

"It is a fact that the application submitted by the official for the recruitment (allowed by the IO as additional document) could not be produced and supplied as the same was/is not available. If a reasonable inference can be drawn by other documents, non-production of a particular document is not a flaw. A departmental enquiry cannot be reduced to a rig-morale of technicalities. The Z register, though not marked by the IO, was gone through and was a document during the inquiry which has been commented by the official though in a perverse way.

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The argument of the official accepting some columns of Z register as correct and other columns as incorrect is understandable as there is no other argument in her favour. A document speaks by itself. In the instant case, there is no reason for me to doubt the correctness of the information in the columns of the Z register.

From the evidence on record, there is more than what meets the eye to show that the Government servant ~~adopted dubious~~ means. She cannot feign innocence by mere denial. What emerges out is that Smt Sujan Rahel, fully aware of the fact that there was no chance of her being considered and selected as TOA on the ~~basis~~ basis of marks actually obtained by her in SSC examination, furnished higher marks by falsifying the same. There cannot be any other inference than this."

We are in complete agreement with the reasons given by the revising authority in coming to the conclusions. The non-production of the application submitted by the applicant for the post of Telecom Office Assistant at the time of appointment by the respondents, does not any way affect the merits of this case. As a matter of fact, the application is not available with the respondents for which the respondents cannot be blamed.

16. Nodoubt in this case, no witness is examined. It is not necessary when document speaks by itself, oral evidence becomes unnecessary and so rightly, the inquiry officer had not examined witnesses in this case. So, from non-examination of witnesses in this case, no adverse inference can be drawn nor the enquiry is vitiated. Due procedure has been followed in the conduct of the enquiry.

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The revising authority has passed a ~~speaking~~ order after giving reasonable opportunity to the applicant, and in view of this position, the order of the revising authority as already pointed out, is liable to be upheld.

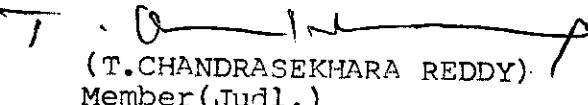
17. The learned counsel appearing for the applicant relied on the decisions reported in 1991(1) ATJ 81, 1986(3) SLR 657 GR Chavan Vs State of Maharashtra and others and 1988(2) SLJ 568 Krishnaji Hari Joshi Vs Union of India wherein it was held that revision without personal hearing as invalid, and violative of the principles of natural justice. The applicant had been given reasonable opportunity by the revising authority to put forth her case. So, we see no principle of natural justice as having been violated. As already pointed out, on the basis of the marks the applicant had obtained in the SSC examination, she had no chance of being selected and appointed. She had secured less number of marks than others who were not selected. In view of these circumstances, and as the applicant had obtained appointment on production of bogus certificate by showing inflated marks, the applicant had no right to hold the post as her selection to the post of Telecom Office Assistant is not valid. So, the termination of the applicant from the said appointment cannot be said to be by way of punishment. As the dismissal of the applicant from service is not as a measure of punishment, we do not think, it was necessary on the part of the respondents to follow the required procedure laid <sup>down</sup> ~~down~~ in CCS(CCA) Rules, and they could have well given show cause notice as to why her services should not be terminated and after

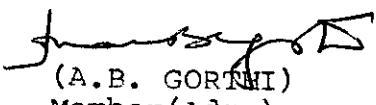


giving reasonable opportunity to her, could have terminated her service. But following the prescribed procedure laid in CCS(CCA) Rules, the applicant is not put to any prejudice as she had the required opportunity to explain her case. We see no ~~principle~~ principle of natural justice as having been violated and the applicant as having been denied reasonable opportunity at any stage.

18. It is faintly contended on behalf of the applicant on the basis of a Judgement of this Tribunal passed in OA27/90 that the Z register can be relied upon only if there are supporting documents and that, the Z register cannot be relied upon particularly when the entries therein are questioned by the applicant. We have gone through the said Judgement. As it was held in OA 27/90 that the applicant therein had furnished wrong information at the time of entering into service was not proved satisfactorily, the OA was allowed. But here with the material available before us, we have come to the conclusion that the applicant had obtained the job by fraudulent means on production of bogus certificates. The applicant in this OA and the applicant in OA27/90 are ~~on different~~ <sup>different</sup> ~~footing~~ <sup>per</sup> ~~on~~ <sup>different</sup> ~~footing~~. The cause of action for filing this OA and OA 27/90 are different. So, any finding on question of fact in OA 27/90 has no binding force on this Bench.

19. In the result, we see no merits in this OA and 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. GORAINI)  
Member(Admn)

Dated: 23-7-1993

O.A. 38/90

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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. GORTY : MEMBER (AD)

AND

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

AND

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

Dated : 23/7/1993

ORDER/JUDGMENT:

~~M.A. / P.A. / C.A. NO.~~

O.A. NO.

in  
38/90

T.A. NO.

(w.p.)

Admitted and Interim directions  
issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/ Ordered

No order as to costs.

pvm

Co.