

33

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA No.67 of 1991.

Date of Judgement:23-1-91.

Ch.Durga Nageswara Rao

...Applicant

Vs.

1. Union of India, rep. by
the Secretary, Ministry of
Communications, New Delhi-110001.
2. Deputy General Manager, Telecommunica-
tions, West Godavari District,
Eluru.
3. Divisional Engineer Telecom,
Eluru - 534050, West Godavari District.

...Respondents

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Counsel for the Applicant : Shri T.Jayant

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

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CORAM:

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

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

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

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The applicant is a Telecom Office Assistant in the office of the Divisional Engineer Telecom, Eluru. He has filed this application against the order of dismissal passed by the 3rd respondent in his order No.E/Disc/Ch.DNR/88-89 dated 25-8-1988 and the order passed in appeal by the Dy.General Manager Telecom, West Godavari in his memo No.TAE/ST/Disc/01/2-7/3 dated 12-1-1990.

2. The applicant states that he had applied for the post of Telecom Office Assistant in the 1rst half year

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of 1982 and after due selection he has been appointed and working as Telecom Office Assistant on regular basis in terms of procedure laid down in DGM's letter dt.28-4-81. After a period of three years, the 3rd respondent issued a memo dt.19-11-83 asking the applicant to submit original educational certificates. In another memo dt.26-4-1984, he was asked to submit the duplicate copies of certificates within a fortnight, failing which disciplinary action would be initiated under CCS (CCA) Rules. The applicant could not obtain Duplicate copies. Thereafter a charge memo dt.27-3-1984 was issued stating that he (applicant) had furnished information regarding school in which studies/ appeared for SSC Examination Roll No. and year of SSC Examination and marks obtained excluding Hindi in SSC Examination, which has been verified and found incorrect. A number of documents and witness were cited in support of the charge memo.

3. Further an enquiry was conducted and the applicant says that the enquiry suffers for several infirmities and on some dates ex-parte enquiry was also held. On the basis of the Enquiry Officer's report, the Disciplinary Authority passed the dismissal order straightaway/ without affording an opportunity to the applicant to make his representation on the findings of the Enquiry Officer's Report by furnishing him a copy of the Enquiry Officer's Report. Aggrieved by the dismissal

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order he preferred an appeal to the Dy. General Manager Telecommunications, West Godavari District, which was rejected by the Appellate Authority in his order No.TAE/ST/Disc/01/2-7/3 dt.12-1-1990. Aggrieved by this order, urging several ground he has filed this application.

4. We have heard Shri T.Jayant, learned counsel for the applicant and Shri E.Madan Mohan Rao, learned standing counsel for the Respondents, who takes notice at the admission stage on our advice. Shri Jayant states that he rests his case on the ratio laid down in Union of India & others Vs. Mohd.Ramzan Khan (JT 1990(4) SC 456), wherein the Supreme Court had held that an order of the Disciplinary Authority who is himself not the Enquiry Officer passed without furnishing the "enquiry" Officer's Report to the delinquent officer is violative of rules of natural justice and is therefore not valid. In this case he contends that the Disciplinary Authority did not furnish the applicant a copy of the report of the Enquiry Officer before passing the impugned order.

5. On a perusal of the averments and the order of the Disciplinary Authority, it is clear that the applicant was not given an opportunity to represent against the report of the Enquiry Officer before the Disciplinary Authority proceeded to pass impugned order. Applying the

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- 4 -

the decision of the Supreme Court referred to above, the order of the Disciplinary Authority and the Appellate Authority have to be set aside. Accordingly we do so. We however clarify that this decision will not preclude the Respondents from ~~further~~ proceeding and continuing ^{with} ~~with~~ in accordance with the law from the stage of supplying of Enquiry Officer's report.

6. The Original Application is allowed. No order as to costs.

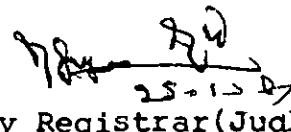
B.N.Jayasimha

(B.N.JAYASIMHA)
Vice-Chairman


(J.N.MURTHY)
Member (J)

Dated: 23rd January, 1991.

Dictated in Open Court.


Deputy Registrar (Judl)

svl/
To

1. The Secretary, Union of India,
Ministry of Communications, New Delhi-1.
2. The Deputy General Manager, Telecommunications,
West Godavari Dist, Eluru.
3. The Divisional Engineer, Telecom,
Eluru, 534050 W.G.Dist.
4. One copy to Mr.T.Jayant, Advocate, CAT.Hyd.Bench.
5. One copy to Mr.E.Madanmohan Rao, Addl. CGSC. CAT.Hyd.
6. One copy to Hon'ble Mr.J.Narasimha Murty, Member (J)CAT.Hyd.
7. One spare copy.

pvm.

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: 23-1-1991.

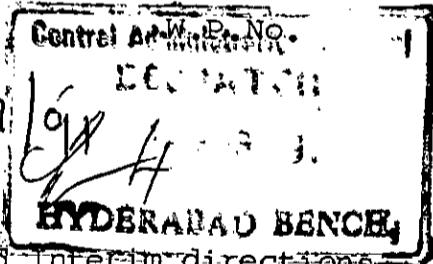
ORDER / JUDGMENT:

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

in.

T.A. No.

O.A. No.



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.