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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.166/91

Date of Order: 16.11.93

BETWEEN :

P.Panduranga Rao

.. Applicant

A N D

1. Union of India, rep. by
the Secretary, Ministry
of Communications,
New Delhi.
2. Deputy General Manager,
Telecommunications,
West Godavari District,
Eluru, W.G.Dist.
3. Divisional Engineer,
Telecom, Eluru - 534 050.
West Godavari Dist.

.. Respondents.

Counsel for the Applicant

.. Mr. T.V.V.S. Murthy & *Mr. T. Jayant*

Counsel for the Respondents

.. Mr. N.V. Ramana

CORAM:

HON'BLE SHRI A.B.GORTHY : MEMBER (ADMN.)

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

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Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member(Admn.).

The applicant who was dismissed from service after departmental enquiry has filed this application praying that the impugned order be set aside and that he be reinstated in service with all consequential benefits.

2. The applicant after due ^{selection} consideration was appointed as Telecom Office Assistant (TOA) vide order dated 15.7.1981. Thereafter the appointment was regularised w.e.f. 6.7.1981. The applicant continued to serve satisfactorily but on 12.2.1986 he was served with a charge memo alleging that at the time of his recruitment he had falsely stated in the attestation form that his date of birth was 7.5.1957, where as, as per his school records it was 7.5.56. During the enquiry the applicant submitted a petition for a reasonable opportunity to defend his case and change of enquiry officer. That petition was rejected vide order dated 7.9.1988.

3. Learned counsel for the applicant has challenged the validity of ^{the} order of the dismissal firstly on the ground that the applicant had never submitted a false date of birth in the attestation form and secondly that the enquiry was not conducted fairly ^{and} in accordance with the rules.

4. The respondents in their counter affidavit have stated that on verification it was found that the date of birth furnished by the applicant in the attestation form was wrong and that it should have been 7.5.56 and not

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7.5.57. The respondents submitted that certain other documents like original education certificate etc. were found missing. The respondents contention is that the disciplinary enquiry was conducted in accordance with the rules and giving the applicant reasonable opportunity to put across his defence case.

5. A careful perusal of the record before us would indicate that the initial representation of the applicant for change of enquiry officer on the ground that the enquiry officer was biased against the applicant, was carefully considered by the disciplinary authority. Having considered the objections raised by the applicant, the disciplinary authority came to the conclusion that the enquiry officer was not biased against the applicant. It seems that the complaint of bias was made because the enquiry officer rejected the request of the applicant for making available a copy of the charge memo issued in respect of Sri K.Venkata Ratnam, S.S.S., D.E.T. Rajahmundry. The disciplinary authority has given detailed and cogent reasons for rejecting the request of the applicant for change of enquiry officer and we find that it is sufficiently in order. As regards the contention of the applicant's counsel that the applicant was innocent, we have carefully perused the enquiry officer's report. During the enquiry the attestation form countersigned by the Assistant Engineer, PWD Modernisation Cell, Vijayawada was produced as a documentary exhibit to show that the applicant had recorded his date of birth therein as 7.5.57. The enquiry officer further examined the Principal, S.E.R.M.Jr. College, Gudlavalleru, Krishna District to establish the fact that from the school record the date of birth of the applicant is 7.5.56. The applicant was allowed to and he did examine.

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2 witnesses in his defence. The defence of the applicant is that he did not make any false statement in the attestation form but a wrong date of birth got to be recorded therein on account of the mischief played by ☒ certain other officials of the department. He, therefore, wanted that the original certificates submitted by him should have been produced before the enquiry. As already stated by the respondents, ☒ the original certificates produced by the applicant were not available with the officials.

6. From the afore-stated ^{are of} ~~have~~ the considered view that the disciplinary enquiry was held properly and no such irregularity has come to our notice as would warrant our interference. Learned counsel for the applicant has drawn our attention to ^{the} under mentioned cases:

1. Darshan Singh V. Union of India
ATJ 1992 (1) 177.
2. H.C. Putta Swamy V. Karnataka High Court
Bangalore ATJ 1991 (1) 31.

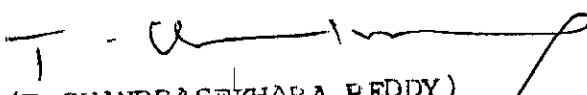
7. In the above cases the employees were appointed notwithstanding certain irregularities in their recruitment. In one case the individual was recruited although he was over aged. The other pertains to a case ^{appointments} ~~of~~ over and above the authorised ^{number} ~~members~~. ^{both} In the afore-stated cases it was observed that in such matters a humanitarian approach should be ☒ taken so that the employees who have been duly appointed and have been working for considerable length of period should not be left without any job. In the instant case however it is a question ^{of} ~~of~~ alleged misconduct of the applicant for which disciplinary action was initiated.


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Consequently the respondents were justified in taking a serious view of the matter and initiating disciplinary action which resulted in the imposition of the penalty of the dismissal of the applicant.

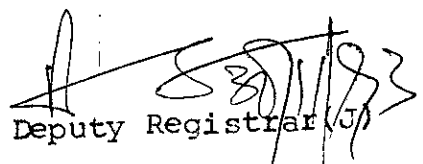
8. Finally we are of the view that the award of the dismissal is sufficiently supported by the evidence adduced by the department and the application is without merit, and the same is hereby dismissed. There shall be no order as to costs.


(T. CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTHI)
Member (Admn.)

Dated: 16th November, 1993

(Dictated in Open Court)


Deputy Registrar (J)

To

The Secretary, Ministry of Communications,
Union of India, New Delhi.

Deputy General Manager,
Communications, W.G. Dist.,
G. Dist.

Divisional Engineer, Telecom,
-534050.

to Mr. T. Jayant Advocate,

Mr N.R. Devaraj, Sr. CGSC. CAT. Hyd.

to Library, CAT. Hyd.

are copy.

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4. One
5. One
6. One
7. One

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Plus
minus

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

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

AND

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

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 16-11-1993

ORDER/JUDGMENT:

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

in

O.A.No.

166/91

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

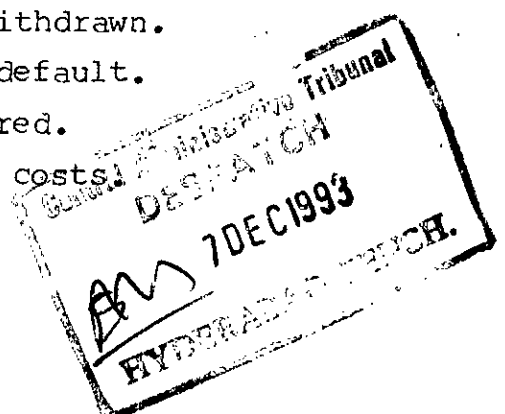
Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.



pvm