



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

O.A. 351/91.

Dt. of Decision : 23.3.1994.

T. Nagabhushanam

.. Applicant

Vs

1. Union of India, rep. by its
Secretary, Ministry of
Communications,
New Delhi - 1.

2. Telecom District Manager,
West Godavari,
Eluru - 594 050.

3. Divisional Engineer,
Telecommunications,
Eluru - 534 050.

.. Respondents.

COUNSEL FOR THE APPLICANT : Mr. T.V.S.Murthy

COUNSEL FOR THE RESPONDENTS : Mr. N.R.Devaraj, Sr. CGSC.

CORAM:

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

THE HON'BLE SHRI H. RAJENDRA PRASAD : MEMBER (ADMN.)

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ORDER

[As per Hon'ble Shri T.Chandrasekhar Reddy, Member (Judl.)]

This is an application filed under section 19 of the Administrative Tribunals Act to set aside the dismissal order of the applicant dt. 16.8.90 passed by the disciplinary authority and as confirmed by the appellate authority as per order dt. 20.12.90 and further to direct the respondents to reinstate the applicant in service with all consequential benefits and to pass such other or orders as may deem fit and proper in the circumstances of the case.

2. The applicant was appointed as a Telephone Operator on 26.5.1982 on provisional basis after he was selected according to recruitment rules. The applicant was appointed on regular basis as per order dt. 27.5.83 w.e.f., 19.4.82. While so it came to the notice ~~for~~ ^{of} the respondents that the applicant had gained entry into the service by submitting forged duplicate copies of educational certificate. So a charge memo dt. 30.10.85 under rule 14 of the CCS, CCA rules was issued as against the applicant alleging that the applicant secured the job by furnishing false information to the competent authority. A regular enquiry officer was appointed and he submitted his report dt. 19.4.87 to the disciplinary authority. The disciplinary authority taking into consideration the enquiry report and other material ~~dismissed~~ before it, ~~dismissed~~ the applicant from service as per order dt. 16.6.87. The applicant was communicated the dismissal order dt. 16.6.87, along with a copy of the enquiry report dt. 19.4.87. The applicant preferred an appeal to the competent authority as against the dismissal order dt. 16.6.87. The appellate authority dismissed the appeal as per order dt. 3.9.87 and confirmed the dismissal order of the disciplinary authority dt. 16.6.87. Challenging the dismissal order dt. 16.6.87 by the disciplinary authority and as confirmed by the appellate authority as per order dt. 3.9.87, the applicant filed OA.No. 618/87 before this Tribunal.

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This Tribunal as per the judgement dt. 26.12.89 set aside the dismissal order dt. 16.6.87 as confirmed by the appellate authority on 3.9.87 on the ground that a copy of the enquiry report had not been furnished to the applicant by the disciplinary authority before the dismissal order dt. 16.6.87 was passed and the applicant was not provided opportunity to make representation as against the findings of the enquiry officer in his enquiry report dt. 19.4.87. The Bench further directed in OA 618/87 that the respondents would be at liberty to continue proceedings from the stage of supply of the enquiry report. The respondents informed the applicant that a copy of the enquiry report had been already furnished to him along with dismissal order dt. 16.6.87 and that the applicant would be at liberty to make representation if any, with regard to the findings that were against him in the enquiry report. As the enquiry was continued the competent authority as per order dt. 3.4.90 kept the applicant under deemed suspension by passing appropriate orders. The applicant also submitted his representation to the enquiry Officer's report. The disciplinary authority taking into consideration the enquiry report, the representation of the applicant as against the findings in the enquiry report and other material, dismissed the applicant as per order dt. 16.8.90. The applicant preferred appeal on 24.9.90 as against the dismissal order dt. 16.8.90 passed by the disciplinary authority. As per order dt. 20.12.90, the appellate authority rejected the appeal of the applicant. So aggrieved by the order as the appellate authority once again the applicant had approached this Tribunal for the relief as already indicated above.

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

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4. We have heard Mr. T.V.S.Murthy counsel for the applicant and Mr.N.R.Devaraj standing counsel for the respondents.

5. At the time of joining service the applicant had given false information to the respondents that he ~~was~~ studied SSC in Z.P.H.School, Kapileswarapuram, Krishna District and that he has passed SSC Examination with the Hall Ticket No. 39463 and that he had secured 73.2% in his SSC examination. According to the said information the applicant had passed SSC examination in the month of April 1974, with the Hall Ticket bearing No. 39463.

6. It is not in dispute in this OA that the applicant had never studied in the said Z.P.H.School, Kapileswarapuram, Krishna District. It is also not in dispute that the applicant had not secured 73.2% marks in his SSC examination. It is also not in dispute that in the application dt. 11.8.89 for the said post of Telephone Operator submitted by him, the applicant has shown in the said application that he had secured 73.2% of marks in his SSC examination though he had not secured the said marks nor he had studied in the Z.P.H.School, Kapileswarapuram, Krishna District. The applicant has also gone to the extent of submitting forged copies of SSC marks to show that he had secured 73.2% marks in SSC. The study of the applicant in the said Z.P.H.School, Kapileswarapuram, Krishna District was found to be false and the securing of marks of 73.2% had also been found to be false by the disciplinary authority. So in view of the facts and circumstances the disciplinary authority had rightly come to the conclusion that the applicant was not a fit person to be allowed to continue in service and had dismissed him from service. The appellate authority also had rightly

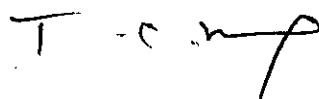
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confirmed the order of the disciplinary authority. We do not find any flaw in the order passed by the disciplinary authority and the appellate authority in the matter of dismissal of service from the applicant.

7. The applicant absolutely had no eligibility to be appointed to the said post. As the applicant had no ~~any~~ eligibility at all for appointment to the said post, the applicant absolutely had ~~no~~ right to continue in the said post. As the applicant herein had secured the post of Telephone Operator by deceitful means it is not open for the applicant to contend that the principles of natural justice are violated. One should approach this Tribunal with clean hands. He who seeks equity has to do equity. Admittedly in this case the applicant had secured the job by producing bogus certificates. So in view of the facts and circumstances, it is not open for the applicant to contend that principles of natural justice had been violated. The application of principles of natural justice has absolutely no application to the facts of this case.

8. One of the grievance of the applicant is that he had not been paid subsistence allowance for the deemed suspension period and for the period the enquiry was conducted after the judgement in OA. 618/87 dt. 26.12.89. Mr.NR.Devaraj standing counsel for the respondents made a statement that order had been issued long back by the competent authority for payment of subsistence allowance to the applicant and the applicant had been paid subsistence allowance during the period of enquiry. We cannot verify at this stage whether the applicant had been paid subsistence allowance in pursuance of the orders that had been passed by the competent authority.



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9. We find no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed. The subsistence allowance if had not been already paid to the applicant for the deemed suspension period and for the period the enquiry was conducted after 26.12.89 till as the date of dismissal of the applicant on 16.8.90, the respondents shall pay the subsistence allowance for the said period in accordance with the rules and regulations. Parties shall bear their own costs.

15/3/94
(H. RAJENDRA PRASAD)
MEMBER (ADMN.)

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Dated : The 23rd March 1994.
(Dictated in Open Court)

T. C. H. - J. C. C.
(T. CHANDRASEKHARA REDdy)
MEMBER (JUDL.)

Deputy Registrar (J)CC

To spr

1. The Secretary, Ministry of Communications, Union of India, New Delhi.
2. The Telecom District Manager, West Godavari, Eluru-050.
3. The Divisional Engineer, Telecommunications, Eluru-050.
4. One copy to Mr. T. Jayant, Advocate, CAT.Hyd.
5. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One sparecopy.

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TYPED BY

COMPARED BY

CHECKED BY *D*

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.GORTHI : MEMBER(AD)

AND

THE HON'BLE MR.TCCHANDRASEKHAR REDDY
MEMBER(JUDL)

AND

THE HON'BLE MR.R.RANGARAJAN : M(ADMN)

H.Rajendra Prasad

Dated: 23 - 3 - 1994

ORDER/JUDGMENT

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

in

O.A.NO.

351/91

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.

Central Administrative Tribunal

DESPATCH

20 MAY 1994

HYDERABAD BENCH