

(98)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.  
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OA. 433/91.

Dt. of Decision : 2.6.94.

M. B hushanam

.. Applicant

Vs

Union of India rep. by:

1. The Secretary to Government  
& Chairman, Telecom,  
Commission, New Delhi.
2. The Telecom District Engineer,  
Nellore.
3. The Assistant Engineer(Trunks),  
Nellore Telephone Exchange,  
Nellore.

.. Respondents.

Counsel for the Applicant : Mr. K.S.R.Anjaneyulu

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.

CORAM:

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

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

C R D E R

(As per the Hon'ble Sri T.Chandrasekhar Reddy, Member (J) )

The applicant while working as Telephone Supervisor (LSG) at Nellore, a minor penalty charge sheet was issued as against him. The applicant put in a written statement in his defence. The Disciplinary Authority (for short DA) after taking into consideration the reply that was put by his applicant in defence and other material, as per the orders dt.6-11-89, imposed the penalty by postponing his increments for two years without cumulative effect. The applicant preferred an appeal as against the orders of the DA. The Appellate Authority (for short AA), as per the orders dt. 26-10-90 confirmed the order passed by the DA. Aggrieved by the said orders passed by the DA, as confirmed by the AA, the applicant has approached this Tribunal U/s 19 of the Administrative Tribunals Act with the prayer to set aside the penalty that had been imposed on him.

2. Counter is filed opposing this O.A. We have heard in detail Sri K.S.R.Anjaneyulu, learned counsel for the applicant and Sri N.V. Ramana, learned standing counsel for the respondents.

3. The applicant had retired as Telephone Supervisor w.e.f. 30-4-91. It is the contention of the applicant's counsel that a detailed enquiry as required under Rule 14 of the CCS (CCA) Rules should have been conducted by the DA, even though a minor penalty chargesheet was issued as against the Applicant and detailed enquiry has not been conducted, that the entire disciplinary proceedings are vitiated, and as such the order passed by the DA and as confirmed by the AA is

liable to be set aside. To support <sup>his</sup> ~~this~~ contention the learned counsel for the applicant relied on Rule 16 (1-A) of the CCS (CCA) Rules. <sup>16</sup> ~~Rule 16~~ deals with the procedure for imposing minor penalties. <sup>Rule 16 (1-A)</sup> ~~The same~~ reads as follows:

Rule 16 (1-A): "Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any,, made by the Govt. servant under clause (a) of that sub-rule, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Govt. servant or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (23) of Rule 14, before making any order imposing on the Govt. servant any such penalty.

4. ~~It is the contention of the learned~~ <sup>as already indicated</sup> counsel for the applicant that withholding of the increments for a period of two years prior to the retirement of the applicant had adversely affected the amount of pension payable to the applicant, <sup>and</sup> ~~and so~~ as a detailed procedure had not been followed ~~by the DA~~ <sup>as required</sup> in disposing of the disciplinary enquiry <sup>of the applicant</sup>, the order of the DA as confirmed by the AA is liable to be set aside. There is no dispute about the fact that the amount of pension that is payable to the applicant is adversely affected due to the imposition of penalty ~~imposed~~ imposed on the applicant by the DA and as confirmed by the AA. If, on the applicant the said penalty of postponing the increments had not been imposed, admittedly the pension of the applicant would have been gone up and would have been drawing more pension than he is drawing now. So, as the pension of the applicant is adversely affected and as contemplated to Rule 16 (1-A), detailed procedure had not been held in respect of the applicant, <sup>enquiry as against the</sup> ~~There is~~ <sup>we have</sup> no hesitation to come to the conclusion that the entire disciplinary proceedings are vitiated and as such the order passed by the

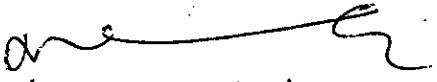
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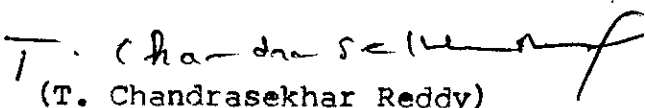
1. The Secretary to Government & Chairman, Telecom, Commission, Union of India, New Delhi.
2. The Telecom District Engineer, Nellore.
3. The Assistant Engineer (Trunks), Nellore Telephone Exchange, Nellore.
4. One copy to Sri. K.S.R. Anjaneyulu, advocate, CAT, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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AA withholding the increment for two years without cumulative effect is liable to be set aside. Hence we set aside the order passed by the DA and as confirmed by the AA withholding the increment for a period of two years w.e.f. 1-1-90. As we have set aside the penalty imposed as against the applicant on technical ground the learned standing counsel for the respondents maintained that denovo enquiry has got to be ordered as against the applicant. Of course, in case of dismissal, removal or compulsory retirement, if on technical grounds, the dismissal, removal or compulsory retirement order is set aside by a judicial forum, then it has got to be left to the Department itself to continue the enquiry or not. In this case only a minor penalty chargesheet had been issued as against the applicant. The applicant had retired on 30-4-91. So, after a period of three years the enquiry is to be continued that too for a minor penalty chargesheet, certainly that would cause hardship to the applicant. We are of the opinion that interest of justice would be better served if fresh enquiry as against the applicant is not ordered. Hence the impugned order dt. 6-11-89 passed by the DA was confirmed by the AA as per its order dt. 26-10-90 is set aside. The respondents are directed to give all the consequential benefits that accrue to the applicant in accordance with Law. In view of the quashing of the said penalty, OA is allowed accordingly. No costs. The directions in this judgement shall be complied within a period of three months from the date of communication of this judgement.

  
(R. Rangarajan)  
Member (A)

  
(T. Chandrasekhar Reddy)  
Member (J)

Dt. 2nd June, 1994  
Open Court Dictation

kmv

  
Dr. Registrar (Judicial)

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