

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.35 of 1991.

Date of Judgement: 23-1-1991.

S.Karunakara Rao

....Applicant

vs.

1. Union of India, rep. by
the Secretary, Ministry of
Communications, New Delhi-110001.

2. Deputy General Manager,
Telecommunications West Godavari
District, Eluru.

3. Divisional Engineer Elecom,
Eluru-534050, West Godavari District.

....Respondents

Counsel for the Applicant : Shri T.Jayant

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

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)

The applicant was a Telecom Office Assistant in the office of the Division Engineer Telecom, Eluru. He has filed this application against the order of dismissal issued by the Divisional Engineer Telecom i.e. the Respondent No.3 herein in his order No.E/Disc/SKR/88-89 dated 30-9-1988 and confirmed by the By.General Manager Telecommunications, West Godavari District in his order No.TAE/ST/Disc/01/2-9/3 dated 24-1-1990.

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cant had filed this application raising several ground.

3. 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.

4. 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 decision of the Supreme Court referred to above, the order of the ^{IC} and Appellate Authority Disciplinary 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 it in accordance with the law from the stage of

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2. The applicant states that after a lapse of three years after joining into service, by a memo dt.30-6-84 he was asked to submit the original educational certificates on or before 12-7-1984, failing which disciplinary action would be initiated against him. The applicant in his reply dt. 11-7-1984 informed the third respondent that he had lost the original certificates and he would obtain the ~~Q~~uplicate copies from the concerned authorities and submit the same. Thereafter he was given time upto 31-7-1984 by memo dt.17-7-84 to submit the same. The applicant could not obtain the ~~Q~~uplicate certificates and by memo dt.15-12-1984 the 3rd respondent informed ~~that~~ ^{that} further disciplinary action would be taken against him.

A charge memo dt.27-3-1985 under rule 14 of CCS (CCA) was issued by the 3rd respondent with one article of charge that the applicant had furnished information regarding marks obtained excluding Hindi in SSC Examination, which has been verified as incorrect. A number of documents and witness were cited in support of the charge. An enquiry was conducted and the applicant contends that several ^{Vitiate} infirmities ~~in~~ the enquiry ~~was~~ conducted by the Enquiry Officer and on certain dates ex-party enquiry was also held. On the basis of the Enquiry Officer's Report, 3rd respondent dismissed the applicant from service. Aggrieved by that order the applicant submitted an appeal dt.5-11-88 to the 2nd respondent, who also dismissed his appeal ^{by} by an order dt.24-1-1990. Aggrieved by this order, the appli

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supplying of Enquiry Officer's report.

5. The original application is allowed. No order as to costs.

B.N.Jayashimha
(B.N.JAYASIMHA)
Vice-Chairman

MS
(J.N.MURTHY)
Member (J)

Dated: 23rd January, 1991.
Dictated in Open Court.

Deputy Registrar (J)
25/1/91

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To

1. The Secretary, Ministry of Communications,
Union of India, New Delhi-1.
2. The Deputy General Manager,
Telecommunications West Godavari Dist, Eluru.
3. The Divisional Engineer Telecom,
Eluru -50 W.G.Dist.
4. One copy to Mr.T.Jayant, Advocate, CAT Hyd.
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.

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APPROVED BY

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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.

W.P. No.

O.A. No.

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