

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

O.A. 687/91.

Dt. of Decision : 3.6.94.

T. Vema Reddy

.. Applicant

Vs

1. Union of India, rep. by
the Secretary, Ministry
of Communications,
New Delhi - 1.
2. Telecom District Manager
West Godavari District
Eluru - 534 050(W.G. Dt.)
3. Divisional Engineer (Engg.)
O/o Dy. GM Telecom, West
Godavari District, Eluru
- 534 050 (W.G. Dt.)

.. Respondents.

Counsel for the Applicant : Mr. T.V.S.Murthy
Mr. T. Jayachar

Counsel for the Respondents : Mr. N.R.Devaraj, Sr.CGSC.

CORAM:

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

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

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2st Rep

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O.A.NO.687/91.

JUDGMENT

Dt: 3.6.94.

(AS PER HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This ~~application~~ is an application filed under Section 19 of the Administrative Tribunals Act to set-aside the dismissal order passed by the disciplinary authority (3rd respondent) as confirmed by the 2nd respondent (appellate authority) as per ~~his~~ orders dated 19.7.1990 and to pass such other order or orders as may deem fit and proper in the circumstances of the case. The facts so far necessary to adjudicate this OA in brief ~~are~~ as under:-

2. The applicant was selected and appointed as Telecom Office Assistant (TOA) with effect from 6.7.81. Prior to the said appointment, ~~an~~ an advertisement had been made in the daily news papers for filling up the post of TOA by the eligible candidates. The applicant herein ~~is~~ one of the applicants for the said post. In his application ~~for the said post of TOA~~ the applicant gave his date of birth as 1.7.1957. It is ~~on~~ the basis of the date of birth of the applicant as 1.7.1957 that the applicant was selected to the post of TOA by the competent authority on 15.7.1981. In the year 1984, the competent authority asked the applicant to produce the original certificates with regard to his ~~his~~ ^{-al} education/qualifications, date of birth etc. Without submitting the originals that were asked by the competent authority, the applicant gave a reply in the year 1985 that all the required originals were already submitted by him to the Divisional Engineer Telecom (DET) in

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response to the memo dated 13.3.1981 and so he was not in a ~~maxxxxx~~ position to submit once again the original certificates as demanded by the competent authority.

SP A genuine suspicion arose in the mind of the competent authority that the applicant had not given the correct date of birth as found in the school certificate at the time of his entry into service. So, a charge memo was issued on 12.2.1986 alleging that the applicant obtained employment of the post of TOA by furnishing the wrong date of birth. A regular Inquiry ~~maxxxxxxx~~ Officer was appointed. The Inquiry Officer submitted his report to the disciplinary authority. The disciplinary authority furnished a copy of the Inquiry report to the applicant and gave an opportunity to the applicant to make his representation, if any, as against the findings of the Inquiry Officer in his report. The applicant accordingly submitted his representation as against the findings of the Inquiry Officer. The disciplinary authority accepted the findings of the Inquiry Officer and held that the charge against the applicant was proved and the applicant obtained the job of the TOA by giving incorrect date of birth at the time of his appointment. So, the applicant was ordered to be dismissed by the disciplinary authority as per the orders of the disciplinary authority dated 29.3.1990. The applicant preferred appeal to the competent authority as against the orders dismissing him from service. The appellate authority confirmed the orders of the disciplinary authority dated 29.3.1990 as per ~~his~~ ^{its} orders dated 19.7.1990. So, the present OA is filed by the applicant for the relief as already indicated above.

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3. Counter is filed by the respondents opposing this O.A.

4. We have heard Shri T.V.S.Murthy, Counsel for the applicant and Shri N.R.Devaraj, Standing Counsel for the respondents. Both the oral and the documentary evidence ~~was laid in~~ are brought before the Inquiry Officer with regard to the inquiry conducted as against the applicant with regard to the charge that the applicant had procured the ~~mm~~ job of TOA by furnishing wrong date of birth. From the material that is available on record, it is quite evident that the applicant had furnished his date of birth as 1.7.1957 in his application for TOA and also in the attestation form submitted by him to the respondents. There is also irrebuttable evidence to show that the date of birth of the applicant as per the school records is 1.7.1954. It is not in dispute, on the basis of the date of birth as 1.7.1954, the applicant would not have been eligible at all for appointment to the post of TOA for which he was selected and appointed in the year 1981. But for furnishing the date of birth of the applicant as 1.7.1957, the applicant would not have been eligible for selection and appointment ~~to~~ the said post of TOA. So, by furnishing the wrong date of birth as 1.7.1957 and by procuring the appointment to the post of TOA, ~~it is not in doubt at all that~~ the applicant had played fraud on the respondents. Even though plenty of opportunity ~~was~~ ^{was} there ~~on~~ for the applicant to show that his correct date of birth is 1.7.1957, he ^{had} absolutely failed to substantiate that his correct date of birth is 1.7.1957. Nothing precluded the applicant to show that his correct date of birth is 1.7.1957 before this

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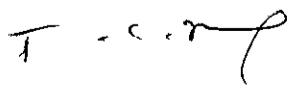
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Tribunal. No such attempt as a matter of fact has been made by the applicant to show his correct date of birth as 1.7.1957. So, the applicant has failed to substantiate that his date of birth is 1.7.1957. The Inquiry Officer, in view of the material placed before him, had rightly come to the ~~him~~ conclusion that the correct date of birth ^{not} of the applicant is 1.7.1957 and his date of birth is only 1.7.1954. The disciplinary authority after taking into consideration the report of the Inquiry Officer and also the other material before ~~him~~ had rightly accepted the findings of the Inquiry Officer and held that the charge against the applicant had been proved and that the applicant had secured job of TOA by furnishing his date of birth as 1.7.1957 which was not the correct date of birth. The applicant ~~wantonly~~ is guilty of serious misconduct in not furnishing his correct date of birth at the time of his appointment as TOA. In view of the serious misconduct on the part of the applicant, the disciplinary authority had rightly dismissed the applicant from service and the appellate authority was also fully justified in ~~accepting~~ ^{confirming} ~~order~~ the report of the disciplinary authority and dismissed the appeal of the applicant. Absolutely ~~there~~ no procedural error had been committed in the conduct of the inquiry. As already pointed out, the applicant had ~~failed~~ availed opportunities to substantiate his case when he gave his date of birth as 1.7.1957 and the applicant had failed to substantiate the same. It is ^{faintly} contended that ~~he~~ the Applica-



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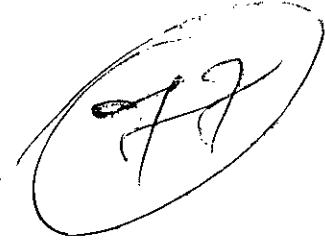
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had not been properly questioned by the Inquiry Officer with regard to the ~~incredible~~ evidence that was found as against the applicant in the inquiry. Even if such a contention is accepted, ^{for arguments sake} we are unable to understand how the applicant is prejudiced in his defence for not properly questioning the applicant with regard to the ~~incredible~~ evidence. As a matter of fact, the burden is heavily cast on the applicant to show that his correct date of birth is 1.7.1957 ~~xxxxxxxxxxxxxx~~ that had been given by him in his application and also in the attestation form as already indicated. Even though the applicant had not been examined by the Inquiry Officer properly with regard to the ~~incredible~~ evidence, it is not open for the applicant to complain for the alleged improper examination of the applicant as the applicant, as already pointed out, is ~~not~~ ^{not} prejudiced in his defence. It is fairly argued that the applicant had not been provided proper and sufficient ~~examination~~ of the defence witnesses. We are unable to understand, how the oral evidence of defence witness would have improved the case of the applicant in view of the voluminous documentary evidence which goes to show that the correct date of birth of the applicant was 1.7.1954 and that the applicant had wantonly and willingly ~~gave~~ his date of birth as 1.7.1957 so as to get appointment to the post of TOA. After going through the entire material before us, we are satisfied that there are no merits in this OA.

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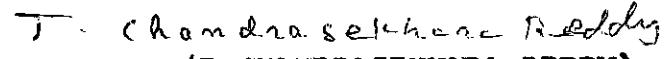


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This OA is liable to be dismissed and so it is accordingly dismissed leaving the parties to bear their own costs.



(R. RANGARAJAN)
MEMBER (ADMN.)



(T. CHANDRASEKHARA REDDY)
MEMBER (JUDL.)

DATED: 3rd June, 1994.
Open court dictation.

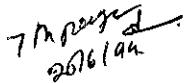
vsn


Amulya Reddy
DEPUTY REGISTRAR(J)

Copy to:-

1. The Secretary, Ministry of Communications,
Union of India, New Delhi - 1.
2. The Telecom District Manager,
West Godavari District,
Eluru - 534 050.
3. The Divisional Engineer, (Engg.)
O/O Dy. G.M., Telecom,
West Godavari District,
Eluru - 534 050 (W.G.District)
4. One copy to Mr. T. Jayaram, Advocate, CAT., Hyderabad.
5. One copy to Mr. N.R. Devraj, Sr.CGSC, CAT, Hyderabad.
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