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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

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ORIGINAL APPLICATION NO. 168/92

DATE OF JUDGEMENT: 9.3 1995

Between

Y.Israel

.. Applicant

and

1. Union of India  
Rep.by the Secretary,  
Min. of Communications  
New Delhi-1.

2. Adviser  
(Human Resources Development)  
Member(Personnel)  
Telecom Board  
Deptt. of Telecommunications  
New Delhi-1.

3. Director  
Telecom  
Guntur Area  
Guntur.522607

4. Telecom District Engineer  
Ongole,Prakasam Distt.

.. Respondents

Counsel for the Applicant :: Mr Briz Mohan Singh

Counsel for the respondents:: Mr N.R.Devraj, Sr.CGSC

CORAM:

HON'BLE SHRI A.V. HARIDASAN, MEMBER(J)

HON'BLE SHRI A.B. GORTHY, MEMBER(A)

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JUDGEMENT

[As per Hon'ble Shri AV Haridasan, Member(J)]

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant, Shri Y. Israel, Ex-Telecom Office Assistant, has challenged the legality, propriety and correctness of the order dated 15.6.1988 of the fourth respondent, imposing on him the penalty of compulsory retirement which was confirmed by the third respondent by his order dated 7.1.1989 and the order of the revisional authority dt.25.3.91 rejecting the revision petition.

2. The facts can be briefly stated as follows: While the applicant was working as Telecom Office Assistant in the office of the SDOT, Chirala, he was placed under suspension with effect from 25.1.1985 in contemplation of disciplinary proceedings against him. Thereafter, a memorandum of charge dated 24.10.1985 under Rule 14 of the CCS(CCA)Rules containing 7 articles of charges alleging that he credited certain telephone revenue collected by him belatedly and had thereby exhibited ~~conduct~~ lack of devotion to duty and integrity and conduct unbecoming of a Govt. servant violating Rule 3(1)(i) and 3(1)(ii) of CCS(Conduct)Rules, 1964/ was served on him. After a detailed inquiry, on the basis of the finding of the inquiry authority, the fourth respondent, by the impugned order dated 15.6.1988 imposed on the applicant the penalty of compulsory retirement from service. An appeal was preferred by the applicant, but the same was rejected by the third respondent.

vide his order dated 7.1.1989 (Annexure V to the OA). The review petition filed by the applicant before the Member(Personnel)Telecom Board, Deptt. of Telecommunications, New Delhi, was also rejected by the order dated 25.3.1991. It is under these circumstances, that The applicant has filed the present application. The applicant contends that the inquiry was held in gross violation of principles of natural justice as he was not given adequate opportunity to defend himself, as the enquiry authority did not supply him the additional documents required by him for cross examining the witnesses, and that the finding of the disciplinary authority that the applicant was guilty of the misconduct is perverse as there is no legally acceptable evidence, to prove the charges.

3. The respondents contend that the penalty of compulsory retirement was imposed on the applicant after his guilt was clearly established in an inquiry held in accordance with the rules, and that, therefore, there is no reason for judicial intervention.

4. We have gone through the pleadings and documents. We have also perused the file relating to the disciplinary proceedings. Arguments of the learned counsel on either side were also heard at length.

5. The applicant while working as Telecom office Asst. in the office of the SDOT, Chirala was entrusted the ~~xxx~~ duty of cash counter for collection of amounts through Eng-9 Receipt Book from the public and telephone subscribers towards deposits for new phone connections, provision of accessories, shift, etc. along with commercial work. The procedure of collecting revenue from the subscribers at Sub-Divisional level was introduced on experimental basis to avoid hardship to subscribers.

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In January, 1985, it was detected that the applicant failed to deposit the amounts collected from the subscribers. The matter was reported to the police. As the action of the applicant amounted to misconduct, he was proceeded under Rule 14 of the CCS(CCA) Rules. The substance of imputations against the applicant was that various amounts collected by him from the subscribers during September, October and November, 1984 and 15th Jan., 1985 were credited to the Department by the applicant only on 31.1.1985 after the non-credit was questioned, and this amounted to lack of integrity and devotion to duty.

6. The case of the applicant during the inquiry, as also in this application is, that he received the amounts on the dates mentioned as above, <sup>that</sup> 2 <sup>that he</sup> had handed over the money to the SDOT, <sup>then and there,</sup> but it was credited to the account only on 31.1.1985. The applicant had, during the inquiry requested for certain additional documents which were denied to him by the inquiry authority. The documents mentioned by the applicant were the following:

1. Rules/Circulars/Orders issued by the authority to open cash counters for collections of telephone deposits, shifts, etc. at the office of the SDOT Chirala dispensing with the Post Office remittance.
2. The date of opening of the TRC counter in writing (Any function had been arranged, any invitation card has been printed or any VIP invite to that function if so, the necessary papers/ invitation cards/name of VIP may be given)
3. Rules/Circulars/Orders issued by the authority to stop the collection at the office of the SDOT Chirala and reverting back to Post Office.
4. The record/letter/book any document having the date of closing the TRC counter in writing at the office of the SDOT Chirala.
5. Demand Note register for the period from 1.1.1984 to 1.3.1985.
6. Advise Note Register for the period from 1.1.1984 to 1.3.1985

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7. Order book register for the period from 1.1.84 to 1.3.1985.
  8. Feasibility reports register for the period from 1.1.1984 to 1.3.1985.
  9. Inspection reports of Internal check party between 1.1.1984 to 1.3.85
  10. Inspection report of Audit Party between 1.1.1984 to 1.3.85.
  11. Inspection report of the TDE Ongole between 1.1.1984 to 1.3.85.
  12. Register of old records for the period from 1.4.84 to 1.3.85 (connected with the documents listed and relevant asked for)

The Inquiry officer held that these documents were not relevant to the case and therefore did not supply him with the above said documents. The learned counsel for the applicant vehemently argued that the action of the inquiry officer in not making available the documents which were felt necessary by the applicant as well as, his assisting Govt. servant was unjustified and that denying to him all these documents amounted to denial of reasonable opportunity to defend himself. In the nature of the misconduct for which the applicant stood charge-sheeted, we are of the considered view <sup>that</sup> the documents questioned by the applicant, had no relevance at all. The fact that the applicant was, as a matter of fact, ~~put~~ <sup>put</sup> in charge of collecting amounts from subscribers, that he collected the amounts, and that the amounts so collected were credited only on 31.1.1985 are not in dispute. Therefore, the various circulars relating to the opening of the cash counter, etc., are not necessary documents for cross-examination of the witness examined in support of the charge. Even without these documents, the applicant and his assisting Govt. servant would have effectively <sup>cross-</sup> examined the witnesses since his case was that, ~~he~~ he collected the amounts ~~and~~ and handed over the same to the SDOT,

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and that the then and there, late deposit was not on account of any lapse on his part. The SDOT, Sri Nagarajan, was examined as PW1. The applicant and his assisting Govt. servant did not cross-examine Sri Nagarajan. 11 other witnesses were examined in support of the charge. The applicant examined six witnesses on his side. As many as, 32 documents were marked in support of the charge. The applicant was also questioned by the Inquiry officer as required under Rule 14(18) of the CCS(CCA) Rules. If the applicant had a case that he handed over the amounts and when collected to the SDOT, PW1, he could have cross-examined the PW1 on this aspect. He failed to do so. Further, the applicant had given a statement on 30.1.85 to the PW1 in which he had categorically admitted that he had failed to deposit the revenues collected in time and did not credit the entire amount to Govt. account. To this The deposits were made only on 31.1.1985. The statement dated 30.1.85 which is exhibit Ex.P.3, there were 7 witnesses. Six of them were examined as defence witnesses, DW1 to DW6. All these witnesses have stated that the applicant had signed the statement. The defence witnesses also have testified that the statement was voluntarily made by the applicant. Therefore, the contention of the applicant that he was not afforded reasonable opportunity to defend himself ~~is~~ has no force at all.

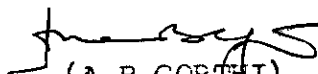
7. From the testimony of the witnesses as also from the Ex.P.3, the statement given by the applicant himself, proved beyond doubt that the applicant failed to credit the amounts collected by him from the subscribers. Even when he made the statement on 30.1.85 that the amounts were not paid by him, in fact, the deposits were made by him only on 31.1.1985. Under these circumstances, the argument of the learned counsel for the applicant that the ~~find~~ finding


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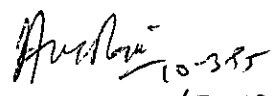
finding of the disciplinary authority that the applicant is guilty of the charge is based on no legal evidence, has to be rejected. Learned Counsel for the Applicant argued that the statement at Ex.P.3 was extorted from the applicant under coercion and threat; but his own witnesses DW1 to DW6 did not support this case. Therefore, we are convinced that the finding of the disciplinary authority that the applicant was guilty of the misconduct is supported by legal evidence.

8. In the light of what is discussed above, we do not find any merit in this application and therefore, we dismiss this application leaving the parties to bear their own costs.

  
(A.B.GORTHI)  
Member(Adm<sub>n</sub>)

  
(A.V.HARIDASAN)  
Member(Judl.)

Dated: 9. 3 1995

  
Deputy Registrar(Judl.)

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Copy to:-

1. The Secretary, Ministry of Communications, Union of India, New Delhi-1.
2. Adviser, (Human Resources Development) Member(Personnel) Telecom Board, Deptt. of Telecommunications, New Delhi-1.
3. Director, Telecom, Guntur Area, Guntur-607.
4. Telecom District Engineer, Ongole Prakasam District.
5. One copy to Sri. R.Briz Mohan Singh, advocate, Advocates Associations, High Court Building, Hyd.
6. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

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

DATED : 9/3/95

ORDER/JUDGEMENT.

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

O.A.No.

in  
168749

Admitted and Interim directions  
issued

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Rejected/Ordered

No order as to costs.

No spare copy

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