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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.

O.A.NO. 211 of 1992.

Between

Dated: 7.3.1995.

G.Rambabu

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Applicant

And

1. Union of India, rep. by the Secretary, Ministry of Communications, New Delhi.
2. Director(TDTE) Department of Telecommunications, New Delhi
3. Member(Personnel) Telecom Board, Department of Telecommunications, New Delhi.
4. Director , Telecom, Guntur Area, Guntur.
5. Divisional Engineer, Telecom, Eluru, WGD.

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Respondents

Counsel for the Applicant : Sri. T.V.V.S.Murthy

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

CORAM:

Hon'ble Mr. A.V.Haridasan, Judicial Member

Hon'ble Mr. A.B.Gorthi, Administrative Member

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O.A.No.211/92

Date of Order: 7.3.95

X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

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The applicant who was dismissed from service after a departmental disciplinary enquiry vide order dated 31.7.86 issued by Divisional Engineer, Telecom, Eluru has come up with this OA praying that the penalty be set aside and that the orders of the 4th and 3rd respondents rejecting his appeal and his revision petition also be quashed and that he be reinstated in service with all consequential benefits.

2. The applicant was appointed as a Telecom Office Assistant (TOA) vide order dated 23.3.1988. While he was working thus, he was served with a charge memo dated 6.8.84 alleging that in his application seeking appointment as TOA, ~~he~~ as mentioned that he secured 79% marks in S.S.C. which on verification was found to be false. In the departmental disciplinary enquiry only two witnesses were examined for the prosecution and as many as nine witnesses were examined for the defence. Although in the enquiry no evidence was adduced in support of his guilty, he was awarded penalty. His appeal was rejected on the ground of time bar and his revision petition and his petition addressed to President of India were also rejected.

3. Heard learned counsel for both the parties. Mr.T.V.V.S.Murthy, learned counsel for the applicant has assailed the validity of the penalty on several grounds, mainly with a view to ~~assert~~ ^{establish} that this was a case of no evidence and that the applicant was unfairly punished.

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As regards this matter the respondents in the reply affidavit have quoted the statement of the applicant given on 6.3.86 before the enquiry officer. It reads as under:-

" I have applied with my own certificates for the TOA post for the II half year 1982 recruitment in Eluru Division".

4. The above statement was made by the applicant when he ^{was} examined as a witness during the enquiry. It would clearly indicate that it was not the case of the applicant that he secured 79% marks in S.S.C. On the otherhand the contention of the applicant seems to be that he was a victim of certain unfortunate circumstances under which he was ^{forced} ~~deemed~~ to do something for the purpose of securing employment under the respondents.


5. Mr.T.V.V.S.Murthy, learned counsel for the applicant contended that some additional witnesses were examined for the prosecution and also some additional documents which were ^{not shown in the} annexed ^{were brought in} to the charge memo ^{as} evidence by the presenting officer. There can be no doubt that it is open to the enquiry officer to examine witnesses in addition to those listed in the Annexure ^{being on record} ~~IV~~ to the charge memo and also other documents in addition to those cited in Annexure ^{III} ~~IV~~. At the ~~most~~ ^{least} the applicant could have asked for an adjournment to enable him to go through the documents or to go through the ^{statements of} additional witnesses for the purpose of enabling him to cross examine the witness/ witnesses. Even if there be any irregularity in the matter, keeping in view the totality of the circumstances of the case, it cannot be said that the accused was ^{prejudiced} ~~pressed~~ in his defence by such examination of additional witnesses


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and documents by the enquiry officer. In the OA, certain other grounds were taken for challenging the validity of the penalty, ~~that~~ Exactly identical grounds were raised in the case of similarly situated some other employees also who secured employment under similar circumstances. These were considered in several judgements of this Bench of the Tribunal and were rejected. Therefore once again going into all ~~these~~ ^{such} issues raised in this OA, ~~it is so~~ ^{is not considered} essential because the evidence of the applicant himself establishes the misconduct as averred in the charge memo.

6. In view of the afore-stated, we find that there is nothing in this OA which would justify or warrant ^{our} interference with the penalty imposed upon the applicant. The O.A. is therefore dismissed without any order as to costs.


(A.B. GORTHI)
Member (Admn.)


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

Dated: 7th March, 1995

(Dictated in Open Court)


Dy. Registrar (Judl.)

^{sq}
Copy to:-

1. Secretary, Ministry of Communications, Union of India, New Delhi.
2. Director (TOTE) Department of Telecommunications, New Delhi.
3. Member (Personnel) Telecom Board, Department of Telecommunications, New Delhi.
4. Director, Telecom, Guntur Area, Guntur.
5. Divisional Engineer, Telecom, Eluru District.
6. One copy to Sri. T.V.V.S. Murthy, advocate, CAT, Hyd.
7. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyd.
8. One copy to Library, CAT, Hyd.
9. One spare copy.

Rsm/-