

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

DA.510/92

date of decision : 9-6-1993

Between

D. Vasudeva Rao

: Applicant

and

1. The Divisional Engineer(SBP)  
Telecom  
Rajahmundry

2. Assistant Engineer(Trunks)  
Telephone Exchange,  
Rajahmundry

: Respondents

Counsel for the applicant

: Challa Dhanunjaya, Advocate

Counsel for the respondents

: N.R. Devaraj, Standing  
Counsel for Central Govt.

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HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATION)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice-Chairman)

The applicant is working as Telecom Operating Assistant (Phone) in Telephone Exchange, Rajahmundry. Two charges were framed as per the charge memo dated 23-5-90 in regard to some of the irregularities which <sup>were said to be</sup> have been committed by him while he was working in OG 5 position on 4-11-1989, 6-11-1989 and on 7-11-1989. Assistant Engineer (Telephones) was appointed as Inquiry Officer and by report dated 4-7-91 the Inquiry Officer held that the Department miserably failed to establish guilt on the part of the applicant. R-1, the Divisional Engineer who initiated proceedings against this applicant differed from the said report and ordered a

(62)

fresh inquiry and the same Assistant Engineer was appointed as Inquiry Officer. Then three witnesses were examined for the Department and equal number of witnesses were examined for the applicant. Even after the said enquiry, the Inquiry Officer vide report dated 11-5-1992 held that the charges were not proved. Then R-1 by letter dated 8-6-1992 requested the applicant to submit his representation if any as against the second Inquiry Report dated 11-5-1992, <sup>submitted</sup> by the Inquiry Officer. Then the applicant submitted his representation dated 9-6-1992. Thereafter R-1 passed the impugned order dated 19-6-1992 ordering recovery of Rs.1110/- in one lumpsum from the pay and allowances payable to the applicant. It is further observed in the said order that if the take-home-pay of the official is not sufficient to ~~ever~~ <sup>The entire amount,</sup> recover ~~leaving~~ leaving nominal amount of Re.1/- payable to the applicant, the rest of the amount may be recovered till it is completely recovered. The said order is challenged in this OA.

2. Heard Sri Challa Dhananjaya, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.
3. It is inter-alia urged for the applicant that the impugned order is illegal as the applicant was not informed about reasons for ~~adverting~~ <sup>diffusing</sup> from the report of the Inquiry Officer so as to enable him to submit his representations in regard to the same. There is force in the said contention. Of course, the Disciplinary authority is not bound by the report of the Inquiry Officer. It is open to him to ~~advert~~ <sup>diffuse</sup> from the report of the Inquiry Officer if the circumstances warrant. But the Principles of Natural Justice require the Disciplinary authority to give an opportunity to the

To

1. The Divisional Engineer(SBP) Telecom, Rajahmundry.
2. The Assistant Engineer(Trunks)  
Telephone Exchange, Rajahmundry.
3. One copy to Mr.Challa Dhanunjaya, Advocate, plot No.8  
1-2-234/13/8, Arevind Nagar, Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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Revised  
page 18/6

(63)

3

delinquent employee to make his submissions against the reasons for which the disciplinary authority differs from the report of the Inquiry Officer. The Supreme Court held in AIR 1988 SC (1000), (Union of India and others, Petitioners vs. E. Bashyan, Respondent) that in such a case, the disciplinary authority is required to inform the delinquent about the reasons for which he is differing from the report of the Inquiry Officer and to require him to submit his representations as against the same and if the delinquent submits his explanation in regard to the same, the disciplinary authority has to consider it and pass appropriate order. As ~~the~~ R-1, the disciplinary authority had not followed such procedure, there is an infirmity in the impugned order and hence it is liable to be set aside. But this order does not preclude R-1 i.e. the disciplinary authority to proceed further with the inquiry after giving the notice as contemplated by the Supreme Court reported in AIR 1988 SC (1000).

4. Hence, the impugned order is set aside. R-1 is free to proceed further with the inquiry after giving the necessary notice to the applicant. R-1 has to take necessary steps if he intends to proceed further with the inquiry within two weeks from the date of receipt of this order and he has to dispose of the same within two weeks from the date of receipt of the submission or explanation of the applicant to the notice.

5. The OA is ordered accordingly. No costs.

P.T. Thiruvengadam

(P.T. Thiruvengadam)  
Member (Admn.)

V. Neeladri Rao

(V. Neeladri Rao)  
Vice-Chairman

dated : June 9, 1993  
Dictated in the Open Court

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Deputy Registrar (S).

3rd page  
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