

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

HYDERABAD

O.A.NO.737/92

Between:

Date of Order: 24.3.95.

M.Gopala Krishna

...Applicant

And

1. Union of India, rep. by
The Secretary, Ministry of
Communications, New Delhi.
2. The Telecom District Manager,
West Godavari,
Eluru - 534 050.
3. The Divisional Engineer,
Telecom (Maintenance)
Eluru - 534 050.

...Respondents.

Counsel for the Applicant : Mr.T.Jayant

Counsel for the Respondents : Mr.N.R. Devraj, Sr. GSC.

CORAM:

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

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

contd...

O.A. 737/92.

Dt. of Decision : 24-03-95.

ORDER

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

The applicant while serving as a Telephone Operator was served with a charge memo on 27-03-1985, thereafter a disciplinary enquiry was held at the end of which he was dismissed from service. Aggrieved by the same he approached the Tribunal in OA.No. 838/90 which was allowed on 19-10-1990 with a direction to the respondents to supply a copy of the enquiry officer's report to the applicant and give him an opportunity to make his representation before completing the disciplinary proceedings.

2. In compliance with the judgement of the Tribunal in the afore stated OA, the respondent No.3 set aside the order of dismissal and directed that further proceedings be held as per the orders of the Tribunal. Respondent No. 3 further directed that the applicant would be deemed to have been placed under suspension with effect from 26-10-1987, that is, the date of the initial order of dismissal which was set aside. The disciplinary authority then forwarded a copy of the enquiry officer's report to the applicant and gave him 30 days time to make any representation. In response thereto, the applicant questioned the validity of the ^{order of the} disciplinary authority in placing him under deemed suspension. The disciplinary authority there-upon gave yet another opportunity to the applicant to make a representation on the inquiry officer's report. Even then the applicant chose only to contest the validity of the disciplinary authority's orders placing him under deemed suspension. The applicant contended that he should be given back his status as a government servant before he could be asked to make his representation.

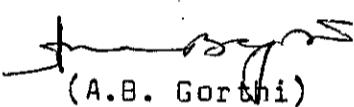
3. Heard learned counsel for both the parties. Shri T.V.V.S.Murthy, learned counsel for the applicant drew our attention to the various grounds raised in the OA. It may be stated here that ~~several~~ similarly situated employees who were dismissed/removed under similar circumstances approached the Tribunal raising almost identical issues as have been raised in this OA. All such issues were duly considered by the Tribunal and were rejected. Placed in that situation, learned counsel for the applicant states that he would only press ~~only~~ one ground that is, that the applicant was not given reasonable opportunity to put across the defence to the enquiry officer's report.

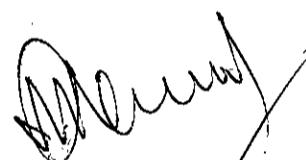
4. A careful examination of the material placed before us would clearly indicate that the applicant was given more than adequate opportunity to submit his defence, if any, on the enquiry officer's report. He did not do so but chose to question the validity of the disciplinary authority's order placing him under deemed suspension. Even when a second opportunity was given the applicant did not avail of the same. In these circumstances, we cannot accept the plea that the applicant was denied reasonable opportunity to represent on the enquiry officer's report. 2

5. Shri TVVS Murthy, learned counsel for the applicant has shown as an order of the Hon'ble Supreme Court in Civil Appeal No.2742 and 2748/92 dated 28-10-1994. In that case, (Union of India & Others Vs. P.Venkateshwara Rao/B.Parmeshwara Rao) the Supreme Court directed that as the departmental enquiry held was found to be defective, a fresh enquiry from the stage subsequent to the service of the charge sheet should be held. Shri TVVS Murthy, learned counsel for the applicant's contention is that in the case before us also the same direction could be given. We are of the considered view that in the instant case ^{it is} ~~it is~~ hardly any scope for such a direction to be given.

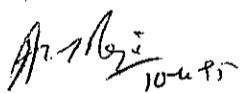
Because, initially the case was remitted by the Tribunal to the disciplinary authority only for the purpose of furnishing a copy of the enquiry officer's report to the applicant and for considering his representation thereon ^{before &} coming to a final conclusion. ~~After~~ That having been done in compliance with the Tribunal's order, there is now hardly any justification ~~for~~ ^{for} remitting the case back to the disciplinary authority for a fresh enquiry. In this context we also find that the enquiry proceedings sufficiently establish the ~~guilt~~ ^{guilt of} ~~of~~ the applicant on the charge.

6. In view of the above, ~~stated~~ we find no merits in this OA and the same is dismissed. No order as to costs.


(A.B. Gorthi)
Member(Admn.)


(A.V. Haridasan)
Member(Judl.)

Dated : The 24th March 1995.
(Dictated in Open Court)


DEPUTY REGISTRAR(J)

SPR

To

1. The Secretary, Union of India,
Ministry of Communications,
New Delhi.
2. The Telecom District Manager,
West Godavari, Eluru - 534050.
3. The Divisional Engineer, Telecom,
(Maintenance) Eluru - 534 050.
4. One copy to Mr.T.Jayant, Advocate, CAT, Hyderabad.
5. One copy to Mr.N.R.Devraj, Sr.CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

TYPED BY
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COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE SHRI A.V.HARIOSAN: MEMBER

AND

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

DATED 26.3.95

ORDER/JUDGMENT

M.A.NO/R.P.NO./C.P.NO.

in

O.A.NO. 737/92

Admitted and Interim directions issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

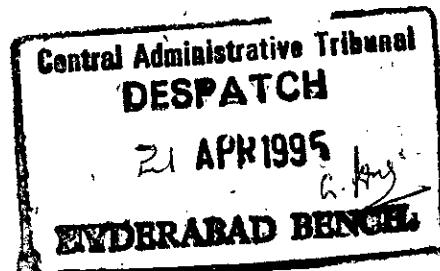
Dismissed for default

Rejected/Ordered.

No order as to costs.

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