

25

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,

AT: HYDERABAD.

O.A. NO. 1381 OF 1993

Between:

Smt. Jilpa D S Raju,
W/o Shri D S Raju,
Aged about 45 years,
Telephone Supervisor,
Saifabad Telephone Exchange,
Hyderabad - 500 004. ... Applicant.

A N D

1) The Union of India
Represented by the Director
General, Telecommunications,
New Delhi - 110 001.

2) The General Manager,
Hyderabad Telecom District,
Suryalok Complex,
Hyderabad - 500 033. ... Respondent

REJOINDER OF THE APPLICANT

The applicant submits the following rejoinder to the reply affidavit filed by the respondents for consideration.

1) The applicant submits that as regards para 1 of the reply affidavit, the same being formal needs no comments.

2) The applicant submits that as regards para 2 of reply affidavit, it is mentioned that she was issued a Rule 16 of CCS (CCA) Rules, 1965 ~~charge sheet~~ was issued on pre-judgement and predetermined conclusions without proper investigation. The allegation that she has deliberately and intentionally noted the readings to give benefit to the subscribers of Telephone No. 553814; 553677 and 553837 leading pecuniary loss to the exchequer is only a cover to justify ~~fact~~ issue of charge sheet followed by a minor punishment as meter ~~fact~~ readings are not taken directly by her but as narrated by Mazdoors engaged for the purpose. Meters are provided at a height and it is Mazdoors engaged for the purpose that inform the readings for recording in the registers maintained for the purpose.

Jilpa D S Raju
APPLICANT
.../2

3) The applicant submits that as regards para 3 of reply affidavit, if her calling by A.E. for oral explanation is not true, he should have given a written reminder before awarding punishment. It is not true to say that she was orally reminded for explanation and as a matter of fact she was under reasonable belief that the matter has been closed till punishment order No. L-55/AEP-11/GWD/TSO/Disc./91-92/5, dated 16.7.1992 was issued to her quite arbitrarily.

4) The applicant submits that as regards para 4 wrongly mentioned on para 3 of reply affidavit, it is mentioned that it is clear from rules that no review can be made until after expiry of the period of limitation for appeal under Rule 29(2)(i) of CCS (CCA) Rules, 1965. Her appeal dated 7.9.1992 on modified punishment was not replied at all.

5) The applicant submits that as regards para 5 of the reply affidavit, it is mentioned that the Disciplinary Authority imposed punishment under letter No. L-55/AEP-2/GWD/TSD/Disc/ 91-92/5, dated 16.7.1992 and the Appellate authority reviewed the punishment even before expiry of period of appeal by a notice on 17.8.1992 and final order communicated on 2.9.1995. The period of appeal being 45 years even before its expiry of the period of appeal, the review was made by the Appellate Authority which is impermissible as per Rule 29 2(1) of CCS (CCA) Rules, 1965. Therefore it is not correct to say that Appellate Authority can review the punishment at any time within 6 months without waiting for expiry of appeal period as per 29 (2) i of CCS (CCA) Rules, 1965. It is a fact that Mazdoors are engaged for narrating meter readings as meters are kept at height.

6) The applicant submits that as regards para 5 of the reply affidavit it is mentioned she has completed more than 26 years of service and hence eligible for BCR Scheme Promotion from 01.01.1993 and the modified punishment withholding increment was given effective from 01.05.1993.

S. Raj .../3
APPLICANT.

She was awarded punishment quite arbitrarily and illegally without conducting any investigation/enquiry to substantiate the allegations pitted against her by any evidence. It is also admitted that she was not considered for promotion eventhough, there was no punishment in currency then and the punishment imposed is a minor punishment.

7) The applicant submits that as regards para 6, 7 of the reply affidavit, it is mentioned it is a fact that meters are installed at a height and Mazdoors are provided to climb up and narrate the meter reading which are recorded in a register maintained. Therefore it is not correct to say that she is responsible as her responsibility is to maintain registers opened for recording of meter readings of Telephone Subscribers. When these facts were explained to the A.E. orally on receipt of Rule 16 of CCS (CCA) Rules charge sheet issued to her, he was convinced and agreed to close the case. But after a lapse of time even without obtaining her written statement of defence she was quite arbitrarily awarded punishment on no evidence on record.

8) The applicant submits that as regards para 8 and 9 of the reply affidavit, it is mentioned that modified punishment order is illegal as it was issued depriving her right of appeal under provisions of CCS (CCA) Rules, 1965. It is a clear case of violation of Rule 29 (2) (i) of CCS (CCA) Rules, 1965.

9) The applicant submits that as regards para 10, 11, 12, it is mentioned that no investigated material was disclosed to her and the punishment as such was abruptly awarded even without obtaining her written statement of defence. No reminder was given before awarding punishment. The punishment was awarded vindictively at a time when she is about to get BCR scheme promotion on completion of 26 years. In case of this nature when no written statement of defence was filed by her the appellate authority

Jijo D'Souza
APPLICANT
.../4

was filed by her, the appellate authority ought to have given personal hearing before issuing modified punishment as per law laid down in the case of -

1) Ramchander Vs Union of India - 1986 (2) SLR P. 608.

2) Shanker Damle Vs Union of India - Full Bench Judgement of CAT - reported in SLJ - Aggust, 1989 P. 181.

10) The applicant submits that as regards para 13 and 14 of reply affidavit, it is mentioned that she is due for BCR Scheme Promotion from 1.1.1993 and as on date there was no punishment in currency as the modified punishment of withholding of one increment for two years was effective from 1.5.1993. Moreover, it is a Minor Punishment and even during currency of minor punishment she is eligible for promotion from due date as judgement delivered by the Principal Tribunal in the case of Prem Singh Verma Vs Union Of India - reported in ATR 1993 (1) CAT 748.

11) The applicant therefore prays that the Hon'ble Tribunal may be pleased to direct the respondents to promote her to higher scale of pay of 1600-2660/- under BCR Scheme from the date her juniors were promoted from 01.03.1993 with all consequential benefits including monetary benefits and pass such other order or orders as deem fit and proper in the circumstances of the case.

Hyderabad,

Dt. 1st April, 1995.


APPLICANT

Rehber mawla

Signature of the Counsel
for the Applicant

29
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

HYDERABAD BENCH

AT: HYDERABAD

O.A. NO. *** 1381 OF 1993

REJOINDER OF THE APPLICANT

Received: N. N. Dasharath Reddy
AC/SC
11/7/95

Filed on: 11-7-1995

Filed by:

Shri J V. Lakshmana Rao, M.A., L.L.B.
Advocate
Counsel for the Applicant

Flat No. 301, Balaji Towers,
New Bakkaram, Hyderabad-380



part be filed
on
11/2/95