

50

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1107 of 1994.

Date of decision- 31st July, 1997.

Between.

A. NARAYANA. Applicant.

And.

1. The Chief General Manager,
Telecommunications,
A.P.Circle, Hyderabad.
2. The General Manager,
Telecommunications,
A.P.Circle, Hyderabad.
3. The Telecom District Manager,
Department of Telecommunications,
Tirupathi. Respondents.

Counsel for the Applicant - Mr. V. Venkateswara Rao.

Counsel for the Respondents-Mr. K. Bhaskara Rao.

Coram :

Honourable Mr. R. Rangarajan, Member (Admn.)

Honourable Mr.B.S.Jai Parameshwar, Member (Judl.)

ORAL ORDER.

(As per Hon. Mr.B.S.Jai Parameshwar, Member (J)).

1. Heard Mr. V. Venkateswara Rao, learned counsel for the applicant and none appeared for the respondents. Since this O.A. is of the year 1994, we are not inclined to adjourn the same and it is disposed of after hearing the applicant's counsel^{and} on the basis of the materials available on record.

2. While the applicant was working as Section Supervisor in the office of the Telecom. District Manager, Tirupathi, was served with a Charge-memo dated 26.8.1985. The applicant denied the charges vide Annexure- 3 to the O.A. A detailed enquiry was conducted

R

into the said charges. The Inquiry Officer submitted his report, a copy of which has been furnished to the applicant as per Annexure-A.5. The applicant submitted a representation against the findings of the Inquiry Officer (Annexure-A.6) to the disciplinary authority. The disciplinary authority by his order dated 24.1.92 (Annexure-A.7) considered the findings of the Inquiry Officer ^{and} on the explanation submitted by the applicant and passed an order imposing a penalty of withholding two increments with effect from 1.6.92 for a period of two years with cumulative effect in the scale of pay of Rs.1400-2300/-. Against the said punishment order, the applicant submitted an appeal dated 9.3.92. The copy of the Memorandum of Appeal is at Annexure-A.8. The appellate authority by his order dated 26.3.93 (Annexure-A.9) confirmed the punishment order of the disciplinary authority and rejected the appeal.

3. The applicant has filed this O.A. challenging the orders dated 24.1.92 and 26.3.93 passed by the disciplinary and appellate authorities.

4. A reply has been filed by the respondents stating that the inquiry was resumed on 23.9.96; that the applicant was given sufficient time to submit his documents and list of witnesses; that the misconduct imputed against the applicant related to the performance of his duties; that the documents relied upon by the disciplinary authority amply establish^{ed} the charges and that there are no grounds to interfere with the impugned orders.

5. Learned counsel for the applicant during the course of his arguments submitted that the appellate authority has not taken into consideration the various grounds urged by the applicant in Annexure-A.8. The order of the appellate authority is at Annexure-A.10.

Je

The appellate authority has considered only five grounds urged by the applicant in the memorandum of appeal. The memorandum of appeal runs to 9 pages. The appellate authority has not taken into consideration all the grounds urged by the applicant in his memorandum of appeal. Some of the important grounds which were not taken into consideration by the appellate authority as submitted by the learned counsel for the applicant are as follows:

- (i) There is no misconduct involved in this case; but it is only an irregularity committed. Hence the order of punishment for the irregularity is harsh ;
- (ii) A bias petition against the Inquiry Officer was filed but that was disposed of by the Inquiry Officer himself dismissing the said bias petition. This point though mentioned in the appeal, has not been considered by the appellate authority;
- (iii) Supply of relevant documents was not done by the Inquiry Officer as requested by the applicant and certain witnesses were not summoned by the Inquiry Officer by stating that the applicant was calling those witnesses measure of as a/delatory tactics. That point has also not been looked into by the appellate authority fully;
- (iv) It was a case of no evidence as brought out in the appeal, but that point has also not been taken into consideration by the appellate authority.; and
- (v) The charge sheet was issued by the Director. The disciplinary authority was the Telecom. District Manager. Though initially the Inquiry Officer was the Senior Superintendent, by the

Jr

time he completed the inquiry, he became the Director and thus it is stated that the Director and the Telecom. District Manager ⁱⁿ report submitted by the same official can ^{not} be disposed of by an official of the same rank was a point for consideration which was not considered by the appellate authority.

After going through the appellate authority's order, we are of the opinion that the aforesaid points require a ^{detailed} full consideration and a decision has to be given by the appellate authority.

6. In view of the above, we feel that it is a fit case to set aside the order of the appellate authority and remit the matter back to him to reconsider the appeal in the light of the observations made by us, ^{as} above and also in the light of the contentions raised ^{in the memorandum of} in the appeal by the applicant. If the applicant requires a personal hearing, the appellate authority should grant the same to him ~~applicant~~ before deciding the appeal. // This order be complied with within three months from the date of receipt of a copy of this order.

The O.A. is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDICIAL).

31.7.97


(R. RANGARAJAN)
MEMBER (ADMINISTRATIVE).

Dated the 31st day of July, 1997.

Dictated in the Open Court.

DJ/317.97.


D R (J) 4877.