

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.228/94

Date of Order: 18.2.97

BETWEEN:

V.Ravi Kumar

.. Applicant.

AND

1. The Divisional Engineer (MTCE)
Telecommunications,
Eluru, A.P.
2. Sub-divisional Officer,
Telecom, Nidadavolu,
West Godavari Dist. AP.
3. The Director General,
Telecommunications,
Ministry of Communications,
Dept. of Telecommunications,
Sanchar Bhavan, New Delhi.
4. The Chief General Manager,
Telecommunications, A.P.Circle,
Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr. V.Venkateswara Rao

Counsel for the Respondents

.. Mr. K.Bhaskara Rao

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

JUDGEMENT

X Oral order as per Hon'ble Shri B.S.Jai Parameshwar, M(J) X

Heard Mr.V.Venkateswara Rao, learned counsel for the applicant and none appeared for the respondents.

2. The applicant while serving as JTO was served with a minor penalty of charge memo alleging that he had failed in his duties and caused loss of Revenue department by changing meter reading of telephones during the period from 25.2.92 to 4.3.92. The statement recorded by him after a reading of 2 telephones of Gowripatnam exchange were incorrect. The

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applicant submitted an explanation on 3.6.93. The disciplinary authority considering his explanation imposed the punishment of withholding his next increment for a period of one year without cumulative effect. Against the said order of punishment the applicant submitted his memorandum of appeal dt. 19.8.93. The appellate authority considering the appeal and also perusing the records confirmed the punishment and rejected the appeal by his order dt. 11.1.94 (A-7). It is these orders ~~it has~~ that have been challenged by the applicant in this OA. It is stated that the irregularity ~~alleging~~ ^{ed in} ~~by~~ ^{was} the minor irregularity that it did not amount to misconduct ^{and} ~~and~~ ^{that} the punishment was ~~imposed at the time~~ motivated and ~~that~~ he was due for promotion ~~at that time~~.

3. The respondents have filed their counter stating that the act of the applicant in changing the meter reading caused loss to the Government that the change was made without prior permission of the competent authority that the applicant was not competent to alter the ^{reading of meter} ~~Telephone~~ bills on his own motion. The disciplinary authority ^{after} due consideration of the explanation of the applicant imposed the punishment, that before imposing the punishment opportunity was given to him ^{and} ~~that~~ the version of the applicant that he had taken permission orally before collecting the bills was not true. That in the explanation he had not mentioned any thing about securing the oral permission from the Extension Officer, TDM, Eluru. In page-4 of the counter they have given the meter reading of the disputed telephones. Thus they submit that there are no grounds to interfere with the punishment imposed on the applicant.

4. The learned counsel for the applicant during the course of his argument relied upon the decision of the Supreme Court of India in the case of Union of India vs. J. Ahmed (AIR 1979 SC 1022). In support of his contention that the minor irregularity ~~may~~ not amount to misconduct.

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5. The misconduct imputed in the present case is to the change of meter readings by the applicant on his own motion and further they said that the change of meter reading caused loss of Revenue. Therefore we feel that the principle annunciated by the Hon'ble Supreme Court is not applicable to the facts of this case.

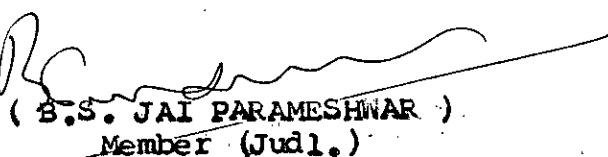
6. Further, the learned counsel for the applicant submitted that the change of meter reading cannot be considered as a minor irregularity which ~~was~~ does not amounted to misconduct. We are not prepared to subscribe to the said view.

7. It is for the respondents to consider whether the irregularity committed by the applicant amounted to misconduct or not when the authorities have taken a decision that really amounted to misconduct it is not proper for this Tribunal to take a view in this case. Further this Tribunal can take a different view if any malafides are attributed to the authorities who decided ~~this~~ ^{to} impose punishment. Though the applicant in his OA submits that such a view is taken due to mala fide consideration no material is placed before us to show that there was a malafide which resulted in taking a view that the irregularity committed is a misconduct. Though the applicant submits that there is no rule to prevent him from correcting ~~him~~, no such rule has been produced before us. The applicant further submits that the TDE has powers to grant rebate for excess meter ^{up to a} certain level. The applicant is not a TDE. Hence he cannot exercise that power. Even if he had exercised that power he should ^{have} informed the concerned officer. After having ~~that~~ exercised no document has been produced to show that he ^{had} informed the higher ups ^{or} that he had informed the Accounts officer concerned. The Accounts Officer has ^{denied} revised that verbal statement. Hence in the absence of any record available we are not in a position to accept the version of the applicant.

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8. As regards the punishment this Tribunal cannot say anything. This Tribunal cannot interfere ^{with} the punishment imposed by the disciplinary authority. The appellate authority has taken into consideration all the contents ^{imis} raised by the applicant in the memorandum of appeal while passing the order. Hence we feel that there are no merits in this OA.

9. The OA is dismissed accordingly. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)

(8149)


(R.RANGARAJAN)
Member (Admn.)

Dated: 19th February, 1997

(Dictated in Open Court)


D. Venkatesan (S)

sd

Copy to:-

1. The Divisional Engineer(MTCE), Telecommunications, Eluru, A.P.
2. Sub Divisional Officer, Telecom, Nidadavelu, West Godavari. Dist.
3. The Director General, Telecommunications, Ministry of Communications, Dept of Telecommunications, Sanchar Bhavan, New Delhi.
4. The Chief General Manager, Telecommunications, A.P. Circle, Hyd.
5. One copy to Sri. V.Venkateswara Rao, advocate, CAT, Hyd.
6. One copy to Sri. K.Bhaskara Rao, Addl. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One copy to Hon'ble Mr. B.S.J.P., J.M., CAT, Hyd.
9. One copy to Deputy Registrar(A), CAT, Hyd.
10. One spare copy.

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28/3/97

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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S.JAI PARAMESHWARI:
M(J)

DATED:

18/3/97

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

D.A.NO.

228/ay

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
DISMISSED FOR DEFAULT
ORDERED/REJECTED
NO ORDER AS TO COSTS.

II COURT

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
DESPATCH

10 MAR 1997

HYDERABAD BENCH