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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA No. 637/94

Date of Decision: 5-5-97

BETWEEN:

G.N. MURTHY

.. Applicant

AND

1. The Asst. Engineer (i/c),
CTTC, Kakinada-533007
2. The Divisional Engineer,
Telecom (Mtce.),
Kakinada-533 001.
3. The Telecom Distt. Manager,
Rajahmundry-533 150
4. Union of India rep. by the
Chairman,
Telecom Commission,
New Delhi - 110 001.

.. Respondents

Counsel for the applicant: Mr. C. Suryanarayana

Counsel for the respondents: Mr. N.R. Devaraj

CORAM:

THE HON'BLE SRI R. RANGARAJAN: MEMBER (ADMN.)

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

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JUDGEMENT

(PER HON'BLE SRI B.S. JAI PARAMESHWAR: MEMBER(J)

Heard Sri Suryanarayana the learned counsel for the applicant and Sri W. Satyanarayana for Sri N.R. Devaraj learned Sr. Standing counsel for the respondents.

This is an application under Section 14 (1) of the Administrative Tribunal's Act. The application is filed on 23.5.1994.

In this OA the applicant has sought for the following reliefs:-

"

To call for the records relating to the 2nd respondent's order Annexure A-19 issued under his No.Disc/R.14/GNM/90-91/16, dt.18.11.92 r/w the 3rd respondent's order Annexure A-16 issued under his letter No.EG/TD/RMY/Disc/GNM/R.14/90/23, dt. 23.4.92 and his proceedings Annexure A-21 issued under Memo No.TMD-RMY/Appeal/R.14/GNM/93/5, dt.29.4.93 served to the applicant on 10.5.93 and to quash the same ~~and~~ declaring that the entire disciplinary proceedings are vitiated ab initio, illegal, null and void and that the applicant as the victim of pride and prejudice of the upper caste officers and that he is in fact innocent and not liable to any punishment, besides granting any other relief or reliefs which this Hon'ble Tribunal deems just and proper.

"

The brief facts of the case are as follows:-

During the year 1990-91 the applicant was working as the Section Supervisor in the office of the Assistant Engineer C.K.K.C., Kakinada. On the evening of 31.8.90 an incident occurred in the chamber of the Accounts Officer, Office of the T.M.D., Rajahmundry/Kakinada. With respect to the said incident a preliminary inquiry was conducted to ascertain the role of the applicant. The preliminary *enquiry*

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disclosed that the applicant misbehaved, abused and attempted to assault the accounts officer. On 27.11.90 a major penalty charge sheet was served on the applicant under Rule 14 of the CCS (CCA) Rules. The articles of charges ~~in~~^{by}acted the applicant as follows:-

"

That the said Sri G.N. Murthy, while working as Section Supervisor (O) in the Office of the Asst. Engineer, C.T.T.C. Kakinada is alleged to have been under the influence of intoxication and abused the Accounts Officer % T.D.M. Rajahmundry at Kakinada on 31.8.1990 in the chamber of the Accounts Officer at 1600 hrs. Thus his action is contrary to discipline under the provisions of Rule 22 & 3 (i) (iii) of CCS (Conduct) Rules 1964.

"

A detailed inquiry into the said charges was conducted by the inquiry officer. On 2.12.91 the Inquiry Officer submitted his report holding that charges levelled against the applicant was established. A copy of the report of the inquiry officer was furnished to the applicant. The applicant submitted his representation against report on 24.3.92. On 25.3.92 the Disciplinary Authority passed the punishment order. The ~~the~~ operative portion of the punishment order reads as follows:-

"

Even though the above said misconduct is of serious nature, deserving deterrent punishment, as a disciplinary authority take a lenient view by considering his behaviour for the past one year and also in view of the fact that this is first time and giving an opportunity to Sri G. N. Murthy SS(O) for not to repeat the same in future I, K. Narayanarao Sr. Asst. Engineer I/C of CTTC, Kakinada hereby ordered for withholding of the next increment of the official for a period of ONE YEAR without cumulative effect.

"

After expiry of the period prescribed for preferring the appeal, against the said order the revising authority going through the inquiry records felt that the punishment

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imposed on the applicant by the order Dt.25.3.92 was inadequate, served a show cause notice Dt.5.9.92 on the applicant. The applicant submitted his explanation to the show cause notice on 25.9.92. The Revising Authority after considering the records of the inquiry and the explanation offered by the applicant enhanced the punishment. The punishment imposed by the Revising authority reads as follows:-

"

I, B.V.V.V. Prasada Rao, D.E.(Mtce.) Kakinada as revising authority in this case set aside the punishment issued vide AE i/c, CTTC-Kakinada Lr. No.X/Disc/GNM/SS(O)/91-92/61, dated 25.3.92 hereby enhance the penalty to "Reduction by one stage in the time scale of 1400-40-1800-EB-1850-2300 from the existing stage of Rs.1680/- to Rs.1640/- for a period of three years from the date of issue of punishment order by the disciplinary authority. On expiry of the period of punishment, the official will be brought back to the original stage in the said time scale for which he is entitled and the period of reduction will not have cumulative effect and not adversely affecting his pension. During the course of punishment, the official will not earn any increment and this will not have the effect of postponing his future increments of pay".

The applicant preferred an appeal against the enhanced punishment of 7.1.93. On 29.4.93 the Appellate Authority considered ^{the} ~~the~~ various grounds ^{urged} in the appeal, confirmed the punishment imposed on 18.11.92 and dismissed the appeal.

It is these orders that have been impugned by the applicant in this OA. The applicant has questioned the legality of the enhanced punishment on the following grounds:-

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- (a) That the charge sheet issued was vitiated as the same was not based on the respondent-1's knowledge or information;
- (b) that there was no evidence to show that the applicant entered the chamber of the Accounts Officer in a drunken state;
- (c) That the applicant was not under the influence of liquor;
- (d) the witness^{-es-} examined on behalf of the disciplinary authority were under the administrative control of the Accounts Officer;
- (e) The Second Respondent with evil designs appointed the SDO, Phones, Kakinada to conduct preliminary inquiry in the incidence that occurred on 21.9.80. The preliminary inquiry conducted against the rules of principles of natural justice.
- (f) The Inquiry officer made use of the statement of the applicant (vide annexure-8) as evidence against him contrary to principles of natural justice.
- (g) The brief submitted by the presenting officer is based on no evidence but on conjectures and surmises.
- (h) that the disciplinary authority should have rejected the report of the inquiry officer, that the punishment imposed on him is too harsh and disproportionate to the gravity of charge levelled against him;
- (i) that there was no occasion or justification for the revising authority to enhance the punishment, that the orders under consideration are not sustainable in law.

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The reply has been filed by the respondents contending that the inquiry was conducted adhering to the principles of natural justice that the answers given by Sri K.N. Sarma disclosed that the applicant not only scolded/abused the Accounts Officer in his chamber that un-parliamentary and vulgar words were used but also the applicant continued to abuse the Accounts Officer in the verandah of the chamber, that the material placed on record by the disciplinary authority was sufficient to hold the charge against the applicant as proved that the defence witnesses examined on behalf of the applicant were his own close associates that the inquiry officer properly analysed the evidence and gave a just report that the contention raised by the applicant are concocted and are intended to escape the penal consequences that the misbehaviour or misconduct committed by the applicant was proved during the inquiry that the disciplinary authority in the first instance lightly treated the misconduct of the applicant and inflicted upon him a nominal punishment that having regard to the gravity of the charge it was necessitated for the revising authority to exercise his power under Rule 29 of the CCS(CCA) Rules that accordingly a notice was issued to the applicant to show cause as to why punishment should not be enhanced that the allegation that the second respondent was biased towards him is not correct. The respondents further contended that the material placed on record before the inquiry officer amply established the intoxicated nature of the applicant, particularly his own statement (Annexure-8). In considering that there is no prohibition to rely upon the said material in a disciplinary proceeding the order passed by the respondents

The contention of the applicant that the charge of misconduct was not within the personal knowledge of the respondent-1 and hence the charge sheet is vitiated cannot be accepted. The Respondent-1 is the disciplinary authority. He had appointed S.D. (Phones), Kakinada to ascertain the reasons relating to the incident and the persons responsible for the incident. S.D. (Phones), Kakinada, conducted the preliminary inquiry into the incident and submitted his report. The preliminary inquiry report revealed the involvement of the applicant in the incident.

The applicant admits his presence in the chamber of the Accounts Officer on the evening of 31.8.90 when the alleged incident took place. It is his version that he had been into the chamber of the Accounts Officer to submit an application for sanction of leave with medical certificate and to enquire as to how he deducted the L.T.C. advance recoverable from him out of his salary. It is the case of the disciplinary authority that the applicant abused/scolded the Accounts Officer in his chamber and that he was at that time, under the influence of alcohol. Sri K.S.R. Sarma as a witness on behalf of the disciplinary authority has clearly narrated the occurrence of the incident and also the misbehaviour or misconduct on part of the applicant.

The disciplinary proceedings are only fact finding bodies. They are not strictly governed by the technical rules of evidence. They are expected to adhere to the principles of natural justice.

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The Inquiry Officer has come to the conclusion by that the applicant was under the influence of alcohol, relying upon the statement made by the applicant. The statement of the applicant is at Annexure-8. There is no prohibition for the inquiry to place reliance on the same. -A-
confessional statement recorded by a police officer which is inadmissible under Section 25 of the Indian Evidence Act can be relied in the disciplinary proceedings. Even the statement of a co-accused can be relied in the disciplinary proceedings. Preponderance of probabilities is the guiding factor in the disciplinary proceedings. Hence the applicant cannot say that the inquiry officer was not justified in relying upon his own statement which is at Annexure-8;

The next contention of the applicant is that the disciplinary authority with evil design appointed the S.D. (Phones), Kakinada to make the preliminary inquiry. Preliminary inquiry is the initial stage intended to gather or collect material to know whether a prima facie case has existed or not. At the preliminary stage it cannot be imputed any evil designs, or notice on the disciplinary authority. It is not made clear as to how S.D. (Phones), Kakinada was enigmically disposed off towards the applicant, so as to submit a report implicating him. When the applicant himself admitted his presence in the chamber of the Accounts Officer at the time of incident then it is for the applicant to state the manner in which the incident took place. He cannot keep quiet and ask the disciplinary authority to narrate the incident in a manner convenient or suitable to the applicant.


The report of the inquiry officer is at Annexure-12
We have gone through the report of the inquiry officer.

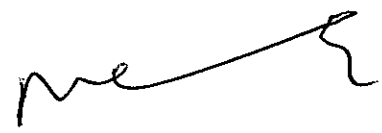
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The inquiry officer analysed the evidence placed on record by the inquiry authority as well as the applicant. The powers of this Tribunal are very much limited, ~~in~~ ⁱⁿ view of the decision of the Supreme Court of India in the case of Union of India Vs. Upendra Sen reported in 1994 (3) Supreme Court Cases 357 and in the case of Chaturvedi Vs. Union of India reported in AR 1996 Supreme Court 484.

In the first instance the disciplinary authority by his order took a lenient view which was not relished by the revising authority. In our opinion discipline is a sine quanon in every establishment. Particularly in this case the allegation against the applicant is that he has abused and scolded his official superior. The misconduct attributed to him and substantiated in the inquiry goes to the root of the discipline in the establishment. When that is so, we find no reasons to interfere with the punishment imposed on the applicant.

In our humble view there are no merits in this OA. Hence the OA is dismissed. No order as to costs.



(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
S.S. 97


(R. RANGARAJAN)
MEMBER (ADMN.)

Date

S. S. 97

KSM


13-5-12
D.R. (J)

Copy to:-

1. The Asst. Engineer (1/c), CRTC, Kakinada-007.
2. The Divisional Engineer, Telecom (Mtce.), Kakinada- 001.
3. The Telecom Distt. Manager, Rajahmundry - 150.
4. The Chairman, Telecom Commission, New Delhi.
5. One copy to C.Suryanarayana, Advocate, CAT, Hyd.
6. One copy to Mr.N.R.Devaraj, Sr.CGSC, CAT, Hyd.
7. One copy to HBSJP, Member, CAT, Hyd.
8. One copy to DR(A), CAT, Hyd.
9. One duplicate.

16/7/97
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE SHRI D.S. JAI PARAMESHWAR:
M(J)

DATED: 5/5/97

ORDER/JUDGEMENT

R.A/C.P/M.A.No.

in

O.A.No. 637/94

~~ADMITTED INTERIM DIRECTIONS ISSUED
ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS
DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

YLKR

II COURT

