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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

O.A.No. 1255 of 1995.

Date of decision: 12-6-1998.

Between:

N.Ramachandra Rao. Applicant.

and

1. The Telecom District Engineer, Ongole,
Prakasam District.
2. The General Manager, Telecom, Hyderabad Area,
Secunderabad,
3. The Chief General Manager, Telecommunications,
Hyderabad.

Respondents.

Counsel for the applicant: Sri K.Venkateswara Rao.

Counsel for the respondents: Sri K.Ramulu.

JUDGMENT.

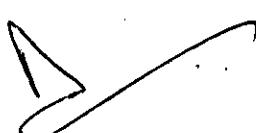
(by Hon'ble Sri N. Rangarajan, Member (A)

Heard Sri K.Venkateswara Rao, learned counsel for
the applicant and Ms. Rukmini for Sri Ramulu for the res-
pondents.

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The applicant was communicated of the adverse entries in his CRs for the year 1991-92 through letter No. X.2/CRs/91-92/V/128 dated 5.1.1993 read with letter No. X.2/CRs/91-92/V/136 dated 25.1.1993 by the Respondent No.1. Aggrieved by the adverse entries made in his CRs., the applicant filed a representation to the Respondent No.2 on 5.4.1993 for expunging the adverse entries. The adverse entries recorded in the Confidential Reports can be seen in para 2 of the General Manager, Telecom's letter i.e., the Accepting Authority of the Confidential Reports vide Memo No. TAH/ST/26-6-/MRR dated 24.11.1993. The General Manager, Telecom, Hyderabad Area by the impugned Memo No. TAH/ST/26-6/MRR dated 24.11.1993 (Annexure I page 9 to the O.A.,) had rejected the representation of the applicant.

This O.A., is filed to quash the adverse entries recorded in his CRs., by letter No. X.2/SCRs/91-92/V/128 read with letter of even No., dated 25.1.1993 issued by the TDE., Ongole and the impugned Memo No. TAH/ST/26-6-/MRR dated 24.11.1993 issued by the General Manager, Telecom, Hyderabad Area by holding them as illegal, arbitrary, mala fide and violative of Articles 14 and 16 of the Constitution and opposed to principles of natural justice.



equity and fair play and for a consequential direction to expunge the remarks.

It is not understood why the applicant has not filed his representation as an annexure to the O.A., addressed to the General Manager, Telecom, Hyderabad Area dated 5.4.1993. In the absence of the said representation, this Bench is not able to know the precise contentions raised by the applicant in his representation.

The first contention made by the applicant while arguing the case is that the Chief Accounts Officer who initiated the Confidential Report is not the Competent Authority to initiate his confidential report.

The reason given by the applicant is that he worked under the Divisional Engineer Telecom directly and he is not supervised by the Chief Accounts Officer. Further,

the Chief Accounts Officer refused to counter-sign the

Confidential Reports initiated by the applicab

plea that he is not the Controlling Of

Hence, the adverse entries made

for the year 1991-92 by the C

'Initiating Officer' of the Co

and is not valid. He further states

Report should have been initiated

concerned and reviewed by the TDE., Ongole and finally accepted by the General Manager, Hyderabad Area. If that has been done the applicant submits that the question of making adverse entries in his confidential report may not arise. As the proper method of initiating the confidential report was not resorted to, the question of conveying adverse entries to him does not arise and on that score itself the adverse entries in his confidential report for the year 1991-92 should be expunged without any murmur and without going into the details of the entries made in the CRS.

In order to examine whether this point has been adequately discussed by the General Manager, Hyderabad Area, I have perused the impugned Memo dated 24.11.1993. The remarks given by the General Manager, Telecom, Hyderabad Area in rejecting the representation of the applicant for expunging the adverse entries are very short and even in that short para only the delay in communicating the adverse entries has been explained. He has not quoted any instances supporting the adverse entries made in the Confidential Report. The crux of the grievance has not been fully looked into. The reasons given for rejecting the representation as stated in the impugned letter of the General Manager, Telecom Hyderabad area read as under:

"His contention that the C.A.O., cannot be the Reporting Officer in his case is not acceptable.

The Officer has chosen only, representation on the grounds of administrative procedure and not on substance on various adverse entries made except his submission that the adverse entries are baseless/unlawful."

From the above reply, it is seen that the General Manager, Telecom, Hyderabad Area had rejected the contention of the applicant that the C.A.O., is not the Reporting Officer in a single word stating that "it is not acceptable." He has not stated how he has come to that conclusion and the reasons thereof are not indicated. Hence, this reply, in regard to the contention of the applicant as to the appropriate authority to initiate the CR., does not appear to be realistic and adequate.

Though, many reasons are advanced now, it is not/this Bench to go into those reasons at this stage. It is for the General Manager, as the Accepting Authority, to convey the reasons for rejection of the contention raised in the representation of the applicant. As it is not done, I am of the opinion that the reply given by the General Manager in rejecting the contention of the applicant is not adequate and requires further examination.

The second contention advanced by the applicant is that the adverse entries were made without any proper material or related instances on record. He further submits that the adverse entries ^{were} given off-hand without adhering to the norms for initiating and finalising the confidential reports.

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The adverse entries are made without proper details and without proper consideration. Such action on the part of the Reporting Officers is not only irregular but also damage the career opportunities of the employees. As this was not done properly by the Accepting Authority (R-2) and the career opportunities of the applicant will be adversely affected by the adverse entries in the CRs., which are unwarranted, those adverse entries have to be expunged.

The Accepting Official for the above contention has stated in his impugned reply dated 24.11.1993 as under:

"The Officer has chosen only, representation on the grounds of administrative procedure and not on substance on various adverse entries made except his submission that the adverse entries are baseless/unlawful."

If the Accepting Authority comes to the conclusion that the representation made by the applicant is without substance, it should necessarily quote the instances and details available from records so as to sustain the adverse entries made in the Confidential Reports. Merely stating that the applicant has not made out a case for expunging the adverse entries is not proper. Without specific

instances for supporting the adverse entries, the rejection of the representation of the applicant by the General Manager, Telecom, Hyderabad area cannot be said to be a judicial disposal of his representation. Even if a few instances are quoted for coming to the conclusion, it would suffice to conclude that the General Manager had come to a reasonable conclusion on the basis of the records available. It is not even stated that even oral warnings were given to the applicant. If the applicant is not properly educated/appraised in regard to his poor performance during the course of the year, it will be unfair on the part of the administration to record adverse entries in the CRs. The above view of mine is fortified by the Judgment of the Hon'ble Supreme Court in M.A.RAJASEKHAR V. STATE OF KARNATAKA & ANOTHER (1997(1)SLJ 45.) wherein it was held that "the incumbent must be pointed out reference to specific instances in which he did not perform that duty satisfactorily so that he would have an opportunity to correct himself of the mistake. He should be given an opportunity in the case where he did not work objectively or satisfactorily." Adverse entries must be supported with instances.

In view of what is stated above, the General Manager, Telecom, Hyderabad Area should reconsider the impugned reply dated 24.11.1993 which disposes of ~~the~~ representation of the applicant dated 5.4.1993 and give a reasone

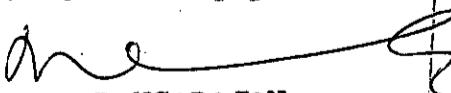
as to why he accepted the adverse entries in the Confidential Reports of the applicant for the year 1991-92.

In view of the foregoing discussion, the following directions are given:

- i) The impugned Memo No. TAH/ST/26-6/MRR dated 24.11.1993 of the General Manager, Telecom, Hyderabad Area (Respondent No. 2x herein) is hereby set aside;
- ii) The case is remitted back to Respondent No. 2 for reconsideration de novo and for issuing a reasoned order after considering all the points and contentions raised by in his representation the applicant and also keeping in view the observations made in this Judgment.

Time for compliance is three months from the date of receipt of a copy of this Order.

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


R. RANGARAJAN,
Member (A)

Date: 12-6-1998.

Dictated in open Court.

Ans
DR 17/6/98

Copy to:

1. The Telecom District Engineer, Ongole, Prakasam District.
2. The General Manager, Telecom, Hyderabad Area, Secunderabad.
3. The Chief General Manager, Telecommunications, Hyderabad.
4. One copy to Mr.K.Venkateswara Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr.K.Ramuloo, Addl.C69C, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

YLKR

25/6/98

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 12/6/98

ORDER/JUDGMENT

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

in

D.A.NO. 1255/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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