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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.138/96.

Dt. of Decision : 12-08-98.

L.Pushpa Rao

.. Applicant.

Vs

1. The Divl. Engineer (Mtce),
Telecom, Bhimavaram-534 202.

2. The Telecom District Manager,
W.G.Telecom District,
Eluru-534 060.

3. The Enquiry Officer and
Sub-Divisional Engineer (Phones),
Tel. Exge., Bhimavaram.

.. Respondents.

Counsel for the applicant

: Mr.N.R.Srinivasan

Counsel for the respondents

: Mr.V.Bhimanna, Addl.CGSC.

CORAM:-

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

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

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ORDER

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

Heard Mr.N.R.Srinivasan, learned counsel for the applicant and Mr.V.Bhimanna, learned counsel for the respondents.

2. The applicant herein was working as Section Supervisor under the Accounts Officer (Telephone Revenue) in the office of the Telecom District Manager Unit, Bhimavaram. He was issued a memo by the Accounts Officer vide his memo No.TRA/PR/89-91 dt. 19-2-91 (Annexure-I) for alleged arrears of reconciliation work in the Telephone Revenue Bills and for alleged lapses in not following the prescribed procedure of 'centre-punching' the trunk call ticket bundles. It is stated that even he was ^{about} to give his explanation to the said Accounts Officer, Bhimavaram, the respondent authorities issued a memo after receiving a Pamphlet 'Dalithavani' published in Telugu.

3. Thereafter, the Accounts Officer, Bhimavaram vide his memo No.TRA/PR/89-91 dt. 16-04-91 (Annexure-III) alleged that certain discrepancies in respect of Bhimavaram and Vendra Exchange bills and asked the applicant to submit his explanation about the discrepancies, the reasons for missing of the trunk call tickets, about the stage at which they were missing and the names of the officials responsible along with the relevant information.

4. It is stated that the applicant submitted his explanation on 29-4-91 (Annexure-IV) denying the allegations.

5. However, the Accounts Officer, Bhimavaram decided to initiate proceedings under Rule-16 of the CCS (CCA) Rules, 1965 vide his Memo No.TRA/PR/89-91/18 dated 2-7-91 (Annexure-V) and issued a charge memo against the applicant alleging that the trunk call tickets reconciliation work was in arrears and that the reconciliation work pertaining to the period April, 1990 to January, 1991 was completed only in March, 1991 after repeated reminders and that 816 trunk call tickets were either not billed or were missing.

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6. The applicant submitted his explanation to the charge memo on 22-07-91 (Annexure-VI). Without taking any action on the basis of the charge memo dated 2-7-91 the respondent authorities by the order No. TRA/AR/89-91/23 dated 1-10-91 (Annexure-7) informing^{ed} the applicant that the charge sheet dated 2-7-91 was withdrawn without prejudice to further disciplinary action that may be taken action against him.

7. Thereafter, the respondent authorities served a fresh ^{minor} ~~major~~ penalty charge memo No. X-101 (A)/TCTickets/91-92/2 dated 31-10-91 (Annexure-8) was served on him.

8. The respondents did not take any decision on the charge memo dated 31-10-91. Surprisingly, they by their proceedings No. X101/(A)/TC.Tkts./91-92/6(a) dated 24-08-92 (Annexure-11) withdrew the charge memo dated 31-10-91 without prejudice to further disciplinary action.

9. Ultimately, the respondents served a major penalty charge memo ~~dated~~ No. X-101(A)/91-92/7 dated 26-08-92 (Annexure-12).

10. The applicant has filed this OA for the following reliefs:-

"(1) To call for the records pertaining to the D.E. (Mtee. Bhimavaram Memo No. X-101(A)/91-92/7 dt. 26-8-92 (Annexure-A-12) and quash and set aside the same as illegal and not valid declaring that the said memo was issued without authority and competence and in violation of the instructions contained in DG P&T New Delhi Lr.No. 114/324/78-Disc.II, dated 5-7-79 (Annexure-A-10).

(2) To direct the 2nd respondent herein, viz., the Telecom District Manager, W.G. District, Eluru to permit the applicant to cross the E.B. stage at Rs. 1800/- in the scale of Rs. 1400-2300/- w.e.f., 1-1-93 and to pay all the increment arrears without delay.

(3) To direct the 2nd respondent to promote the applicant under the BCR scheme w.e.f., 1-3-94 when he completed 26 years of service with all consequential benefits."

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11. The main contention of the applicant is that the charge sheets were repeatedly issued cancelling the previous charge sheets with no rhyme or reason. The DG P&T vide letter No.114/325/78.Disc.II dt. 5-7-79 clearly directed the lower channels of the department to order cancelling the original charge sheet or dropping the proceedings after carefully wording these cancellation order mentioning the reasons for such action and indicating the intention of issuing a subsequent charge sheet appropriate to the nature of charges based on which the charge sheet to be issued.

12. From the above letter before cancellation of a charge sheet ^{and} two points ^{are} to be mentioned. They are (1) The reasons for cancelling of the charge sheet. (2) Intention to initiate further proceedings after cancellation. A reading of the cancellation orders in this OA cancelling the ² earlier charge sheets no reasons are indicated as directed by the P&T authorities. Hence, both the points are not complied with in the cancellation orders of the department. Hence, the learned counsel for the applicant submits that the cancellations are irregular and hence the last charge sheet issued dated 26-8-92 has to be set aside.

13. The contentions raised by the applicant are very valid. No charge sheet can be cancelled without assigning proper reasons. No fresh charge sheet can be issued without assigning proper reasons for cancelling the earlier charge sheet.

14. The above view has been up-held by the number of judgements earlier by the various Benches of this Tribunal. The following judgements are relevant:-

- (1) 1988 (6) ATC 143
(R.L.Kapil Vs. UOI & Others)
- (2) 1989 (10) ATC 209
(Bhupati Kumar Sardas Vs. UOI & Others)
- (3) 1991 (15) ATC 603
(K.Ravi Kumar Vs. Inspector of RMS, RMS'TV' 2nd Sub-Division, Kottayam and 6 Others)
- (4) 1990 (12) ATC 868
(Chandra Shekar Seth Vs. UOI & Others)

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15. The directions given by the DG P&T in his letter dated 5-7-79 has not been complied with by the authorities while cancelling the charge sheets. Hence, we are of the opinion that the procedure followed by the respondents is irregular in cancelling the charge sheets and issuing the last charge sheet dated 26-8-92.

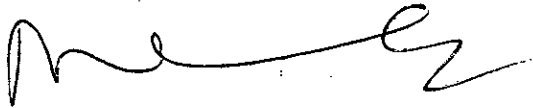
16. The enquiry proceedings started in pursuance of the order dated 26-8-92 had already been stayed by this Tribunal by the interim order dated 6-2-96.


17. In view of the above, the last charge sheet issued on 26-8-92 is also set aside. The applicant is eligible for consequential benefits in view of the above direction.

18. The OA is disposed of. No costs.


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

12.8.98


(R. RANGARAJAN)
MEMBER (ADMN.)


D. R.

Dated : The 12th August, 1998.
(Dictated in the Open Court)

OA.138/96

Copy to:-

1. The Divl. Engineer (Mtce), Telecom, Bhimavaram.
2. The Telecom District Manager, W.G. Telecom District, Eluru.
3. The Enquiry Officer and Sub - Divisional Engineer (Phones), Tel. Exge., Bhimavaram.
4. One copy to Mr. N.R. Srinivasan, Advocate, CAT., Hyd.
5. One copy to Mr. V. Bhimanna, Addl. CGSC., CAT., Hyd.
6. One copy to BSJP M(3), CAT., Hyd.
7. One copy to D.R. (A), CAT., Hyd.
8. One duplicate copy.

SFF

27/8/98 (8)

II COURT.

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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:

12/8/98

ORDER/JUDGMENT

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

in

C.A.NO.

138/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

24 AUG 1998

हैदराबाद ब्याचपीट
HYDERABAD BENCH