

(61)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 1498/98

Date of Order : 10.9.98

BETWEEN :

Mohd. Abdul Gaffar

.. Applicant.

AND

1. The Chief General Manager,
Telecommunications,
A.P.Circle, Hyderabad.

2. The Assistant General Manager (Admn.)
Office of the Chief General Manager,
Telecom, A.P.Circle, Hyderabad.

3. The Assistant Director (Staff-1),
Office of the Chief General Manager,
A.P.Circle, Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr. V. Venkateswara Rao

Counsel for the Respondents

.. Mr. V. Rajeswara Rao

CORAM :

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

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

O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Mr. V. Venkateswara Rao, learned counsel for the applicant
and Mr. V. Rajeswara Rao, learned standing counsel for the
respondents.

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2. The applicant in this OA while working as a Group-D employee under R-1 was issued with a charge sheet bearing No. TA/STA/56/1-6/93/14, dated 10.5.94 under Rule 14 of the Central Civil Services (CCS) Rules 1965 (A-1). The article of the charges reads as below :-

"That the said Sri Md. Abdul Gaffar, while functioning as Group-'D', % the CGMT AP Hyderabad absented unauthorisedly without leave application w.e.f. 28.3.93. The official was directed to report for duty, but he neither reported for duty nor applied for leave and thus violated the provisions of Rule-62 and Rule-63 of P&T Man. Vol.III.

Thus by the above acts, Sri Md. Abdul Gaffar, Gro. 'D', % the Chief General Manager, Telecom., Hyderabad has exhibited lack of devotion to duty and behaved in a manner unbecoming of a Govt. servant violating the provisions of Rule-3(1) (ii) and Rule-3(1) (iii) of CCS (Conduct) Rules 1964".

3. The applicant submitted an explanation by his letter dated 7.7.94 which is enclosed at Page-21 to the reply. It is stated for the respondents that the applicant had admitted his guilt in view of his letter dated 7.7.94. Hence the learned counsel for the respondents submits that no enquiry was conducted and he was punished by the disciplinary authority by memo No. TA/STA/56/1-6/93/22, dated 24.10.94. He was awarded a penalty of stoppage of next increment for a period of 5 years with cumulative effect. The official starts earning increment after the expiry of 5 years period. The period of unauthorised absence from 28.3.93 to 4.7.94 is treated as dies non.

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4. Against that order the applicant filed an appeal to the appellate authority by his representation dated 6.12.94. That was disposed of by the appellate authority by memo No.TA/STA/56/2-4/94/2, dated 31.1.95 (A-5). The appellate order reads as below :-

"Stoppage of next increment for a period of 5 years with cumulative effect. The official starts earning increment after the expiry of the 5 years period. The period of unauthorised absence from 28.3.93 to 4.7.94 is treated as dies-non".

5. The applicant thereafter filed a review petition to the reviewing authority by his petition dated 9.6.95 (A-6). That was disposed of by memo No.TA/STA/56/4-9/05, dated 31.5.96 (page-30). Taking a lenient view, the reviewing authority modified the punishment of the appellate authority to that of stoppage of one increment for 4 years without cumulative effect. The period of absence from 28.3.93 to 4.7.94 is to be treated as dies non only.

6. This OA is filed to set aside all the punishment orders of the disciplinary authority, appellate and reviewing authorities by holding them as illegal, arbitrary and unconstitutional and for consequential benefits such as arrears of pay and allowances etc.

7. When the OA was taken up for hearing the learned counsel for the applicant was asked to state whether the enquiry was conducted and if so whether he had any objection in the conduct of the enquiry.

8. The learned counsel for the applicant submitted that no enquiry was conducted even though the charge sheet issued for

a major penalty. Hence without conducting a proper enquiry imposing the punishment is against the CCS (CCA) Rules 1965.

9. There is violation of the rules in this connection. We asked the learned counsel for the respondents whether the statement of the applicant is in order or not. The learned counsel for the respondents requested us to peruse the letter of the applicant dated 7.7.94 enclosed to the reply at page-21 and submitted that the applicant had accepted the guilt as per that letter and hence no enquiry was necessary and the proceedings are completed on that basis.

10. We have perused the letter of the applicant dated 7.7.94. The relevant portion of that letter is re-produced below :-

"Sir, the reason for my long absence is due to serious ill health because of kidney trouble. The fact after verification, vouchsafed by SDOT, Dronachalam, an honourable Officer of our Department that I was very much present at my native place and undergoing treatment for kidney trouble speaks that my serious ill-health is the only reason for my long absence. Ofcourse, I could not regularly and promptly send leave applications and medical certificates, as I could not move about. This lapse, I request the respectable Disc Authority to forgive taking my inability due to illness. In fact I was suffering so much not only due to this disease, but also due to lack of money. I could not even write to Welfare/ for financial help.

I, therefore, seek your goodwill, kindness and sympathy to consider my misfortune due to illness and poverty and drop further proceedings under Rule 14".

R

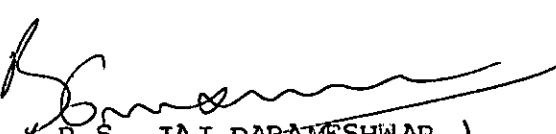
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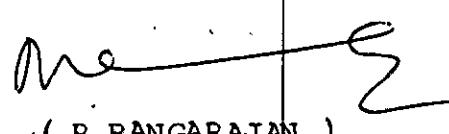
11. A careful study of the contents extracted above clearly indicates that the applicant ^{had} given explanation against the charges levelled against him. A reading of the letter does not give us the feeling that the applicant does not admitted the charges without any reservation. Hence we hold that the respondents have erred in completing the proceedings without conducting a proper enquiry. Hence there is a technical violation of the CCS (CCA) Rules 1965 in this connection. As there is a technical violation of the rules the OA has to be allowed, but liberty has to be given to the respondents to proceed with the enquiry from the stage of issue of the charge sheet if they desire so.

12. In view of the above the impugned orders of the disciplinary authority dated 24.10.94, Appellate authority dated 31.1.95 and reviewing authority dated 31.5.96 are set aside. Liberty is given to the respondents to proceed with the proceedings afresh from the stage of issue of the charge sheet if they desire so.

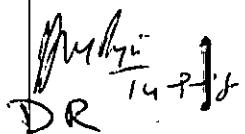
13. The OA is ordered accordingly. No costs.


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

10.9.98


(R.RANGARAJAN)
Member (Admn.)

Dated : 10th September, 1998
(Dictated in Open Court)


DR 14718

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Copy to:

1. The Chief General Manager, Telecommunications, A.P.Circle, Hyderabad.
2. The Assistant General Manager (Admn.) O/O Chief General Manager, Telecom, A.P.Circle, Hyderabad.
3. The Assistant Director (Staff-1), O/O Chief General Manager, A.P.Circle, Hyderabad.
4. One copy to Mr.V.Venkateswara Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr.V.Rajeswara Rao, Addl.CGSC, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

YLKR

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. DAI PARAMESHLAR :
M(J)

DATED: 21/9/98

ORDER/JUDGMENT

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

in

C.A.NO. 1498/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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