

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD

AT HYDERABAD

O.A.633 OF 1997

Dated, the 17th March, '99.

BETWEEN :

D. PURUSHOTTAM RAO ... Applicant

AND

- 1. The Assistant General Manager (Admin)
O/o The Chief General Manager, Telecom,
A.P. Circle, Hyderabad.
- 2. The Deputy General Manager (Admin)
O/o the Chief General Manager, Telecom,
A.P. Circle, Hyderabad.
- 3. The Divisional Engineer A/T (SWG)
Telecom Circle, C.T.O.Compound,
Secunderabad.
- 4. The Chief General Manager, Telecom,
AP Circle, Hyderabad.

... Respondents

COUNSELS :

For the Applicant : Mr. K. Venkateswara Rao

For the Respondents : Mr. V. Rajeswara Rao

CORAM:

THE HON'BLE MR. R. RANGARAJAN, MEMBER (ADMIN)

THE HON'BLE MR. B. S. JAI PARAMESHWAR, MEMBER (JUDL)

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O.A.No. 633/97

O R D E R

{ As per Hon'ble Shri B.S.Jai Parameshwar, Member (Judl.)

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

2. This is an application under Section 19 of the AT Act. The application was filed on 7.5.97.

3. While the applicant was working as TOA (G) Office of the CGMT, AP Circle, Hyderabad Respondent No.1 placed him under suspension contemplating disciplinary proceedings against him. However, the order of the suspension was revoked effective from 3.1.95.

4. R-1 by his proceedings dated 3.1.95 issued a major penalty charge memo to the applicant. The misconduct alleged against him^{is}/as under :

" That the said Sri D.Purushothama Rao, while functioning as TOA (G), % CGMT A.P.Hyderabad has manhandled Sri D.Harinath Babu, Asst.Director (TT-S), % CGMT, Hyderabad.

On 8.12.94, at about 5.40 P.M. Sri D.Purushothama Rao, TOA (G), % the CGMT Hyderabad has tried to beat Sri D.Harinath Babu, AD (TT-S), CGMT HD at the main gate of the office premises. While Sri D.Harinath Babu was waiting for bus, on the otherside of the road, Sri D.Purushothama Rao repeated the same thing.

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By the above act, the said D.Furushothama Rao TOA(G), % CGMT A.P.Hyderabad did not maintain absolute integrity and behaved in a manner which is unbecoming of a Government servant and contravened Rule-3 (1) and Rule 3(1) (iii) of CCS (Conduct) Rules 1964".

5. The applicant submitted his explanation dated 23.1.95 denying the charges. A detailed enquiry was held against the applicant. The applicant participated in the enquiry. The enquiry officer submitted his report dated 26.5.95. The applicant submitted his representation dated 29.6.95 against the findings of the enquiry officer.

6. R-1 after perusing the representation of the applicant, report of the enquiry officer and the enquiry records agreed with the findings of the enquiry officer. The R-1 by his proceedings of even No. dated 12.12.95 imposed the penalty of withholding one annual increment accruing after 12.12.95 to the applicant for a period of 5 years with cumulative effect.

7. Against the said penalty order, the applicant submitted an appeal dated 25.1.96 to R-2. R-2 by his proceedings No. TA/STA/56/2-1/96 dated 30.12.96 rejected the appeal and confirmed the punishment.

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

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To call for the records relating to Order No.TA/STA/56/1-4/94/24 dated 12.12.95 issued by the Assistant General Manager, (Admn) Telecommunication, O/o. the Chief General Manager, Telecom A.P.Circle, Hyderabad and the appellate order No.TA/STA/56/2-1/96 dated 30.12.96 issued by the Deputy General Manager (Admn.) Office of the Chief General Manager, Telecom, A.P. Hyderabad and quash the same by holding the impugned proceedings as illegal, arbitrary, discriminatory unjust and violative of Articles 14 and 16 of the Constitution and also opposed to all canons of equity, justice and fairplay.

9. The applicant has challenged the impugned orders on the following grounds.

10. The applicant has analysed the evidence collected by the enquiry authority in paras f and g.

11. He has relied upon the decision of the Hon'ble Supreme Court reported in AIR 1964 SC 364 (Union of India v. HC Goel) to contend that mere suspicion should not be allowed to take the place of proof even in domestic enquiries.

12. The disciplinary authority has imposed the punishment merely on the basis of conjectures and surmises. The disciplinary authority has not appreciated the evidence collected by the enquiry officer.



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12. The report of the enquiry officer is perverse. He has not appreciated the evidence produced on behalf of the disciplinary authority. The witnesses examined on behalf of the disciplinary authority had not supported the charges. In fact D. Satyanarayana who alleged to ^{have} intervened in the melee between the applicant and one Haranath Babu had given a clear go-by. When that was so, the authorities ^{have} 'failed' to appreciate the evidence in proper perspective.

13. This Tribunal can interfere with the impugned orders as this is a case of no evidence.

14. The respondents have filed their counter stating that on the basis of the complaint filed by D. Haranath Babu with regard to the incident that occurred on 8.12.94 at about 5.30 PM. at the main gate of the office premises, complained that the applicant caught hold of his collar and attempted to assault him and thus misbehaved with him. It is on the basis of this complaint the applicant was placed under suspension, ^{and} a major penalty of charge memo was given. During the enquiry, they submit, that even slight ~~and~~ evidence may be sufficient to fix up the guilt and merely because one of the witnesses had retraced himself is not sufficient to hold that there was no evidence. They ^{rely} on the decision of the Hon'ble Supreme Court in the case of State of Orissa

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v. Muralidhar Jena AIR 1963 (SC) 404. Further they submit the disciplinary authority, after proper analysis and considering the probabilities of the case, has rightly imposed the penalty. The appellate authority considered the appeal of the applicant judiciously and felt no reasons to interfere with the same. Hence there are no grounds to interfere with the impugned orders.

15. The applicant has filed a rejoinder relying upon the evidence of G.Satyanarayana and further state that D.Haranath Babu had a grouse against him and with a view to settle scores has filed a false complaint and that the said Haranath Babu had magnified the discussion/altercation into one of melee. Infact he never caught hold of his collar and tried to assault him. No witnesses have supported the complaint of Haranath Babu. Infact the element of manhandling Haranath Babu was not at all established during the enquiry. The disciplinary authority mechanically imposed the punishment and thus impugned orders are not sustainable in law.

16. It is clear that on the evening of 8.4.94 at or about 5.30 PM at the main gate of CPMG premises there was some altercation between the applicant and D.Haranath Babu. D.Haranath Babu had given a complaint against the applicant. In the first instance the applicant submits that Haranath Babu

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had a grouse against him. It is not made clear ^{when} the said Haranath Babu had developed grouse against him. What was the motive of Haranath Babu to file a complaint against him even though he had not manhandled him? Further it is clear from the evidence collected by the enquiry officer that these two persons had heated arguments at the public place and they went farther. No doubt at that time being the closing hours of the office there ~~were~~ ^{were} many other persons at the spot. Haranath Babu had in his complaint specifically stated that Satyanarayana intervened in this ^{scuffle} and separated them. Surprisingly ~~—~~ ^{Sathyanarayana gave} a go bye to his earlier version and narrated an all together different story before the enquiry officer.

17. ^{Other} Any/witness Sri-Chinnathabi also attempted to favour the applicant.

18. The applicant has in his paras f and g of the OA has tried to analyse or appreciate the evidence collected by the enquiry officer to suit his convenience. This Tribunal is not an appellate forum. More over this Tribunal cannot reappreciate or reanalyse the evidence collected by the enquiry officer. For this the decision of the Hon'ble Supreme Court in the case of Government of Tamil Nadu v. A.Raja Pandyan AIR 1995 SC 561 may kindly be seen.

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19. The applicant is relying upon the fact of D.Satyamanayana not supporting the case of the disciplinary authority. Merely because D.Satyanarayana chose to give an all together different version ^{it} ~~it~~ cannot be said that the incident as explained by D.Haranath Babu in his complaint had not at all taken place. Unless and until the applicant established the motive or grouse; ^{se} D.Hanarath Babu had to file a false complaint against him, ^{it} ~~it~~ cannot be said that ^{ident} ~~incident~~ as explained by D.Haranath Babu had not all taken place. Disciplinary proceedings are neither a criminal trial nor a civil trial. Standard of proof required in criminal trial is quite different from the standard of the proof required in the disciplinary proceedings. The disciplinary proceedings are intended to ascertain ^{the} / conduct of the government employee to decide whether he is fit to be in service or not. ~~the~~ Strict rules of evidence are not applicable to the disciplinary proceedings.

20. We had directed the respondents to produce the enquiry records. But the learned counsel for the respondents through their letter dated 10.3.99 informed that enquiry records have been misplaced and the same is not traceable.

21. The applicant himself has produced the deposition of D.Satyanarayana and Chinna Thambi. These persons have

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given evidence in a way favouring the applicant. In fact they did not support the case of disciplinary authority. The main contention is that Haranath Babu had a grouse against him and that therefore Haranath Babu filed a false complaint against him before the departmental authorities. The incident has taken place at the gate of the office premises at the time of the closure of the office hours. There were many persons. The applicant misbehaved with Haranath Babu. What nature of grouse Haranath Babu had developed against him is not made out clearly. Whether that grouse was to the extent of falsely implicating the applicant in the disciplinary proceedings ^{affecting} his career prospects. When Haranath Babu developed such a grouse is not made out. The back ground, motive, duration and all these factors are not at all brought out. Had the applicant produced the deposition of Haranath Babu ^{we} we would have been in a position to ascertain whether the contention of the applicant can be accepted or not. In the absence of enquiry records ^{according} and in the absence of the deposition of Haranath Babu we are not inclined to accept the version of the applicant that Haranath Babu had given ^a false complaint to the authorities even though such an incident had not at all taken place on 8.12.94 at 5.45 PM. Haranath Babu could not have imagined the incident on 8.12.94 to file a false complaint. In fact ^{according to} the complaint of Haranath Babu the applicant misbehaved and manhandled

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Harnath Babu. This is a quite serious matter. The authorities therefore have taken a proper decision in the matter.

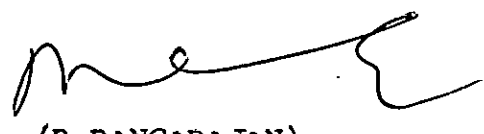
22. Merely because the witnesses to the incident subsequently reailed and gave deposition favouring the applicant that cannot at all be sufficient to infer that incident had not at all taken place on 8.12.94. We are not expected to reappreciate or reanalyse ther: evidence relied upon by the disciplinary authority. As observed by the Hon'ble Supreme Court in the case of Tamil Nadu V. A. Raja Pandyan AIR 1995 SC 561 the Tribunal cannot reapprise the evidence and come to a different finding. Relying solely on the deposition of D. Satyanarayana and Chinna Thambi, we cannot say that conclusion reached by the departmental authorities is either perverse or it is a case of evidence.

23. In that view of the matter, we find absolutely no reasons to interfere with the impugned orders.


24. Hence we find no merits in this O.A. and the O.A. is accordingly dismissed. No costs.

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(B.S. JAI PARAMESHWAR)
MEMBER (JUDL)
17.3.99


(R. RANGARAJAN)
MEMBER (ADMIN)

Dated, the 17th March, '99.


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Copy to:

- 1. DHNJ
- 2. HRP M(A)
- 3. HBSJP M(J)
- 4. D.R.(A)
- 5. SPARE

1ST AND 2ND COURT

TYPED BY _____ CHECKED _____
COMPARED BY _____ APPROVED _____

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD:
MEMBER (A)

THE HON'BLE MR. R. RANGARAJAN:
MEMBER (A)

THE HON'BLE MR. B. S. JAI PARAMESWAR:
MEMBER (J)

DATED: 17.3.99

ORDER/JUDGEMENT

MA./RA./CP.No.

IN

D.A. NO. 633/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED.

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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(9 copies)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
वैषम्य / DESPATCH

23 MAR 1999

हैदराबाद न्यायपीठ
HYDERABAD BENCH