

FORM NO. 21.

(Sec Rule 114.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

OA/PATRICK SPY MAX.....1305.....of, 1997

.....D/ Rama Krishna..... Applicant (S)

Versus

.....The Secretary, M/o Commination
New Delhi's 28/10/97 Respondent (S)

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Certified that the file is complete
in all respects.

 13/11/98
 Signature of
 Dealing Hand.

(In record Section)

Signature of S.O.

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
and
THE HON'BLE SRI. JUSTICE S. ASHOK KUMAR

WRIT PETITION NO :23582 of 1998

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioners-
authorities seeking to set aside the order of the tribunal passed
in O.A.No:1305 of 1997 on 17.3.1998.

Respondent No.1 is the applicant before the tribunal. He
filed the above O.A. seeking to call for the records pertaining to
the impugned orders contained in No.8-19/94-Vig.II, dated
7.8.1997 issued by the 2nd respondent and set the same aside and
consequently, to direct the respondents therein to declare the
probation of the applicant in the post of Assistant Divisional
Engineer, Telecom, with effect from 18.2.1995 and further
promote him to the post of Divisional Engineer, Telecom, with
effect from 23.8.1996 with all consequential benefits; such as
arrears of salary and promotion etc., on the ground that on
12.12.1993 the resignation of the applicant was accepted by the
respondents without any reservation and he was relieved on the
same day and he joined as Assistant Divisional Engineer,
Telecommunications and that once his resignation was accepted,
the charges could not have been served on him after a lapse of
nearly a year and half and that his resignation was accepted even

Page No. 103
PC put here
21/7/08

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

DR (J) T.M.J. 21/7/08
SD (J)

MONDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND EIGHT

PRESENT
THE HON'BLE SMT JUSTICE T.MEENA KUMARI
and
THE HON'BLE SRI JUSTICE S. ASHOK KUMAR

WRIT PETITION NO : 23582 of 1998

Between:

1. Union of India rep. by its Secretary Ministry of Communications
Dept of Telecom. New Delhi.
2. The Deputy Director General, Vigilance West Block No. 1, Wing-2,
Ground Floor, R.K. Puram, Dept. of Telecommunications, Sanchar
Bhavan, New Delhi – 110001
3. The Chief General Manager, Telecommunications, A.P. Circle,
Doorsanchar Bhavan, Abids, Hyderabad.

..... PETITIONERS

AND

- 1 N. Ramakrishna, Asst.Divl. Engineer Telecom. O/o. General
Manager Telecom Dist. Hyderabad. Hyderabad – 33
- 2 The Central Administrative, Tribunal, rep. by its; Registrar,
Hyderabad.

..... RESPONDENTS

Petition under Article 226 of the constitution of India praying that
in the circumstances stated in the affidavit filed herein the High Court will
be pleased to pleased to issue an order, writ or direction more
particularly one in the nature of Certiorari calling for records in O.A. No.
1305/97 of the Central Administrative Tribunal, Hyderabad and quash
the judgment dt. 17-3-1998 in the OA.

Counsel for the Petitioner: SRI B.NARASIMHA SARMA

Counsel for the Respondent No.1: SRI J.SUDHEER

The Court made the following ORDER:

केन्द्रीय अधिकारिक अधिकारण
Central Administrative Tribunal
हैदराबाद न्यायालय, Hyderabad Bench
168
21 JUL 2008

प्राप्त / RECEIVED
प्रेषण / DESPATCH
डाक विभाग / TAPPAL SECTION

In this view of the matter and in view of the well considered findings of the tribunal, We have no hesitation to hold that the order of the tribunal does not suffer from any illegality or infirmity and the same needs no interference and the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

SD/-N.MURALIDHAR RAO
ASSISTANT REGISTRAR
// TRUE COPY //
M
SECTION OFFICER

To

1. The Secretary, Ministry of Communications, Department of Telecom, Union of India, New Delhi.
2. The Deputy Director General, Vigilance, West Block No.1, Wing-2, Ground Floor, R.K. Puram, Deptt. of Telecommunications, Sanchar Bhavan, New Delhi – 110001
3. The Chief General Manager, Telecommunications, A.P. Circle, Doosanchar-Bhavan, Abids, Hyderabad.
4. The Registrar, Central Administrative Tribunal, Hyderabad.
5. One CC to Sri.B.Narasimha Sarma, Advocate (OPUC)
6. One CC to Sri.J.Sudheer, Advocate (OPUC)
7. Two CD copies

ks

OK

only after clearance by the Vigilance Cell of that department and therefore, it was not open for the respondents to issue a charge memo.

The tribunal having observed that the authorities accepted the resignation after obtaining the clearance of the Vigilance Officer and the Vigilance Cell in its letter dated 11.2.1993 specifically stated that there was no vigilance case pending with the Cell and that no disciplinary case was pending and therefore, the authorities having accepted the resignation without any reservation, were not justified in issuing the charge sheet dated 12.8.1994, quashed the charge sheet and the order dated 7.8.1997. Having aggrieved by the same, the authorities filed the present writ petition.

Heard the learned Standing Counsel and the learned Counsel appearing for the 1st respondent and perused the material available on record.

On a perusal of the material available on record, it is apparent that the charge sheet has been issued nearly after a lapse of one and half year after accepting the resignation of the applicant. Apart from that, the authorities relieved the applicant after obtaining clearance from the Vigilance Officer. Therefore, the action of the authorities subsequent to the resignation nearly after a period of one and half year is nothing but amounting to an after thought, so as to harass the applicant as rightly observed by the tribunal.

OA 1305/97

Date Office Note

17.3.98

ORDER

o.A allowed: order on separate
sheet. No. 698.

TC
HBSSP
M(3)

HRN
M(A)

DR (J)

SO (J),

~~T. C. S. T. V. T. B. 3~~

OA. no. 1305/97 (CVR-5-3-98)

may kindly be listed for
pronouncement of Order/Judgment
on 17-3-98 in Court no. 11, as
desired by Motile Patel (P & H (J)).

The Case records - OA, files
along with other papers are
sent herewith.

~~W.M.~~
13/3/98
P.B.

80/1
Dinesh

2

C.A.V. SLIP

1. Circulated to Hon'ble Sri B. S. Jagannathan M(1)

2. Case No. OA. 1305/97

3. Date of Hearing 10/28/97

4. Date when reserved for judgement 5. 3. 98

5. Cases cited by the Counsel for Applicant(s) :

i)

ii)

iii)

iv)

v)

vi)

6. Cases cited by the Counsel for Respondent(s) :

i)

ii)

iii)

iv)

v)

vi)

7. Books Circulated :

8. Departmental files if any :

Dated : 5/3/98


COURT OFFICER

Mr. T. Sudheer

Mr. Sharvan Dayal
S.P.

OA 1305/97

3

NOTE

ORDERS

At the request of both sides list it on 2-2-98. If no reply is filed by that date the case will be decided on the basis of available material. No further adjournment will be granted.

✓

For
HSSIP
M(J)

HRRV
M(A)

16/2/98

At the request of the applicant - counsel, list on 4/3/98.

For
HSSIP
M(J)

HRRV
M(A)

4.3.98

Order on 5.3.98 below
admin of the request of applicant
counsel

HSSIP

HRRV

(S)

(S)

(S)

av1/

5/3/98.

Heard Mr. J. Sudhakar for the applicant and Mr. K. Bhestkar for the respondents.

Judgement Reserved.

For
HSSIP
M(J)

HRRV
M(A)

(5)

Central Administrative Tribunal Hyderabad Bench: Hyderabad.

D.A. No.

1305

of 1997.

N. Ramakrishna

Applicants(s).

VERSUS.

The Secretary, Min. of Communications, New Delhi

New Delhi 4200

(Respondents).

Date	Office Note	ORDER
1-10-97		list it on 3-10-97. HBSJP HRAW M(S) M(A)
3-10-97		Mr. J. Sudheer, for the applicant and Mr. K. Bhaskara Rao, for the respondent.
		Notice before admission. list it on 16.10.97. The impugned order at A-1 shall not be operated in any manner until further orders.

NIBA
16.10.97
OK
15/10/97

16.10.97

~~Jai~~
~~3X~~
HBSJP
M(S)

~~OK~~
~~3X~~
HHRP
M(A)

Heard Smt. S. Sudheer for the
applicant and Sri K. Bhaskara Rao for
respondents.

OA 1305/97

Date

Office Note

ORDER

2. Admit. 8 weeks for filing
reply. Interim order already
passed stands good. List on
17-12-97.

HBSJP
M(A)

HHRP
M(A)

12.11.97

M.A.NO.1028/97 in OA 1305/97

Mr.J.Sudheer for applicant and
Mr. K.Bhaskar Rao for respondents.

It is submitted by the learned
counsel for the applicant that he
has preferred a representation to
the 1st respondent urging certain
concessions and reliefs. This
Tribunal has no objection if the
same is disposed of on merits.

List this M.A. along with the
OA.

~~10~~
HBSJP
M(J)

~~8~~
HHRP
M(A)

vsn

R. Gopal
H.R.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: SEC HYDERABAD.

ORIGINAL APPLICATION NO. 1305 OF 1997.

N. Ramakrishna

(Applicants(s))

VERSUS

Union of India, Repd., By.

Secy: 7/o Commr, Dept of Telecom
New Delhi & 2 others

Respondents(s(s))

The Application has been submitted to the Tribunal by Shri J. Sudheer Advocate/ ~~in person~~ Under Section 19 of the Administrative Tribunal Act. 1995 and the same has been scrutinised with reference to the points mentioned in the check list in the light of the provisions in the administrative Tribunal (procedure) Rules 1987.

The application is in order and may be listed for Admission No. 2000

Scrutiny 29/9/97


DEPUTY REGISTRAR (JUDL).

10. Is the application accompanied IPO/DD, for Rs.50/-?

11. Have legible copies of the annexure duly attested?

12. Has the applicant exhausted all available remedies?

13. Has the Index of documents been filed and pagination done properly?

14. Has the declaration as required by item No. 7 of Form, I been made?

15. Have required number of envelops (file six) bearing full addressees of the respondents been filed?

16. (a) Whether the relief sought form arise out of single cause of action.

(b) Whether any interim relief is prayed for?

17. In case an application for condonation of delay is filed, is it supported by an affidavit of the applicant?

18. Whether it is cause been heard by a single bench.

19. Any other points. _____

20. Result of the scrutiny with initial of the scrutiny clerk. *Day 56
numbered*

(Signature)
Scrutiny Assistant
207919)

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

Dairy No. 3155

Report in the Scrutiny of Application.

Presented by G Sudheer Date of presentation.

Applicant(s) NR Krishna

29/7/97

Respondent(s) Govt, Telecom, Delhi & ors

Nature of grievance

Writ of Increment

No. of Applicants

1

No. of Respondents

3

CLASSIFICATION.

Subject Writ of Increment No.

Department

Telecom

(No. 11)

1. Is the application in the proper form, (three complete sets in paper books form in the two compilations). ✓
2. Whether name description and address of all the parties been furnished in the cause title. ✓
3. (a) Has the application been fully signed and verified. ✓
(b) Has the copies been duly signed. ✓
(c) Have sufficient number of copies of the application been filed. ✓
4. Whether all the necessary parties are impleaded. ✓
5. Whether English translation of documents in a Language, other than English or Hindi been filed.
6. Is the application on time, (see section 21) ✓
7. Has the Vakalatnama/Memo of appearance/Authorisation been filed. ✓
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 8 Etc.,) ✓
9. Is the application accompanied, duly attested legible copy been filed. ✓

CENTRAL ADJ. JURISDICTION TRIBUNAL (YARD, J.S. B.L.C.H.) HYDERABAD

INDEX

O.R.R.U. 1305 of 1997.

C.U.S. FILE N. Ramakrishna

VERSUS

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20th

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3.	Vakalat	1
4.	Objection sheet	—
5.	Spore copies 3 (Three)	
6.	Covers 3. <u>A</u>	

(1) Reply Statement filed by Mr. Kola Bhaktava
on 4/3/98

(2) Rejoinder filed by Mr. J. Sandhu, Ad.
on 4/3/98.

Reg:- To set aside the order dt. 7-8-97 issued by ~~6~~ and consequently direct the Responds. to declare the probation in the Post of ADET(T) wif. 18295 and promote him to P.E.T. wif. 23896.
IN THE GENERAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH : AT HYDERABAD

O.A. NO. 1305 OF 1997

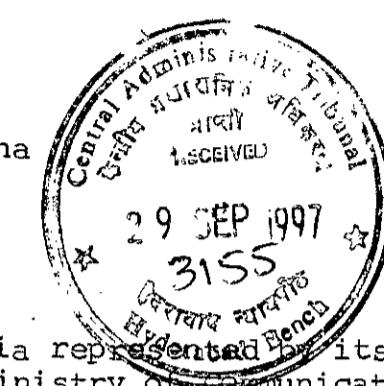
Bench

Between:

N. Ramakrishna

And

Union of India represented by its Secretary, Ministry of Communication, Department of Telecommunication, Samachar Bhavan, Ashoka Road, New Delhi, And Others.



9(b) with holding of next Discreement

: APPLICANT

Telecom (1)

Samachar TELECOM

: RESPONDENTS

(B)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985;

I N D E X

Sl. NO.	Description of the Documents Relied Upon	Page Nos.	Annex. No.
1.	Original Application	01 - 18	-
2.	Impugned Order Dated: 07-08-1997	19 - 30	1
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4.	Resignation Letter of the Applicant Dated: 20-01-1993.	32	3
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10.	Letter Dated: 12-02-1993 relieving the Applicant from the post of J.T.O.	38	9
11.	Charge Memo Dated: 04-08-1994	39 - 52	10
12.	Written Brief Dt: 31-12-1996 of E'ry.	53 - 60	11
13.	Inquiry Officer's Report Dated: 06-05-1997.	70 - 83	12
14.	Explanation of Applicant Dated: 26-05-1997.	84 - 90	13

DATE OF FILING:

Q10.2
APPLICANT

REGISTRAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL
BENCH : AT HYDERABAD

O.A. NO. 1305 OF 1997

Between:

N. Ramakrishna : APPLICANT

And

Union of India represented by its
Secretary, Ministry of Communication,
Department of Telecommunication, Samachar
Bhavan, Ashok Road, New Delhi, And
Others. : RESPONDENTS

Annexure - I

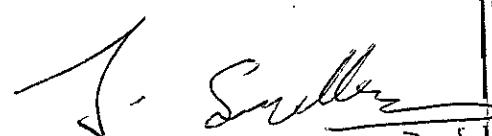
25-02-1991	The Applicant joined as J.T.O., on the date at Sangareddy.	3
20-04-1993	The Applicant submitted his resignation for the post of J.T.O.	4
12-02-1993	The resignation of the Applicant was accepted.	4
04-08-1994	The Applicant was issued with Charge Memo	5
11-02-1993	The Vigilance Cell gave Clearance in the case of the Applicant.	6
22-07-1996	The Hon'ble Tribunal disposed of the O.A. No. 421 of 1991.	4
29-01-1997	The Enquiry Officer submitted his report.	6
07-08-1997	The Applicant was issued Impugned Order.	6

Annexure - II

Under Articles 14, 16 and 21 of the
Constitution of India.

H Y D E R A B A D.

DATED: 29-09-97


COUNSEL FOR THE APPLICANT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL
BENCH : AT HYDERABAD

O.A. NO. 1305 OF 1997

Between:

N. Ramakrishna S/o N. Venkata Swamy
Aged about 31 Years, Occupation: Assistant
Divisional Engineer, Department of Tele-
communication, Hyderabad, R/o Hyderabad.

: APPLICANT

And

1. Union of India represented by its
Secretary, Ministry of Communication,
Department of Telecommunication,
Samachar Bhavan, Ashoka Road,
New Delhi.)
2. The Deputy Director, General Vigilence,
Department of Telecommunication, West
Block No. I, Wing No. 2, Ground Floor,
R.K. Puram Sector - I, New Delhi.)
3. The Chief General Manager, Telecommu-
nication, Andhra Pradesh Circle, Door
Samachar Bhavan, Nampalli, Hyderabad.)

: RESPONDENTS

DETAILS OF APPLICATION:

1. PARTICULARS OF APPLICANTS:

- i) Name of the Applicant : As in Cause Title
- ii) Name of the Father : -do-
- iii) Age of the Applicant : -do-
- iv) Designation and Particulars of Office (Name and Station) in which employed : -do-
- v) Office Address : -
- vi) Address for Service of Notices : J. SUDHEER
Advocate
3-5-703
Opp: Old MLA Quarters
Himayatnagar
Hyderabad -500 029 (AP)

2. PARTICULARS OF THE RESPONDENTS:

- i) Name of the Respondents : As in Cause Title
- ii) Name of the Father : -do-
- iii) Age of the Respondents : -do-
- iv) Designation and Particulars of Office (Name and Station) in which employed
- v) Office Address : -do-
- vi) Address for Service of Notices.

**3. PARTICULARS OF THE ORDER AGAINST WHICH:
APPLICATION IS MADE**

The Applicant herein is Praying this Hon'ble Tribunal to set aside the Impugned Order contained in No. 8-19/94-Vig.II, Dated: 07-08-1997, issued by the Respondent No. 2 herein, as illegal, arbitrary, discriminatory, irrational, illogical, and violative of Articles 14, 16 and 21 of the Constitution of India and consequently to direct the Respondents herein to declare the Probation of the Applicant herein in the post of Assistant Divisional Engineer Telecom., with effect from 18-02-1995 and further to promote him to the post of Divisional Engineer, Telecom, with effect from 23-08-1996 with all consequential benefits, through the present Original Application, and hence this Application.

4. JURISDICTION OF THE TRIBUNAL:

The Applicant herein declares that the subject matter of the Order against which he is seeking redressal

is within the Jurisdiction of this Hon'ble Tribunal.

5. LIMITATION:

The Applicant herein further declares that the Original Application is well within the ~~xxxx~~ Limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985.

6. FACTS OF THE CASE:

The Facts of the Case are given below:

a) That, aggrieved by the Proceedings contained in No. 8-19/94-Vig. II, Dated: 07-08-1997, issued by the Respondent No. 2 herein through which the Applicant is inflicted with punishment of withholding of one Annual Grade Increment without cumulative effect in violation of the Principles of Natural Justice, the present Original Application is preferred. The brief facts of the case are narrated below.

b) That, the Applicant herein on completion of his Engineering had applied for the post of Junior Telecommunication Officer in pursuance of the Advertisement issued by the Respondents in the year 1989.

Basing on his qualifications and merit he was selected A2-P31 as Junior Telecommunication Officer and was posted as Junior Telecommunication Officer (In-Door), at Sangareddy Telephone Exchange and he joined the said place on 25-02-1991. While he was functioning at the said place he had appeared for Engineering Services (Indian Engineering Services) conducted by the Union Public

Service Commission in August, 1991. On 15-01-1993, the Applicant was informed by the Union Public Service Commission that he was selected as Assistant Divisional Engineer, Telecommunication, on 20-01-1993, the Applicant submitted his resignation for the post of Junior

A3 P32

Telecommunication Officer. On 12-02-1993 the resignation of the Applicant was accepted and he was relieved on the same day and the Applicant joined as Assistant Divisional Engineer, Telecommunication, in the Office of the Chief General Manager, A.L.T.T.C., Gaziabad, for training. On completion of his training the Applicant was posted to Hyderabad and he is working as Assistant Divisional Engineer, Telecommunications, eversince. As a matter of fact on completion of the training the Applicant ought to have been confirmed in the said post. Instead of doing so, the Applicant's probation was extended by the Respondents by six more months on the ground of pendency of disciplinary proceedings against him for the alleged acts of misconduct of the Applicant, while he was working as Junior Telecommunication Officer. The probation period has been extended from time to time without declaring the same. Aggrieved by non-declaration of probation by the Respondents the Applicant preferred O.A. No. 421 of 1991 before this Hon'ble Tribunal. The said Original Application was disposed of as withdrawn on 22-07-1996.

A8 P37

c) That, while the Applicant was undergoing training as Assistant Divisional Engineer, Telecom., at Gaziabad, he received a Charge Memo Dated: 04-08-1994 alleging

A10

that he has committed grave mis-conduct while he was working as Junior Telecommunication Officer. A reading of the three (3) charges shows that the allegation was that the Applicant prepared manipulated Meter Reading statement which led to huge loss of revenue to the Department. The issuance of Charge Memo and initiation of enquiry against the Applicant itself was unwarranted and baseless which will be demonstrated in the later paragraphs. Aggrieved by the issuance of Charge Memo Dated: 04-08-1994, the Applicant filed O.A. No. Q1111 of 1996 before the Hon'ble Tribunal. During the pendency of the said Original Application, so called enquiry has been conducted and when the matter had come up for final disposal basing on the fact that the enquiry has already been conducted this Hon'ble Tribunal directed on 27-02-1997 the Disciplinary Authority to pass final orders expeditiously preferably within a period of four (4) weeks from the date of receipt of the Order. Despite the stipulation of time the Respondents sought for extension of time and this Hon'ble Tribunal was pleased to grant a time of 45 days only. Again the time was sought by the Respondents and the same was dismissed and as no action has been taken the Applicant was forced to file Contempt Application No. 58 of 1997. Only after filing of the Contempt Application the final Impugned Order has been passed.

d) That, the present dispute pertains to the alleged mis-conduct of the Applicant while he was working as

Junior Telecommunication Officer at Sangareddy and the same cannot be raised against the Applicant when he was already resigned for the post of Junior Telecommunication Officer and also joined the post of Assistant Divisional Engineer, Telecom., after being relieved from the previous post. It is necessary to state that a report has been submitted by an Inspection Committee consisting of Sri. S. Nageshwar Rao, T.D., Ananthapur; and D. Padmanabham, A.D., (Personnel) (O/O), G.M.T., Hyderabad, on 04-08-1992 to the Vigilence Cell against the Applicant for the alleged mis-conduct. When the Applicant submitted his resignation letter the concerned authorities sought for clearance from the Vigilence Cell and on 11-02-1993 the Vigilence Cell informed that there is neither Disciplinary Proceedings pending against the Applicant nor the same is contemplated as on that date.

A7P36

Basing on the clearance from the Vigilence Cell only and only after thorough verification that the Applicant can be relieved from the post of Junior Telecommunication Officer, only then the Applicant was relieved. In other words when the Applicant joined as Assistant Divisional Engineer, Telecom., he was given a clean chit and only then his resignation was accepted and he was allowed to join as Assistant Divisional Engineer, Telecom. In this background it is not open for the Respondents to issue a Charge Memo to the Applicant while he is working as Assistant Divisional Engineer, Telecom., for his alleged mis-conduct during his tenure as Junior Telecommunication Officer. Once the resignation is

accepted the Master - Servant relation ceases and the employer is not entitled to take action about any alleged mis-conduct pertaining to the previous service. On this ground alone the whole disciplinary action is vitiated and deserves to be set aside as illegal, arbitrary and discriminatory and violative of Articles 14 and 16 of the Constitution of India.

e) That, however, to complete the narration of facts it is necessary to mention that the enquiry was conducted on 05-12-1996 and 06-12-1996 at New Delhi and the Enquiry Officer submitted his report on 29-01-1997. The Enquiry Officer's report has been sent to the Central Vigilence Commission and the Union Public Service Commission and upon taking the opinion of the Central Vigilance Commission the Applicant was served with Show Cause Notice along with the Enquiry Officer's report on 15-05-1997 and on 26-05-1997 the

A12 Applicant ~~her~~ submitted his ~~exptation~~ explanation to the said Show Cause Notice. Without properly considering the case of the Applicant the present Impugned Order Dated: 07-08-1997 had been issued.

f) That, a reading of the charges shows that the charges are vague and unspecific. During the enquiry and also through his explanation/reply the Applicant brought to the notice of the Enquiry Officer about his innocence. The alleged loss of Rs. 8.78 Lakhs as alleged in the Charge Memo has been disproved. The Enquiry Officer himself has categorically stated that there is

no evidence showing pecuniary advantage to the subscriber and corresponding loss to the Department. In other words it has been held in the enquiry that the alleged loss to the Department has not been established and the said charges fall to the ground. It is not the case of the charges being dropped for non-availability of material or on some technical points. Once, the alleged charges are not established the Enquiry Officer ought to have dropped the whole thing as the charges are fancyful and without any basis. Instead of doing so the Enquiry Officer holds the Applicant guilty of negligence as he has not supervised Casual Mazdoor who was recording the Meter readings. The charge of negligence was not at all framed and there is no whisper about the Applicant's negligence towards his duties. The only crux of charge was that the Applicant manipulated the Meter Reading statement causing gain to the Subscriber and loss to the Department. The exaggerated amounts shown in the Charge Memo were demolished by the Applicant by showing how improbable the figures are. Fortunately the Enquiry Officer had rightly held that the Applicant is not responsible for the loss to the Department as actually there was no loss to the Department at all. The negligence point was raised by the Enquiry Officer in his report though it was not a charge. The Applicant was not aware of the allegation of negligence as it does not form part of the charges. When negligence is not one of the aspect of Charge Memo it is not open for the Enquiry Officer to go into that aspect. This would

amount to violation of the Principles of Natural Justice. The Courts have held that if the Enquiry Officer goes beyond the scope of Charges the whole enquiry is vitiated (Kindly See - 1987 (5) SLR Page 349; AIR 1963 SC Page 1914; AIR 1972 SC Page 2083; 1986 (1) SLR Page 422; and 1995 (1) SLR Page 451). As the basic principle of Enquiry is to adhere to the Principles of Natural Justice and if the Enquiry Officer goes beyond the scope of the charge and comes to a conclusion on an aspect which is not part and parcel of the Charge that too without affording reasonable opportunity to the employee to rebut the same, the whole enquiry is vitiated.

g) That, as stated above, the Charge is that the Applicant caused loss to the Department by manipulation. The fact that the same was not established in the enquiry itself shows that the charges have been framed against the Applicant without any basis and without any proper verification of records or application of mind. The Respondents ought to have been more diligent and cautious in issuing such a Charge Memo and initiating Proceedings in which a grave mis-conduct had been alleged. When the enquiry proved that the Applicant is innocent the whole action ought to have been dropped, instead, a new ground has been invented for the purpose of inflicting punishment i.e., the so called negligence of the Applicant. When the fact remains that the negligence shall be attributed to the Respondents for initiating such a charge of grave nature without due care and caution. This is a classic case to show that the

Disciplinary Authorities are initiating disciplinary proceedings/actions in haste at the whims and fancies or for other consideration with a vindictive attitude.

h) That, though the punishment may look trivial, inasmuch as, only one increment has been withheld that too without cumulative effect the whole episode proved very costly to the Applicant, inasmuch as basing on the pendency of the disciplinary proceedings the Applicant's probation has been extended from time to time for more than 2 years. Even as on to-day the Applicant is under extended probation while his juniors and colleagues' probation has already been declared. As his probation had not been declared he was also denied promotion to the next cadre while his juniors are promoted. The Applicant was forced to forego all these on account of the pendency of the disciplinary proceedings, which is absolutely unwarranted and ~~un~~called for as explained above. Despite of the fact that the Applicant came out innocent in the enquiry against the alleged charges, the Applicant is punished through the present Impugned Order only to cover up the wrong initiation of the disciplinary proceedings basing on baseless allegations. The whole thing shows that the Applicant is put to unpleasant tenure right from the beginning, due to the vindictive attitude of the persons at the helm of the affairs.

i) That, a careful reading of the charges framed against the Applicant shows that he was alleged to have

indulged in manipulating the meter-reading statements causing favour to subscribers and heavy loss to the Department. That means to be precise, though the subscriber need to pay more due to wrong reading be paid less which led to loss to the Department. This was termed as manipulation by the Applicant. There are four (4) such statements where the alleged manipulations took place, out of which the Applicant has signed for two statements and remaining two statements have been signed by one Mr. J. Dattatry Rao, Junior Telecommunication Officer (Out-Door), Sangareddy. All the four statements put together led to loss of Rs. 8.7 Lakhs to the Department, as alleged by the Respondents. Though the two statements which have been signed by the Applicant deal with about Rs. 3.29 Lakhs and remaining amount are directly attributable to the statements signed by Sri. J. Dattatry Rao, but, no action has been initiated against him surprisingly. It is yet another matter that he could also have been discharged from the charges in view of the fact that there was no loss to the Department at all. But, the fact remains that he did not face the disciplinary proceedings at all, which resulted in he not being punished for the alleged negligence. He was surprisingly shown as Prosecution Witness instead of being shown as Co-Accused. It is no more surprise why such a discriminatory treatment was meted out to the Applicant and the reason is that the Applicant is a Scheduled Caste candidate, whereas, the said Mr. J. Dattatry Rao is an O.C. candidate.

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The so called reservation for the Scheduled Castes seems to be only an eye-wash as appointment are given with one hand and punishments are inflicted on the other hand on trivial issues or no issue at all. While the O.Cs are led scott-free though they are similarly situated or situated in more grave in nature. On this ground alone the enquiry is vitiated as it is illegal, discriminatory, arbitrary, irrational, illogical, illogical and violative of Articles 14, 16 and 21 of the Constitution of India.

j) That, after the Enquiry Officer had submitted his report and after obtaining the explanation from the Applicant on the enquiry Officer's report the matter has been referred to the Union Public Service Commission for the purpose of advice and in Paragraphs 3.2 of the Union Public Service Commission report it is stated as follows:

" 3.2. From the material evidence on record, the Commission observe that the C.O. had not been given the assistance of a regular meter reader during the material period and he took the meter reading through a casual worker, who had read only upto Class V. Even though the C.O. was handicapped due to lack of proper assistance, the fact remains that he behaved in a negligent manner and did not take even elementary precaution to ensure accuracy of meter reading - a necessary precondition for

A1 P29

correct billing of private subscribers.

No doubt, the C.O. being a probationer,

showed lack of due diligence and care in

reporting meter readings. But also it is

relevant to mention that none of his super-

visory officers took pains to guide him and

train him in the art of correct reading/

reporting of telephone meters. The Commis-

sion are of the view that even during proba-

tion, the C.O. was left to fend for himself

without any proper guidance by his official

superiors. The Commission, therefore,

conclude that the blame for lack of effec-

tive supervision cannot be laid solely at

the door of the C.O. "

That, the Union Public Service Commission found that

A1P28 the Applicant is not guilty of manipulated meter recor-

dings and that he caused undue pecuniary advantage to the

subscribers and corresponding loss to the Department.

It was also recorded that the Articles 1, 2 and 3 of

the Charges were pressed against the charged officer

as they are not established. However, the Union Public

Service Commission ~~was~~ also gave its opinion just like

the Enquiry Officer, erroneously that the Applicant is

guilty of negligence. This has been accepted by the

Disciplinary Authority and the present Impugned Order

has been issued. The alleged negligence which is the

basis for punishment is not at all part of the charge

and it is reiterated at the cost of repetition that

that it is not open for the Respondents to punish the Applicant without framing a charge and without giving a ~~maxx~~ reasonable opportunity. The Applicant cannot be condemned without giving a reasonable opportunity which is basic principle of Administrative Law. Even otherwise the Applicant is not guilty of negligence inasmuch as the meter reading have to be done by a Clerk and not by the Applicant herein. When a Clerk is not being provided the Applicant herein wrote to the higher authorities through his Letter Dated: 28-6-91 A13 P90 requiring them to provide a Clerk for the purpose of Meter-reading. Without doing so the Applicant, provided with only a Mazdoor who has been entrusted with the said work even prior to the Applicant's posting at Sangareddy. As the Applicant is not provided with a Clerk and is provided only with an experienced Mazdoor who has been going the job even prior to the Applicant's posting at Sangareddy and as the Applicant is only a raw probationer and as he had not been properly guided by the superior authorities as noticed by the Union Public Service Commission it cannot be held that the Applicant is guilty of negligence. It is necessary to mention that even Mr. J. Dattatry Rao, Junior Telecommunication Officer, also prepared the Meter-Reading Statements basing on the recordings of the same Mazdoor, but, he was not either charge-sheet or he was punished for negligence for not properly supervising the work of Mazdoor. On this account also there is discrimination and arbitrariness.

k) That, the Impugned Order has been issued in the name of the President of India and there is no Appeal against the said Order under Rule 22 of the C.C.S. (C.C. & A) Rules, 1965, and hence there is no effective alternative remedy for the Applicant herein except approaching this Hon'ble Tribunal through the present Original Application.

l) That, though the Applicant herein has raised several grounds including the ground of discrimination with regards to Mr. J. Dattatry Rao and the fact that he sought for ~~the~~ providing of Clerk for the purpose of meter-reading and the failure of the Department in providing a Clerk the Disciplinary Authority has not taken note of these aspects and have mechanically passed the Impugned Orders. The Impugned Order is non-speaking and cryptic, without meeting any of the point raised which demonstrates non-application of mind. On this ground alone this Impugned Order deserves to be set aside.

m) That, having regard to the facts and circumstances narrated above the Impugned Order is illegal, arbitrary, discriminatory, irrational, illogical, irrelevant, opposed to Principles of Natural Justice and violative of Articles 14, 16 and 21 of the Constitution of India. Hence, this Original Application.

7. DETAILS OF THE REMEDIES EXHAUSTED:

Under the Circumstances the Applicant herein has no other alternative and efficacious remedy except to

approach this Hon'ble Tribunal for the redressal of his grievances and hence the present Original Application.

8. MATTERS NOT PREVIOUSLY FILED OR PENDING:
BEFORE ANY OTHER COURT

The Applicant further declares that he had not filed previously any Application, Writ Petition or Suit regarding the matter in respect of which this Application has been filed, before any Court of Law or any other Authority or any other Bench of the Tribunal and nor any such Application, Writ Petition or Suit is pending before any of them.

9. RELIEF(S) SOUGHT:

Hence in the interests of the Justice it is Prayed that this Hon'ble Tribunal may be pleased to call for records pertaining to the Impugned Orders contained in No. 8-19/94-Vig.II, Dated: 07-08-1997 issued by the Respondent No. 2 herein and set the same aside as illegal, arbitrary, discriminatory, illogical, irrational, opposed to the Principles of Natural Justice and violative of Articles 14, 16 and 21 of the Constitution of India and consequently direct the Respondents herein to declare the probation of the Applicant herein in the post of Assistant Divisional Engineer, Telecom., with effect from 18-02-1995 and further promote him to the post of Divisional Engineer, Telecom., with effect from 23-08-1996 with all consequential benefits such as arrears of salary.

*Multiple prayers?
Consequential prayers?*

seniority and promotion) etc., and Pass any such other Order or Orders as this Hon'ble Tribunal may deem fit, proper and necessary in the Circumstances of the Case.

10. INTERIM RELIEF:

(a) Pending disposal of the Original Application it is prayed that this Hon'ble Tribunal may be pleased to suspend operation of the Impugned Orders contained in No. 8-19/94-Vig. II, Dated: 07-08-1997, and pass any such other Order or Orders as this Hon'ble Tribunal may deem fit, proper and necessary in the Circumstances of the Case.

(b) It is further Prayed that pending disposal of the Original Application this Hon'ble Tribunal may be pleased to declare the probation of the Applicant herein forthwith in the cadre of Assistant Divisional Engineer, Telecommunication, and Pass any such other Order or Orders as this Hon'ble Tribunal may deem fit, proper and necessary in the Circumstances of the Case.

(c) Furthermore, this Hon'ble Tribunal may be pleased to promote the Applicant herein to the post of Divisional Engineer, Telecommunications, forthwith, pending disposal of the Original Application, and Pass any such other Order or Orders as this Hon'ble Tribunal may deem fit, proper and necessary in the Circumstances of the Case.

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER:
IN RESPECT OF APPLICATION FEE

- : 18 :-

1. Name of the Bank on
which Drawn :

2. Demand Draft Number :

OR

1. Number of Indian Postal : 12 551754

Order(s)

2. Name of the Issuing : Humayun Nagar P.O.
Office

501

3. Date of issue of Postal : 29-09-97

Order(s)

4. Post Office at which : G.B.O. HMD
Payable.

Rs. 50/- A

U.D.D.D.D. Remained

12. DETAILS OF THE INDEX:

The Index containing details of the documents
relied and ~~relied~~ filed is enclosed with the Original
Application.

13. LIST OF ENCLOSURES:

1.

as for INDEX

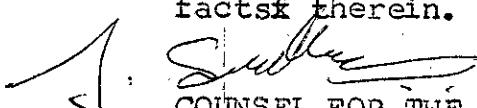
2.

3.

4.

V E R I F I C A T I O N

I, N. Ramakrishna S/o N. Venkataswamy, Aged about
31 Years, Assistant Divisional Engineer, Telecom, Department
of Telecommunication, Hyderabad, R/o Hyderabad, Applicant
herein do hereby verify that the contained in Paras
(1) to (6) are true and correct to the best of my personal
knowledge and Paras (7) to (13) are believed to be correct
on legal advice and that I have not suppressed any material
facts therein.


COUNSEL FOR THE
APPLICANT

HYDERABAD.

DATED: 29.09.97


ON NO. 2
APPLICANT

Deed record or telecon direction 5000/-
date or telecon direction 5000/-

Bank account: 5000/-
Date: 12. 2. 1993.

Bank- Reservation or 5000/-
Kanisla, 5000/- Reg.

10000/- record or telecon direction 5000/-
12/1578/101-1/89/153 deed. 12. 2. 1993.
Kanisla, 5000/- accepted and delivered on the
date or 12. 2. 1993.

10000/-
SANGAREDDY - 5000/-
SANGAREDDY - 5000/-
SANGAREDDY - 5000/-

Copy to 1 -
1. The original.
2. The copy - 500/-
3. The grant - 500/-
4. The copy - 500/-
5. The account - 500/-

True Copy

ANNEXURE - I

18
26

No.8-19/94-Vig.II
Government of India
Ministry of Communications
Department of Telecommunications
(VIGILANCE (II SECTION))

West Block NO.1, Wing NO.2,
Ground Floor, R.K. Puram,
NEW DELHI - 110 066.

Dated : 7.8.1997.

O R D E R

Shri N. Ramakrishna, formerly JTO (I/D), Sangareddy in A.P. Telecom Circle, presently ADET (Probationer) in A.P. Telecom Circle, was proceeded against under Rule 14 of the CCS(CCA) Rules, 1965, vide Memorandum NO.8-19/94-Vig.II dated 4.8.94, for the following Articles of Charge :

ARTICLE I

That the said Shri N. Ramakrishna, while functioning as JTO(I/D), Sangareddy (SGD) in A.P. Telecom Circle during the period from 25.2.91 to 12.2.93,

(a) reported manipulated subscriber meter readings in respect of phone No.SGD-6977 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom, to the tune of Rs.1,09,910; and

(b) reported manipulated subscriber meter readings in respect of phone No.SGD-6977 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom to the tune of Rs.1,09,932; and

(c) corrected the meter readings in the meter reading register the meter readings of the subscriber meter SGD-6977 as on 31.1.92, 15.2.92, 29.2.92, 15.3.92, 15.4.92, 30.4.92, 15.5.92, 31.5.92, 15.6.92, 30.6.92, 15.7.92 & 31.7.92, without attesting the corrections himself, so as to cause undue pecuniary advantage to the said subscriber of phone No.SGD-6977.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a Govt. Servant thereby contravening Rule 3(l) (i), (ii) & (iii) of CCS(Conduct) Rules, 1964.

S. Mehta

contd....2

ARTICLE II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri N. Ramakrishna

(a) reported manipulated subscriber meter readings in respect of phone No.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.9.91 to 15.11.91 (bill dated 1.12.91) which resulted in short billing to the said subscriber to the tune of 12,600 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of Rs.13,644/-

(b) reported manipulated subscriber meter readings in respect of phone No.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92), which resulted in short billing to the said subscriber to the tune of 87,440 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom to the tune of Rs.96,140/-

(c) reported manipulated subscriber meter readings in respect of phone NO.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.1.92 to 15.3.92 (bill dated 1.4.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom to the tune of Rs.1,10,000/- and

(d) reported manipulated subscriber meter readings in respect of phone No.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom to the tune of Rs.1,09,991/-

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a Govt. Servant thereby contravening Rule 3(1) (i), (ii) & (iii) of the CCS(Conduct) Rules, 1964.

ARTICLE III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri N. Ramakrishna

(a) reported manipulated subscriber meter readings in respect of phone No.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom to the tune of Rs.1,09,811/-;

contd...3

(b) reported manipulated subscriber meter readings in respect of phone No.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.1.92 to 15.3.92 (bill dated 1.4.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom to the tune of Rs.1,09,690/- and

(c) reported manipulated subscriber meter readings in respect of phone NO.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom to the tune of Rs.1,09,613/-

-S. maitra

Thus by his above acts, the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Govt. Servant thereby contravening Rule 3(1) (i), (ii) & (iii) of CCS(Conduct) Rules, 1964.

As the charges were not admitted by Shri N. Ramakrishna, an oral inquiry was ordered to be held by Shri K.K. Kulshrestha, ADG(DI), Department of Telecom, New Delhi, who was appointed as the Inquiring Authority. The Inquiring Authority submitted its report dated 29.1.97, holding Articles I,II & III of the charge as partly proved to the extent that the charged officer failed to ensure that the meter readings were recorded correctly and reported for the purpose of preparation of bills and that any overwritings were duly authenticated. A copy of the Inquiry Report was furnished to Shri N. Ramakrishna, vide Memorandum No.8-19/94-Vig.II dated 6.5.97 to enable him to make such representation as he wished to make. The charged officer submitted his representation dated 26.5.97, which was duly considered by the President in consultation with the Union Public Service Commission.

-S. maitra

The UPSC have tendered their advice in the matter, vide letter NO.F.3/96/97-S.I. dated 4.8.97 (copy enclosed). The Commission have held that, in view of the clear admission by the charged officer, during the general examination by the Inquiring Authority, that it was his duty to record meter readings, it was necessary for the charged officer to record the meter readings correctly and to authenticate the overwritings, if any. The charge of negligence against the charged officer, therefore stands established beyond doubt. The Commission have further observed that the charged officer has not committed the alleged acts of misconduct because of any corrupt motive. In the light of their findings, and after taking into account all other aspects relevant to the case, the Commission have taken a lenient view of his misconduct. The Commission have advised that the ends of justice would be met in this case if one annual increment of the charged officer is stopped without cumulative effect.

Contd...4

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Matthew

The President has observed that, though the charged officer was handicapped due to lack of proper assistance in as much as he had not been given the assistance of a regular meter reader during the relevant period and he took the meter readings through a casual worker, who had studied only upto class V, the fact remains that the charged officer behaved in a negligent manner and did not take even the elementary precaution to ensure accuracy of meter readings which is a necessary pre-condition for correct billing of subscribers. The evidence on record conclusively proves that it was the duty of the charged officer to record the meter readings and that he failed to ensure that the meter readings were recorded correctly for the purpose of preparation of bills and that any overwritings were duly authenticated. The President has therefore held the charge of negligence as established beyond doubt against the charged officer.

Matthew

The President has carefully considered the records of the inquiry, the findings of the Inquiring Authority, submissions made by Shri N. Ramakrishna, advice tendered by the UPSC, and all other facts & circumstances relevant to this case, and has accepted the advice of the UPSC. Considering the circumstances in totality and on an objective assessment of the entire case, the President hereby orders that the next increment due to Shri N. Ramakrishna be withheld for a period of one year without cummulative effect.

The receipt of this order shall be acknowledged by Shri N. Ramakrishna.

BY ORDER AND IN THE NAME OF THE PRESIDENT.

Matthew

(JOHN MATHEW)
DESK OFFICER(VIG.II)

Encl : Copy of UPSC's letter NO.F.3/96/97-S.I dated 4.8.97.

To

Shri N. Ramakrishna,
ADET (Probationer)
A.P. Telecom Circle,
HYDERABAD.

(Through CGM Telecom, A.P. Telecom Circle,
Hyderabad).

True copy



30 23

CONFIDENTIAL

F.3/96/97-SI

Dt 4.8.97

The Secretary to the Government of India,
Ministry of Communications,
Department of Telecom,
West Block-I,
Wing-2, Ground Floor,
Sector-I, R.K. Puram,
New Delhi - 110 066.

[Attn: Shri John Mathew, Desk Officer(Vig.II)]

Sub: Disciplinary proceedings instituted against Shri N. Ramakrishna, Assistant Divisional Engineer Telecom (Probationer) under Rule 14 of the CCS (CC&A) Rules, 1965 - regarding.

Sir,

I am directed to refer to your Confidential letter No.8/19/94-Vig.II dated 10.7.1997 (received in the Commission's office on 14.7.1997) on the subject mentioned above and to convey the advice of the Union Public Service Commission as follows:

2. Vide charge Memo No.8-19/94-Vig.II dated 4.8.1994 Shri N. Ramakrishna, ADET (Probationer) had been called upon under Rule 14 of the CCS (CC&A) Rules, 1965 to answer the following Articles of charge:-

"ARTICLE-I:

That the said Shri N. Ramakrishna while functioning as JTO(I/D), Sangareddy (SGD) in A.P. Telecom Circle during the period from 25.2.91 to 12.2.93

: 2 :

(a) reported manipulated subscriber meter readings in respect of phone No.SGD-6977 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,910/-;

(b) reported manipulated subscriber meter readings in respect of phone No.SGD-6977 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,932/-; and

(c) corrected the meter readings in the meter reading register the meter readings of the subscriber meter SGD-6977 as on 31.1.92, 15.2.92, 29.2.92, 15.3.92, 15.4.92, 30.4.92, 15.5.92, 31.5.92, 15.6.92, 30.6.92, 15.7.92 & 31.7.92 without attesting the corrections himself so as to cause undue pecuniary advantage to the said subscriber of phone No.SGD-6877.

Thus, by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS (Conduct) Rules, 1964.

ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri N. Ramakrishna --

- (a) reported manipulated subscriber meter readings in respect of phone No.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.9.91 to 15.11.92 (bill dated 1.12.92) which resulted in short billing to the said subscriber to the tune of 12,600 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.13,644/-;
- (b) reported manipulated subscriber meter readings in respect of phone No.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92) which resulted in short billing to the said subscriber to the tune of 87,440 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.96,140/-;
- (c) reported manipulated subscriber meter readings in respect of phone No.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.1.92 to 15.3.92 (bill dated 1.4.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,10,000/-; and
- (d) reported manipulated subscriber meter readings in respect of phone No.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,991/-.

Thus, by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS (Conduct) Rules, 1964.

ARTICLE-III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri N. Ramakrishna --

- (a) reported manipulated subscriber meter readings in respect of phone No.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,811/-;
- (b) reported manipulated subscriber meter readings in respect of phone No.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.1.92 to 15.3.92 (bill dated 1.4.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,690/-; and
- (c) reported manipulated subscriber meter readings in respect of phone No.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,613/-.

Thus, by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS (Conduct) Rules, 1964."

2.1. A statement of imputations of misconduct/misbehaviour on the part of the C.O., Shri N. Ramakrishna, ADET (Probationer) was also enclosed

alongwith the said Memo. The C.O. in his reply dated 9.1.1995 denied and disputed the Articles of charge levelled against him. An oral inquiry was, therefore, held. The Inquiry Officer, in his Report dated 29.1.1997, held Articles I, II & III of the charge as partly proved to the extent that the Charged Officer failed (i) to ensure that the meter readings were recorded correctly for the purpose of preparation of bills and (ii) that any overwritings were duly authenticated. A copy of the Inquiry Report was forwarded to the C.O. vide Memo dated 6.5.1997 for making further submissions, if any. The C.O. submitted his representation dated 26.5.1997. On consideration of the representation of the C.O., findings of the Inquiry Officer and proceedings of the inquiry, the competent Disciplinary Authority has come to a tentative conclusion that a formal penalty is warranted in this case. During the pendency of the proceeding, the C.O. [who joined as ADET (Probationer) on 19.2.1993 and whose probation was being extended] filed an O.A. No.1111/96 before the Hon'ble Tribunal, Hyderabad Bench. The Hon'ble Tribunal vide its order dated 27.2.1997 directed the Disciplinary Authority to pass the final orders on the disciplinary inquiry most expeditiously and preferably within a period of 4 weeks from the date of receipt of a copy of the order. However, the Department filed a Miscellaneous Application No.523/97 seeking extension of time for finalisation of the case for 4 months. The Hon'ble Tribunal vide its order dated 6.6.1997 did not find the request of the Department for extension of time by 4 months as acceptable on the ground that adequate time had already been given to the Department, and, granted only 45 days' time. The time granted by the Hon'ble Tribunal has already expired on 20.7.1997. The records of the case have now been forwarded to the Commission vide letter dated 10.7.1997 (received in the Commission's office on 14.7.1997) for their advice as to the final orders to be passed by the President in this case.

3.1. The records of the case have been examined in detail by the Commission. They observe that the Inquiry Officer has found the C.O. not guilty on account of the Articles I(a) & I(b), II(a), II(b), II(c) & II(d) and III(a), III(b) & III(c) of the charge relating to reporting of manipulated meter readings in respect of Sangareddy Telephone Nos. SGD-6977, SGD-6291 & SGD-6292. The Inquiry Officer has further found the C.O. not guilty of causing undue pecuniary advantage to the subscribers and corresponding loss to the Department. The Inquiry Officer in his findings has also not found the C.O. responsible for the wrong

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billing in these cases. The Commission further observe that the Inquiry Officer has, however, found the C.O. guilty of negligence in not recording correctly the meter readings and also carrying out the unauthorised alterations in the figures. The competent Disciplinary Authority, while forwarding a copy of the I.O.'s Report to the C.O. for making further submissions, did not express any difference of opinion with the findings of the Inquiry Officer. In his representation dated 26.5.1997, the C.O. has mainly confined to the charge of negligence as held proved against him by the Inquiry Officer. In their comments on the representation of the C.O., the Disciplinary Authority has also confined to the submissions made by the C.O. Since, the Disciplinary Authority has not found the C.O. guilty -

- (i) on account of reporting of manipulated meter readings in respect of Telephone Nos. SGD-6977, SGD-6291 and SGD-6292;
- (ii) on account of causing undue pecuniary advantage to the subscribers and corresponding loss to the Department;
- (iii) on account of wrong billing in the case of these telephones;

these parts of Articles I, II and III of the charge are, therefore, not pressed against the C.O. The Commission further observe that the Inquiry Officer has held Articles I, II and III of the charge as partly proved to the extent that (i) the Charged Officer failed to ensure that the meter readings were recorded correctly for the purpose for preparing the bills of subscribers; and (ii) the C.O. did not ensure that overwritings in meter readings were duly authenticated. From the material evidence on record, the Commission further observe that the Disciplinary Authority has agreed to these findings of the Inquiry Officer.

3.2. From the material evidence on record, the Commission observe that the C.O. had not been given the assistance of a regular meter reader during the material period and he took the meter reading through a casual worker, who had read only upto class V. Even though the C.O. was handicapped due to lack of proper assistance, the fact remains that he behaved in a negligent manner and did not take even elementary precaution to ensure accuracy of meter reading - a necessary precondition for

correct billing of private subscribers. No doubt, the C.O. being a probationer, showed lack of due diligence and care in reporting meter readings. But also it is relevant to mention that none of his supervisory officers took pains to guide him and train him in the art of correct reading/reporting of telephone meters. The Commission are of the view that even during probation, the C.O. was left to fend for himself without any proper guidance by his official superiors. The Commission, therefore, conclude that the blame for lack of effective supervision cannot be laid solely at the door of the C.O.

3.3. The Commission observe that the C.O. joined Government service in 1990 and his probation was extended from time to time because of the pending disciplinary proceedings. Inexperience is writ large on his acts of omission and commission as the C.O. had just started his official career. The Commission further observe that being young and inexperienced the C.O. did not realise the seriousness of his official responsibilities. The C.O. trusted the casual worker to take the meter reading knowing fully well that the casual worker was not educated and trained for the purpose. The Commission further observe that the C.O. has not committed the alleged acts of misconduct because of any corrupt motive.

3.4. In view of the clear admission by the C.O., during the general examination by the I.O., that it was his duty to record meter readings, it was, therefore, necessary for him to record the meter readings correctly and to authenticate the overwritings, if any. The charge of negligence against the C.O., therefore, stands established beyond doubt.

3.5. The Commission further observe that the Hon'ble Tribunal vide its order dated 6.6.1997 directed the Department of Telecom to dispose of the case within 45 days of their order i.e. by 20.7.1997. The Commission is not responsible for the delay in disposal, if any, as the case records have been sent to the Commission only on 10.7.1997 (which were received in the Office only on 14.7.1997).

4. In the light of their findings as discussed above, and after taking into account all other aspects relevant to the case, the Commission have taken a lenient view of his misconduct. The Commission consider that the ends of justice would be met in this case if one annual increment of the C.O. is stopped without cumulative effect. They advise accordingly.

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5. The case records as per the list attached are returned herewith. Their receipt may please be acknowledged.

Yours faithfully,

sd/-
(INDERJIT SINGH)

UNDER SECRETARY
UNION PUBLIC SERVICE COMMISSION
TEL: 3382724

Encls: Case records as per the list attached.
Three spare copies of this advice letter.

True copy



ANNEXURE - 2

(31) 38

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT ENGINEER, SANGAREDDY-50

No: E8-3/III/SGD/101

dated at Sangareddy, the 25-2-91

Sub: Transfers and postings in the cadre of JTOs - reg.

--:00:-

In accordance with the orders contained in Lr. No: TA/STB/18/1446 dated 11-2-91 of C.G.M. Telecom, Hyderabad and the order No: TAH/STB/6-3 dated 25-2-91 of G.M. Telecom, HD area at SD-3, the following postings and transfers in the cadre of JTOs are issued.

1. Sri N.Rama Krishna, J.T.O. (Trainee) on completion of training is posted to Sangareddy as J.T.O. (I/D)
2. Smt. T.Padmavathy, J.T.O. (Trainee) on completion of training is posted as J.T.O. (MIS) in the office of T.D.E., Sangareddy (SGD)
3. Sri M.Ganganna, J.T.O. (I/D) is transferred and posted to Allagadda in Kurnool Telecom District and he is relieved on the afternoon of 26-2-91. He is not entitled for TA & TP as the transfer is on his own request.
4. Sri I.Seshagiri Rao, J.T.O. (G), Siddipet is transferred and posted to Narsapur as J.T.O. (G), Narsapur in the interest of service.
5. Sri E.Nagapullaiah, J.T.O. (G), Narsapur is transferred and posted to Aluru, in Kurnool Telecom District as J.T.O. (G) at his request without TA & TP.

P.Kamra
Telecom District Engineer
Sangareddy.

Copy to:

- 1 to 5 Officials.
6. C.G.M. Telecom, AP Circle, Hyderabad for infn.
7. The G.M. Telecom, HD area at SD-3 for infn.
8. A.A.O. (W), % T.D.E., Sangareddy for infn. & n/a
9. T.D.M., Kurnool w.r.t. his lr. No:E8-11/90-91/121 dt:25-2-91.
10. S.D.O. Telecom, Medak for infn. & n/a
11. S.D.O. Telecom, Sangareddy for infn. & n/a
12. S.D.O. Telecom, Siddipet for infn. & n/a
13. C.A.O., % C.G.M. Telecom, Hyderabad for infn.
14. Office copy.

--:00:-

True Copy

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ANNEXURE -3

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From	To
N.Rama Krishna JTO (O/D) Telephone Exchange <u>Sangareddy</u>	The Chief General Manager A.P. Circle Doorashinchar Bhavan <u>Hyderabad -500 001.</u>

(Through Proper Channel)

Respected Sir,

Sub:Resignation to the post of JTO- Reg.

Ref:DOT Lr.No.6-31/92-STG-I, dt.15-1-93.

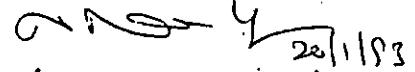
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As per the reference cited above, I was selected for ITS Group 'A' Service and have to report for training to CGM, ALTTC, Ghaziabad on 15-2-93. In this connection, I would like to resign technically for the post of JTO w.e.f. 01.02.93 P/N.

Hence, I request you to accept my resignation to the post of JTO, so as to facilitate me to join the training course at ALTTC, Ghaziabad on 15.2.93.

Thanking you Sir,

Yours faithfully,


26/1/93
(N.RAMA KRISHNA)

Copy to :

1. GM-T, HD Area, SD-3
- for favour of information and n/a.
2. TDE, SGD- for favour of information and n/a.
3. SDOT, SGD- for favour of information and n/a.
4. Advance copy to CGM-T, A.P. Circle, HD-1.
5. Advance copy to GM-T, HD Area, SD-3.

True Copy



THE STATE PLANNING BOARD

Letter No. 22

Department of Telecommunications

ANNEXURE - 4

To

The General Manager Telecom,
Hyderabad Area,
at Secunderabad-500 003.

Shri K. Gopalakrishna,
Asst. General Manager (A),
The CGH Telecom, AP,
Hyderabad-500 001.

Subject No. TAH/ST/3-6

Date: Date is January 25, 1993

Sub: Resignation of Shri N. Ramakrishna,
JTO O/D, Sangareddy.

A letter of resignation given by Shri N. Ramakrishna,
JTO O/D, Sangareddy, with effect from the P/H of 1.2.1993,
consequent on his selection to ITB Gr. 'A' is herewith
forwarded for necessary action.

I am directed to convey the following remarks of G.M.T.
Hyderabad Area in this connection:

- (1) The resignation may not be accepted at such a short
notice without return of stipend paid.
- (2) A disciplinary case is contemplated against the official,
the details of which are available with the Vigilance Cell
of HQ.

Enclos: As above

D (D. Padmanabham)
Asst. Director (Per)
The General Manager Telecom,
Hyd. Area, at Secunderabad-5.

True Copy

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ANNEXURE -5

OCC-1
OCC-7

मुख्यमंत्री का दस्तावेज़

DEPARTMENT OF TELECOMMUNICATIONS

मुख्य
मंत्री
FromChief Controller
TelecomTo The General Manager
Telecom, Hyderabad area @
SECUNDERABAD - 3

No. TA/STB/101-1/89/153

Recd at HD, the 8-2-93

005

Sub:- Resignation case of
Sri N.Ramakrishna(SC), JTO

- 000 -

The details of the disciplinary case contemplated against Sri N.Ramakrishna, JTO(SC), may kindly be furnished to this office immediately. Matter may be treated as urgent.

(G.V.R.SETTY)

Pax/ 92

True Copy

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ANNEXURE-6

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क्रम-2

गृहसंचार विभाग

DEPARTMENT OF TELECOMMUNICATIONS

मित्र

From: General Manager
Telecommunications
Hyderabad Area,
Sec 'bad-500 003.

मित्र 2

To: Sri G.V.R.Shetty,
Asst. Director (Staff)
S. C.G.M. Telecoms.,
Hyderabad-500 001.

D. TAH/ST/3-6

Date: 21.2.93

Sub:- Relegation - Case of Sri N.Ramakrishna,
(SC) Jr Telecom Officer.Ref:- SMU Lr. No.TA/STB/101-1/89/153
dated 2.2.93.

-0-0-0-

All the papers showing the details of disciplinary case contemplated against Sri N.Ramakrishna, Jr Telecom Officer, are available with V.O. As such, I am directed to inform you that report may be taken from the V.O. & CGMT Hyderabad.

(B.Venkateswaran)
Asst. Director (Per.)
S. C.G.M. Telecoms., Sec 'bad-3.

Copy to:-

Sri B.Venkateswaran, V.O. & C.G.M.T.
Hyderabad for information and a/c

True Copy

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ANNEXURE-7

CONFIDENTIAL RECD.

DEPARTMENT OF TELECOMMUNICATIONS

मुख्य सचिव द्वारा दिया गया अधिकारी
 From : 10-01-1993
 Chief General Manager, Telecom.,
 Area, Hyderabad, 500 001.
 Andhra Pradesh, 500 001.

To : Shri G.V.Gopichandran,
 General Manager Telecom.,
 Hyderabad Telecom., Area,
 at Secunderabad - 500 003.

S. TA/Vig/10-1/93/I

FIR HD-1, the 11-02-1993.

Sir,

Sub:- Resignation of Shri N.Rama Krishna,
 JTO O/D, SGD - Vigilance/Disciplinary
 Clearance - Regarding:

Ref:- Your Office Lr.No.TAH/ST/3-6 (A4)
 dated 25-01-1993.

No disciplinary case is pending or contemplated against the above officer in Vigilance cell of this office as on date. The statement that the details are available with vigilance cell is in-correct, as no such report is received in this section so far.

Yours faithfully,

Devi
 (D. VENKATARATNAM)
 Vigilance Officer.

Copy to:-

1. The Asst. Director(Staff) & CGMT/AP/Hyderabad
 w.r.t. note No. RA/STB/1-101/89/153 dated
 09-02-1993 for information.

Pl. digest 01
 RA(P) 2
 11-02-1993 ① Chambal Sehri
 A.D. Vigilance

True Copy

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ANNEXURE-8

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G.O.I.

M.O.C

DEPARTMENT OF TELECOMMUNICATIONS

% the Chief General Manager, Telecom., A.P.Circle,
HYDERABAD - 500001

No. TA/STB/101-1/89/153

Dated at HD, the 12-2-93

Sub:- Technical resignation of
Sri N.Ramakrishna, JTO, SGD.

- 000 -

Dy.General Manager(Admn), Telecom.,
A.P.Circle, Hyderabad is pleased to accept
the technical resignation of Sri N.Ramakrishna,
JTO Sankareddy consequent upon his selection
to T.T.S, Gr'A' services with immediate effect.

The date of relief may be intimated
to all concerned.

(G.V.R.SETTY)

Copy to:-

1. The General Manager, Hyderabad Telecom Area & Secunderabad for information.
2. The Telecom Dist. Engineer, Sangareddy.
3. The official concerned.
4. Guard file
5. Office copy
6. Sptc.

True. G.P.Y



ANNEXURE - 10

(39) (46)

No.8-19/94-Vig.II
Government of India,
Ministry of Communications,
Department of Telecommunications,

West Block No.1, Wing No.2,
Ground floor, R.K. Puram
New Delhi - 110 066.

Dated the 4th August, 1994.

MEMORANDUM

The President proposes to have an inquiry held against Shri N. Ramakrishna, formerly J.T.O.(I/D), Sangareddy in A.P. Telecom. Circle, presently undergoing training as ADET Probationer, under Rule 14 of the CCS(CCA) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnessess by whom the articles of charge are proposed to be sustained are also enclosed (Annexure-III & IV).

2. Shri N. Ramakrishna is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.
4. Shri N. Ramakrishna is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the Inquiring Authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiring Authority may hold the inquiry against him ex parte.
5. Attention of Shri N. Ramakrishna is invited to Rule 20 of the CCS(Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri N. Ramakrishna is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS(Conduct) Rules, 1964.

S. Martin

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6.6. Receipt of this Memorandum shall be acknowledged.

BY ORDER AND IN THE NAME OF THE PRESIDENT

J. Matthew
 (JOHN MATHEW)
 Desk Officer(Vig.II)

Shri N. Ramakrishna,
 A.D.E.T. Probationer.

(Thro' the C.G.M., B.R.B.R.A.I.T.T., Jabalpur)

6.7. The Probationer is directed to bring to report
 21st Dec. 1947, 10 A.M. Same place for the inspection
 of his Probationary record. The same shall be
 conducted by the Inspector of Probationary Record
 of the Probationary Record Office, B.R.B.R.A.I.T.T.

6.8. The Probationer is directed to bring to report
 the 21st Dec. 1947, 10 A.M. Same place for the inspection
 of his Probationary record. The same shall be
 conducted by the Inspector of Probationary Record
 of the Probationary Record Office, B.R.B.R.A.I.T.T.

6.9. The Probationer is directed to bring to report
 the 21st Dec. 1947, 10 A.M. Same place for the inspection
 of his Probationary record. The same shall be
 conducted by the Inspector of Probationary Record
 of the Probationary Record Office, B.R.B.R.A.I.T.T.

APPENDIX II: The Probationer is also directed to bring to the
 Probationary Record Office, B.R.B.R.A.I.T.T., the 21st Dec.
 1947, the following:

(a) A short trip report of his tour to
 (b) A copy of his Probationary record
 (c) A copy of his Probationary record
 (d) A copy of his Probationary record

(e) A copy of his Probationary record
 (f) A copy of his Probationary record
 (g) A copy of his Probationary record
 (h) A copy of his Probationary record

ANNEXURE-I

Statement of articles of charge framed against Shri N. Ramakrishna, formerly J.T.O.(I/D), Sangareddy in A.P. Telecom. Circle, presently undergoing training as ADET probationer

ARTICLE-I That the said Shri N. Ramakrishna while functioning as JTO(I D), Sangareddy(SGD) in A.P. Telecom. Circle during the period from 25.2.91 to 12.2.93,

(a) reported manipulated subscriber meter readings in respect of phone no. SGD-6977 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of Rs.1,09,910;

(b) reported manipulated subscriber meter readings in respect of phone no. SGD-6977 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92(bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of Rs.1,09,932; and

(c) corrected the meter readings in the meter reading register the meter readings of the subscriber meter SGD-6977 as on 31.1.92, 15.2.92, 29.2.92, 15.3.92, 15.4.92, 30.4.92, 15.5.92, 31.5.92, 15.6.92, 30.6.92, 15.7.92 & 31.7.92, without attesting the corrections himself, so as to cause undue pecuniary advantage to the said subscriber of phone no.SGD-6977.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS(Conduct) Rules, 1964.

ARTICLE-II That during the aforesaid period and while functioning in the aforesaid office, the said Shri N. Ramakrishna

(a) reported manipulated subscriber meter readings in respect of phone no. SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.9.91 to 15.11.91(bill dated 1.12.91), which resulted in short billing to the said subscriber to the tune of 12,600 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of Rs.13,644/-;

(b) reported manipulated subscriber meter readings in respect of phone no. SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92(bill dated 1.2.92), which resulted in short billing to the said subscriber to the tune of 87,440 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of Rs.96,140/-;

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(c) reported manipulated subscriber meter readings in respect of phone no. SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.1.92 to 15.3.92(bill dated 1.4.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of ₹.1,10,000/-; and

(d) reported manipulated subscriber meter readings in respect of phone no. SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92(bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of ₹.1,09,991/-.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS(Conduct) Rules, 1964.

ARTICLE-III That during the aforesaid period and while functioning in the aforesaid office, the said Shri N. Ramakrishna

(a) reported manipulated subscriber meter readings in respect of phone no. SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92(bill dated 1.2.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of ₹.1,09,811/-;

(b) reported manipulated subscriber meter readings in respect of phone no. SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.1.92 to 15.3.92(bill dated 1.4.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of ₹.1,09,690/-; and

(c) reported manipulated subscriber meter readings in respect of phone no. SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92(bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of ₹.1,09,613/-.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS(Conduct) Rules, 1964.

BY ORDER AND IN THE NAME OF THE PRESIDENT

J. matthew
(JOHN MATHEW)
Desk Officer (Vig.II)

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Shri N. Ramakrishna, formerly J.T.O.(I/D), Sangareddy in A.P. Telecom. Circle, presently undergoing training as ADET probationer

That the said Shri N. Ramakrishna was functioning as Jr. Telecom. Officer(I/D), Sangareddy during the period from 25.2.91 to 12.2.93. While functioning as such, some of the duties of Shri N. Ramakrishna were recording telephone subscribers' meter readings, preparation of local call charges (LCC) statements in form ACE-91(A)(Revised) in respect of Sangareddy telephone exchange and forwarding the same to the TDE, Sangareddy.

During the aforesaid period the said Shri N. Ramakrishna reported manipulated subscriber meter readings pertaining to Sangareddy exchange in form ACE-91(A)(Revised) to the Telecom. District Engineer, Sangareddy as detailed below:

ARTICLE-I Phone No.SGD-6977 is provided in the name of Shri Vasantha Rao, s/o Krishna Rao Deshmukh, H.No.A-6/H.B. Colony, Sangareddy. This subscriber's meter readings recorded initially in the meter reading register and the readings reported to the TDE, Sangareddy by the said Shri N. Ramakrishna in form ACE-91(A)(Revised) for preparation of telephone bills are as shown below:

Date	Reading as per MR Register	Metered call units	M.R. as per 91(A)(Revised) reading	Metered LCC stt in ACE call register	Metered call units sent to TDE per ACE SGD by the 91(A) stt	Metered call units suppressed due to manipulation (revised) stt. by Shri N. Ramakrishna
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I. Bi-monthly billing period 16.11.91 to 15.1.92(bill dtd. 1.2.92)

15.11.91	94910	30,260		94910		
30.11.91	25170					
15.12.91	25340					
31.12.91	25540	10000				
15.1.92	95630	1,00,720		95630	0720	1,00,000

II. Bi-monthly billing period 16.3.92 to 15.5.92(bill dtd. 1.6.92)

15.3.92	96230			96230		
31.3.92	26360					
15.4.92	96460					
30.4.92	96600					
15.5.92	96730	1,00,500		96730	500	1,00,000

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The subscriber of SGD-6977 was billed for gross metered call units of 720 as seen from the bill dated 1.2.92 for the period 16.11.91 to 15.1.92 instead of gross metered call units of 1,00,720. An amount of Rs.440/- was claimed in the said bill towards call unit charges instead of Rs.1,10,350/- [1,00,720 gross calls - 170 free & credit calls = 1,00,550 call units. 850 call units @ Rs.0.80 per call unit = Rs.680/- plus (99,700 call units @ Rs.1.10 per call unit = Rs.1,09,670) = Rs.1,10,350]. The Deptt. of Telecom. thus sustained a loss of Rs.1,09,910/- (Rs.1,10,350 - Rs.440) in the said bill dated 1.2.92. This loss was due to the manipulated meter readings reported by Shri N. Ramakrishna to the TDE, Sangareddy, as aforesaid. The bill dated 1.2.92 issued for gross metered call units of 720 was paid by the subscriber on 23.3.92 as seen from the subscriber's record card and paid copy of the said bill.

The subscriber of SGD-6977 was billed for gross metered call units of 500 as seen from the office copy of bill dated 1.6.92 for the period 16.3.92 to 15.5.92 instead of gross metered call units of 1,00,500. When this bill was not paid, and when the subscriber turned up at a later stage for a copy of the bill, a fresh bill dated 1.6.92 was prepared for gross call units of 390. This bill for gross call units of 390 was paid by the subscriber on 24.10.92 as seen from the bill kept as paid voucher and TRC daily list dated 24.10.92 of SGD Post Office. The subscriber was, thus, made to pay only Rs.176/- instead of Rs.1,10,108-[1,00,500 gross calls - 170 free & credit calls = 1,00,330 calls. 850 calls @ Rs.0.80 per call unit = Rs.680 plus (99,480 calls @ Rs.1.10 per call = Rs.1,09,428/-)=Rs.1,10,108]. As a result the Deptt. suffered a loss of Rs.1,09,932/- (Rs.1,10,108 - Rs.176). This loss was due to manipulated meter readings reported by Shri N. Ramakrishna to the TDE Sangareddy, as aforesaid. The bill dated 1.6.92 was paid by the subscriber on 24.10.92 as seen from the paid copy of the bill, subscriber record card and TRC list dated 24.10.92.

The following meter readings in the meter reading register in respect of phone no. SGD-6977, were corrected by Shri N. Ramakrishna, without attesting the corrections himself, so as to cause undue pecuniary advantage to the subscriber of the said phone no. SGD-6977:

Sl.No.	Date of reading	Meter reading	Corrected as
1.	31.1.92	25940	95940
2.	15.2.92	26150	96150
3.	29.2.92	26210	96210
4.	15.3.92	26230	96230
5.	15.4.92	26460	96460
6.	30.4.92	26600	96600
7.	15.5.92	26730	96730
8.	31.5.92	26850	96850
9.	15.6.92	26930	96930
10.	30.6.92	27000	97000
11.	15.7.92	27120	97120
12.	31.7.92	27230	97230

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The misconduct committed as aforesaid by the said Shri N. Ramakrishna during his earlier employment as JTO, is of such a nature as has rational connection with his present employment as ADET probationer and renders him unfit and unsuitable for continuing in service.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS(Conduct) Rules, 1964.

ARTICLE-II Phone No.SGD-6291 is provided in the name of Dy. Director(SW), P. Simhadri, Opp. Gowri Reddy House, Shantinagar, Sangareddy/Executive Officer, Mandal District Backward Class Service Cooperative Society, Sangareddy-502001. This subscriber's meter readings recorded initially in the meter reading register and the readings reported to the TDE, Sangareddy by the said Shri N. Ramakrishna in form ACE-91(A)(Revised) for preparation of telephone bills are as shown below:

Date	Reading as per MR Register	Metered call units as per MR Register	MR as per ACE 91(A) register	Metered call units (revised)	Metered call units as per ACE 91(A) (revised)	Metered call units suppressed due to manipulation sent to TDE (revised)	Metered call units suppressed due to manipulation sent to TDE (revised)	Metered call units suppressed due to manipulation sent to TDE (revised)	Metered call units suppressed due to manipulation sent to TDE (revised)
I. Bill dated 1.2.91 for the period 16.9.91 to 15.11.91									
15.9.91	39960			39960					
30.9.91	44460								
15.10.91	47710								
31.10.91	52810								
15.11.91	52860	12,900	40260		0300	12,600			
II. Bill dtd. 1.2.92 for the period 16.11.91 to 15.1.92									
15.11.91	52860			40260					
30.11.91	54020								
15.12.91	54530								
31.12.91	55500								
15.1.92	43600	90,740	43600		3340	87,400			
III. Bill dtd. 1.4.92 for the period 16.1.92 to 15.3.92									
15.1.92	43600			43600					
31.1.92	56470								
15.2.92	57120								
29.2.92	57450								
15.3.92	45020	1,01,420	45020		1420	1,00,000			
IV. Bill dtd. 1.6.92 for the period 16.3.92 to 15.5.92									
15.3.92	45020			45020					
31.3.92	57970								
15.4.92	45670								
30.4.92	45710								
15.5.92	46010	1,00,990	46010		990	1,00,000			

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The subscriber of phone no.SGD-6291 was billed for gross metered call units of 300 as seen from the bill dated 1.12.91 for the period 16.9.91 to 15.11.91 instead of gross metered call units of 12900. An amount of Rs.104/- was claimed in the said bill towards call unit charges instead of Rs.13,748 [12900 gross calls - 170 free & credit calls =12730 call units. 850 call units @ Rs.0.80 per call unit = Rs.680/- plus (11880 call units @ Rs.1.10 per call unit = Rs.13,068) = Rs.13,748/-]. The Deptt. of Telecom. thus sustained a loss of Rs.13,644/- (Rs.13,748/- - Rs.104). This loss was due to the manipulated meter readings reported by Shri N. Ramakrishna to the TDE, Sangareddy, as aforesaid. The bill dated 1.12.91 issued for gross metered call units of 300 was paid by the subscriber on 26.12.91 as seen from the subscriber's record card and paid copy of the said bill & TRC list dated 26.12.91.

The subscriber of SGD-6291 was billed for gross metered call units of 3340 as seen from the bill dated 1.2.92 for the period 16.11.91 to 15.1.92 instead of gross metered call units of 90740. An amount of Rs.3232/- was claimed in the said bill towards call unit charges instead of Rs.99,372/- [90740 gross calls - 170 free & credit calls =90570 call units. 850 call units @ Rs.0.80 per call unit = Rs.680/- plus (89720 call units @ Rs.1.10 per call unit = Rs.98,692/-) = Rs.99,372/-]. The Deptt. of Telecom. thus sustained a loss of Rs.96,140/- (Rs.99,372/- - Rs.3232/-). This loss was due to the manipulated meter readings reported by Shri N. Ramakrishna to the TDE, Sangareddy, as aforesaid. The bill dated 1.2.92 issued for 3340 gross metered call units was paid by the subscriber on 24.2.92 as seen from the subscriber's record card and paid copy of the said bill & TRC list dated 24.2.92.

The subscriber of the said phone no.SGD-6291 was billed for gross metered call units of 1420 as seen from the bill dated 1.4.92 for the period 16.1.92 to 15.3.92 instead of gross metered call units of 101420. An amount of Rs.1,120/- was claimed in the said bill towards call unit charges instead of Rs.1,11,120/- [101420 gross calls - 170 free & credit calls =101250 call units. 850 call units @ Rs.0.80 per call unit = Rs.680/- plus (100400 call units @ Rs.1.10 per call unit = Rs.1,10,440/-) = Rs.1,11,120/-]. The Deptt. of Telecom. thus sustained a loss of Rs.1,10,000/- (Rs.1,11,120 - Rs.1120). This loss was due to the manipulated meter readings reported by Shri N. Ramakrishna to the TDE, Sangareddy, as aforesaid. The bill dated 1.4.92 issued for gross metered call units of 1420 was paid by the subscriber on 8.5.92 as seen from the subscriber's record card and paid copy of the said bill & TRC list dated 8.5.92.

The subscriber of the said phone no.SGD-6291 was billed for gross metered call units of 990 as seen from the bill dated 1.6.92 for the period 16.3.92 to 15.5.92 instead of gross metered call units of 100990. An amount of Rs.656/- was claimed in the said bill towards call unit charges instead of Rs.1,10,647/- [100990 gross calls - 170 free & credit calls =100820 call units. 850 call units @ Rs.0.80 per call unit = Rs.680/- plus (99970 call units @ Rs.1.10 per call unit = Rs.1,09,967/-) =

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Rs.1,10,647/]. The Deptt. of Telecom. thus suffered a loss of Rs.1,09,991 (Rs.1,10,647 - Rs.656). This loss was due to the manipulated meter readings reported by Shri N. Ramakrishna to the TDE, Sangareddy, as aforesaid. The bill dated 1.6.92 issued for gross metered call units of 990 was paid by the subscriber on 16.6.92 as seen from the subscriber's record card and paid copy of the said bill & TRC list dated 16.6.92.

The misconduct committed as aforesaid by the said Shri N. Ramakrishna during his earlier employment as JTO, is of such a nature as has rational connection with his present employment as ADET probationer and renders him unfit and unsuitable for continuing in service.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS(Conduct) Rules, 1964.

ARTICLE-III Phone No.SGD-6292 is provided in the name of Venkata Ramana Cement Products(V), Fasalwadi(PO), Mangeera Garage, Sangareddy. This subscriber's meter readings recorded initially in the meter reading register and the readings reported to the TDE, Sangareddy by the said Shri N. Ramakrishna in form ACE-91(A)(Revised) for preparation of telephone bills are as follows:

Date	Reading as per MR register	Metered call units	MR as per LCC (revised) meter reading	Metered call units sent to TDE SGD by the said Shri N.Ramakrishna	Metered call units supplied to TDE SGD by ACE 91(A) manipulated register	Metered call units supplied to TDE SGD by ACE 91(A) manipulated register
I. Bill dated 1.2.92 for the period 16.11.91 to 15.1.92						
15.11.91	24080	32,450	24080			
30.11.91	56530					
15.12.91	56570					
31.12.91	56630	67,84				
15.1.92	24470	1,00,390	24470	390		1,00,000
II. Bill dtd. 1.4.92 for the period 16.1.92 to 15.3.92						
15.1.92	24470		24470			
31.1.92	56690					
15.2.92	56760					
29.2.92	56790					
15.3.92	24590	1,00,120	24590	120		1,00,000
III. Bill dtd. 1.6.92 for the period 16.3.92 to 15.5.92						
15.3.92	24590		24590			
31.3.92	56810					
15.4.92	24630					
30.4.92	24640					
15.5.92	24640	1,00,050	24640	0050		1,00,000

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The subscriber of the said phone no. SGD-6292 was billed for gross metered call units of 390 as seen from the bill dated 1.2.92 for the period 16.11.91 to 15.1.92 instead of for gross metered call units of 100390. An amount of Rs.176/- was claimed in the said bill towards call unit charges instead of Rs.1,09,987/- [100390 gross calls - 170 free & credit calls =100220 call units. 850 call units @ Rs.0.80 per call unit = Rs.680/- plus (99370 call units @ Rs.1.10 per call unit = Rs.1,09,307/-) = Rs.1,09,987/-]. The Deptt. of Telecom. thus sustained a loss of Rs.1,09,811/- (Rs.1,09,987/- - Rs.176/-). This loss was due to the manipulated meter readings reported by Shri N. Ramakrishna to the TDE, Sangareddy, as aforesaid. The bill dated 1.2.92 issued for gross metered call units of 390 was paid by the subscriber on 17.2.92 as seen from the subscriber's record card and paid copy of the said bill & TRC list dated 17.2.92.

The subscriber of phone no.SGD-6292 was billed for gross metered call units of 120 as seen from the bill dated 1.4.92 for the period 16.1.92 to 15.3.92 instead of gross metered call units of 100120. Instead of claiming a sum of Rs.1,09,690/-[100120 gross calls - 170 free & credit calls =99950 call units. 850 call units @ Rs.0.80 per call unit = Rs.680/- plus (99100 call units @ Rs.1.10 per call unit = Rs.1,09,010/-) = Rs.1,09,690/-], no amount was claimed in the said bill towards metered call units. The Deptt. of Telecom. thus sustained a loss of Rs.1,09,690/- . This loss was due to the manipulated meter readings reported by Shri N. Ramakrishna to the TDE, Sangareddy, as aforesaid. The bill dated 1.4.92 issued for gross metered call units of 120 was paid by the subscriber on 6.5.92 as seen from the subscriber's record card and paid copy of the said bill & TRC list dated 6.5.92.

The subscriber of the said phone no.SGD-6292 was billed for gross metered call units of 50 as seen from the bill dated 1.6.92 for the period 16.3.92 to 15.5.92 instead of for gross metered call units of 100050. Instead of claiming a sum of Rs.1,09,613/-[100050 gross calls - 170 free & credit calls = 99880 calls. 850 call units @ Rs.0.80 per call unit = Rs.680/- plus (99030 call units @ Rs.1.10 per call unit = Rs.1,08,933/-) = Rs.1,09,613/-], no amount was claimed in the said bill towards metered call units. The Deptt. of Telecom. thus sustained a loss of Rs.1,09,613/- . This loss was due to the manipulated meter readings reported by Shri N. Ramakrishna to the TDE, Sangareddy, as aforesaid. The bill dated 1.6.92 for gross metered call units of 50 was paid by the subscriber on 15.6.92 as seen from the subscriber record card, the paid copy of the bill and the TRC list dated 15.6.92.

The misconduct committed as aforesaid by the said Shri N. Ramakrishna during his earlier employment as JTO, is of such a nature as has rational connection with his present employment as ADET probationer and renders him unfit and unsuitable for continuing in service.

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Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS(Conduct) Rules, 1964.

J. Mathew

True copy



List of documents by which the articles of charge framed against Shri N. Ramakrishna, formerly JTO(I D), Sangareddy in A.P. Telecom. Circle, presently undergoing training as ADET probationer, are proposed to be sustained

S-1 1. Meter reading register w.e.f. 15.4.91 to 31.7.92 of SGD Telephone Exge.

S-2 (i) Meter reading statement in form ACE. 91 (A) (Revised)
(ii) for the billing period 16.7.91 to 15.9.91 for issue of bills dt. 1.10.91 both JTO I/D office copy and original sent to TDE SGD by JTO I/D SGD.

S-3 (i) Meter reading statement in form ACE.91(A) (revised) for the billing period 16.9.91 to 15.11.91 for issue of bills dt. 1.12.91, both JTO I/D office copy and original sent to TDE SGD by JTO I/D SGD.

S-4 (i) Meter reading statement in form ACE.91 (A) (revised) for the billing period 16.11.91 to 15.1.92 for issue of bills dt. 1.2.92, both JTO I/D office copy and original sent to TDE SGD by JTO I/D SGD.

S-5 (i) Meter reading statement in form ACE.91 (A) (revised)
(ii) for the billing period 16.1.92 to 15.3.92 for issue of bills dt. 1.4.92 both JTO I/D office copy and original sent to TDE SGD by JTO I/D SGD.

S-6 6. Meter reading statement in form ACE.91 (A) (revised) for the billing period 16.3.92 to 15.5.92 for issue of bills dt. 1.6.92 both JTO I/D office copy and original sent to TDE SGD by JTO I/D SGD.

S-7 7. Office copy of the telephone bill dt. 1.2.92 of Phone No. SGD 6977 issued for Rs.625/-

S-8 8. Paid copy of the telephone bill dt. 1.2.92 of Phone No. 6977 (reconnection charge of Rs.100/- are also added in the bill).

S-9 9. Office copy of the telephone bill dt. 1.6.92 of Phone No. SGD 6977 issued for Rs. 429.00

S-10 10. Paid copy of the bill dated 1.6.92 of phone No. SGD-6977 issued for Rs.341/-.

S-11 11. TRC list dt. 24.10.92 for total collection of Rs.2948.00

S-12 12. Subscriber record card of phone No. SGD.6977

S-13 13. Office copy of the telephone bill dt. 1.12.91 of phone No. SGD-6291 issued for Rs.262.00

S-14 14. Paid copy of bill dt. 1.12.91 of Phone No. SGD.6291.

S-15 15. TRC list dt. 26.12.91 for total collection of Rs.19456/-

S-16 16. Office copy of telephone bill dt..1.2.92 of phone No. SGD-6291 issued for Rs.341/-

S-17 17. Paid copy of the telephone bill dt. 1.2.92 of Phone No. SGD.7 6291.

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S-19 18. TRC List dt. 24.2.92 for total collection of Rs. 46481/-

S-20 19. Office copy of telephone bill dt. 1.4.92 of phone No. SGD-6291 issued for Rs. 1270/-

S-21 20. Paid copy of the telephone bill dt. 1.4.92 of phone No. SGD-6291.

S-22 21. TRC list ^{dt} 8.5.92 for the total collection of Rs. 7021/-

S-23 22. Office copy of the telephone bill dt. 1.6.92 of phone No. SGD-6291 issued for Rs. 811/-

S-24 23. Paid copy of the phone bill dt. 1.6.92 of phone No. SGD-6291.

S-25 24. TRC list dt. 16.6.92 for total collection of Rs. 79,466/-

S-26 25. Subscriber record card of phone No. SGD-6291.

S-27 26. Office copy of the telephone bill dt. 1.2.92 of Phone No. SGD-6292 issued for Rs. 343/-

S-28 27. Paid copy of the telephone bill dt. 1.2.92 of phone No. SGD-6292.

S-29 28. Copy of TRC list dt. 17.2.92 for total collection of Rs. 1,77,675/-

S-30 29. Office copy of the telephone bill dt. 1.4.92 of phone No. SGD-6292 issued for Rs. 210/-

S-31 30. Paid copy of phone bill dt. 1.4.92 of phone No. SGD-6292.

S-32 31. TRC list dt. 6.5.92 for total collection of Rs. 29,809/-

S-33 32. Office copy of the telephone bill dt. 1.6.92 of phone No. SGD-6292 issued for Rs. 150/-

S-34 33. Paid copy of the telephone bill dt. 1.6.92 of phone No. SGD-6292.

S-35 34. TRC list dated 15.6.92 for total collection of Rs. 28,420/-

S-36 35. Subscriber record card of phone No. SGD-6292.

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S-37. Statement of. Sh. J. Dattati Rao, J.T.O. (O/D) Sangareddy

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ANNEXURE-IV

List of witnesses by whom the articles of charge framed against
Shri N. Ramakrishna, formerly JTO(I/D), Sangareddy in A.P.
Telecom. Circle, presently undergoing training as ADET
probationer, are proposed to be sustained

1. Shri J. Dattatri Rao, JTO(O/D), Sangareddy.
2. Shri V. Krishna Murthy, SSS, O/o TDE, Sangareddy.

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ANNEXURE-II

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WRITTEN BRIEF OF SHRI N. RAMAKRISHNA, ADET

I was charge sheeted vide Memorandum No. 8-19/94 Vig II dated 4th August, 1994 on the following three articles of charge:

ARTICLE - I :That the said Shri N. Ramakrishna while functioning as JTO(I/D), Sangareddy(SGD) in A.P. Telecom. Circle during the period from 25.2.91 to 12.2.93,

(a) reported manipulated subscriber meter readings in respect of phone no. SGD-6977 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom. to the tune of Rs.1,09,910/-

(b) reported manipulated subscriber meter readings in respect of phone no. SGD-6977 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Dept. of Telecom. to the tune of Rs.1,09,932/- and

(c) corrected the meter readings in the meter reading register the meter readings of the subscriber meter SGD-6977 as on 31.1.92, 15.2.92, 29.2.92, 15.3.92, 15.4.92, 30.4.92, 15.5.92, 31.5.92, 15.6.92, 30.6.92, 15.7.92 & 31.7.92, without attesting the corrections himself so as to cause undue pecuniary advantage to the said subscriber of phone no. SGD-6977.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS(Conduct)Rules, 1964.

ARTICLE - II : That during the aforesaid period and while functioning in the aforesaid office, the said Shri N. Ramakrishna.

(a) reported manipulated subscriber meter readings in respect of phone no.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.9.91 to 15.11.91(bill dated 1.12.91), which resulted in short billing to the said subscriber to the tune of 12,600 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of Rs.13,644/-

(b) reported manipulated subscriber meter readings in respect of phone no.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92(bill dated 1.2.92), which resulted in short billing to the subscriber to the tune of 87,440 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of Rs.96,140/-

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(c) reported manipulated subscriber meter readings in respect of phone no. SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.1.92 to 15.3.92 (bill dated: 1.4.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of Rs.1,10,000/- and

(d) reported manipulated subscriber meter readings in respect of phone no. SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of Rs.1,09,991/-.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a govt. servant thereby contravening Rule 3(1)(i), (ii) & (iii) of the CCS(Conduct) Rules, 1964.

ARTICLE-III That during the aforesaid period and while functioning in the aforesaid office, the said Shri N. Ramakrishna (a) reported manipulated subscriber meter readings in respect of phone No. SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated: 1.2.92), which resulted in short billing to the said subscriber to the tune of

1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs. 1,09,811/-.

(b) reported manipulated subscriber meter readings in respect of phone no.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.1.92 to 15.3.92 (bill dated 1.4.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom, to the tune of Rs.1,09,690/- and

(c) reported manipulated subscriber meter readings in respect of phone no.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Deptt. of Telecom. to the tune of Rs.1,09,613/-.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a govt. servant thereby contravening Rule 3(1)(i),(ii) & (iii) of the CCS(Conduct) Rules, 1964.

2. A study of the above articles of charge will show that the incidents relate to the period from September, 1991 to March, 1992 when I was working as JTO. I resigned from the post of JTO and my resignation was accepted with effect from 12.2.93 vide

page 11/c of Ex.D-3. I had submitted my resignation on 20.1.1993. While forwarding my resignation to the CGM Telecom A.P., the G.M. Telecom, Hyderabad Area, Secunderabad - 500 003 vide his letter No. TAH/ST/3-6 dated: 25th January, 1993 (page 2/c of exhibit D-3) had conveyed the following remarks.

(1) The resignation may not be accepted at such a short notice without return of the stipend paid.

(2) A disciplinary case is contemplated against the official, the details of which are available with the vigilance cell of SHQ.

Not only this, the GM, Telecom, Hyderabad Area also informed the office of CGM Telecom, A.P. Hyderabad page 8 of exhibit D-3 that all the records pertaining to the contemplated disciplinary case against Shri N. Ramakrishna, JTO O/D Sangareddy along with the preliminary report of investigation made by Shri S. Nageswara Rao, the then TDM Ananthapur were made over to

Shri K. Chandrasekharan, A.D.(vig), office of the CGMT Hyderabad.

Sir, despite the case having been investigated by the then TDM Ananthapur and all the relevant records being available with the CGMT, Hyderabad before the acceptance of my resignation with effect from 12.2.1993, it is clear that the master ^{had after consideration of records} accepted my resignation thereby absolving me of any misconduct on my part or alternatively pardoning me of any lapse. Thus, the assertion of the CGMT Hyderabad that the disciplinary case against me came to

notice only after the acceptance of my resignation is factually incorrect and is not borne out from the documents available on the record of the inquiry. I would, therefore, urge the Hon'ble Inquiry Authority to accept my contention that the charge sheet vide Memorandum No.8-19/94 Vig.II dated 4th August, 1994 is totally illegal and cannot be sustained after my resignation from the post of JTO was accepted by the CGMT, Hyderabad who was my appointing Authority as JTO. I, therefore, pray that I should be exonerated of the charges levelled against me in the aforesaid illegal charge sheet.

3. Sir, notwithstanding my above preliminary objection regarding the illegality of the charge sheet, I would show in the following paragraphs that the charges levelled against me are incorrect and not sustained by the evidence on record of the inquiry. Before I discuss the evidence in respect of each article of charge, I would submit that the onus of proving the charge or the allegations contained therein lies on the prosecution and if the prosecution fails to prove the charge, it must fail automatically and in such an eventuality the delinquent official is not called upon to prove his innocence. This contention of mine is supported by the following judgements of the High Court and the Central Administrative Tribunal.

- (i) Suhendra Chandra Vs. U.T. of Tripura, AIR 1962 Tripura 15.
- (ii) Radhakant Vs. State, AIR 1962 Orissa 125.
- (iii) Sachidanand Singh Vs. Union of India (1989) 10 ATC 565 (Calcutta).
- (iv) Pannmal T. Abraham Vs. Divisional Engineer, ATR 1989 (2) CAT 233 (Ernakulam)

Inview of the above judgements, it is essential for the prosecution to prove the charges levelled against me and if the prosecution fails to do so, the charges must fail. I will now examine the evidence under each article of charge to show that the charges levelled are such that these are beyond the realm of possibility rather it is impossible.

4. Sir, if one studies the three articles of charge, there is an alleged short billing to the tune of Rs.8,77,731/- in respect of three telephone Nos. namely SGD-6977 (Short billing of Rs.2,19,842/-), SGD-6291 (Short billing of Rs.3,29,775/-) and SGD-6292 (Short billing of Rs.3,29,114/-). However, it is noticed that no bills have been raised against the subscribers of telephone Nos. 6977, 6291 and 6292 and the telephones are still working. This clearly establishes that the department itself is not convinced that there has been any short billing. SW.2, Shri V. Krishna Murthy who was the section supervisor in the office of TDM Sangareddy and who has been incharge of TRA section dealing

with issue of bills during the alleged period has, during his cross examination, stated as under.

"I do not remember if any bill for one lakh calls or more was ever issued to any subscriber in Sangareddy exchange".

This clearly establishes that the bills for excess calls to the tune of one lakh or more have not been raised against the subscribers of the above said telephone numbers. SW-2 has also stated as under:

"For a bill in which less calls have been billed and subsequently the department comes to know about the actual number of calls being more, a revised bill has to be issued to the subscriber."

No such revised bills have been issued in respect of Telephone Nos 6977, 6291 and 6292 as no such bills, have been produced during the inquiry. This clearly establishes that the department itself is not convinced about the veracity of the allegations made against me. SW-2 has observed as under.

"I agree with the CO that in case the department was convinced that the subscribers were short billed to the tune of one lakh calls, they would have raised revised bills for calls not charged earlier. Since they were not convinced on the basis of average call rates no bills were raised.

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5. Sir, if exhibits S-13, S-26 and S-36, which are the subscribers cards in respect of telephone Nos. 6977, 6291 and 6292 respectively, are studied these will show that average calling rate has been very low and has rarely exceeded a few hundred calls during a billing cycle of two months. Thus these three telephone numbers registering 30,000 calls to over 70,000 calls in a fortnight is a total impossibility. If an average time of a local call is taken as three minutes (though there was no time limit for local call in Sangareddy exchange during 1991 and 1992) and the person keeps on making local calls non stop all the 24 hours of the day, he will not be able to make more than 7200 calls in a period of 15 days. Even if we reduce the time of the local call to one minute, he cannot make more than 21,600 calls. It is obvious that no subscriber can make so many calls as not he will receive incoming calls, but he cannot make calls continuously all the 24 hours of the day. This is because, he sleeps and attends to other items of work. Sir, no evidence has been produced to show that these telephones were having STD facility. Infact some of the bimonthly bills produced as prosecution documents such as exhibits S-8, S-17, S-27, & S-30 etc show trunk calls booked to Hyderabad etc. which stations are linked with STD. It is in this context that Sw-1 has admitted during his cross examination as follows:-

"In my opinion making 70,000 calls in a fortnight by an ordinary subscriber is not possible.

On being shown the subscriber cards exhibits S-13, S-26 and S-36, SW-1 has stated as under:-

"I have seen the subscriber's cards marked Ex.S-13, S-26 and S-36 and say that there is no indication whether the telephones provided to the subscribers had STD facility or not. However, I feel that when there is no such indication, the telephones should have been STD Barred".

In view of these facts, it is fully established that it was not possible to get meter readings indicating calls ranging between 30,000 to over 70,000 calls in a fortnight.

6. Sir, I wish to bring to your honours kind notice another very important fact which has come on record of the inquiry. It has been admitted by SW-1, Shri Dattatri Rao, JTO that ACE-91 (A) i.e. the statement of meter readings marked as Ex S-5 and Ex-S-6 have been signed and forwarded by him to the office of TDE, Sangareddy for preparation of bills for bimonthly cycles from 16-1-92 to 15-3-92 and from 16.3.92 to 15.5.92 and relating bills dated 1.4.92 and 1.6.92 respectively. Thus there has been alleged suppression of 1 lakh calls in respect of bill dated 1.6.1992 relating to telephone No.6977. As per the statement of imputations of misconduct or misbehaviour (Annexure-II page 2

Art-I) the Department suffered a loss of Rs.1,09,932/- for which I cannot be held responsible as ACE-91(A) was signed by Shri Dattatri Rao, JTO Vide Ex.S-6. Similarly for telephone No.6291 under Art-II, the loss in respect of bills dated 1.4.92 and 1.6.92 came to Rs.1,10,000/- and Rs.1,09,991/- respectively as per page 4 & 5 of Annexure II. In the same manner for telephone No.6292 under Art-III, the alleged loss for bills dated 1.6.92 has been computed as Rs.1,09,690/- and Rs.1,09,613/-. It would thus been seen that the department suffered a total alleged loss of Rs.5,49,226/- for telephone Nos. 6977, 6291 and 6292 for bills dated 1.4.92 and 1.6.92 for which the meter readings in ACE.91(A). Ex S-5 and Ex S-6 were neither prepared by me nor signed and Sent by me out of total alleged loss of Rs.8,77,731/-. As admitted by SW-1, these were signed and sent by him. Despite the fact that more than 62% of the alleged loss was caused due to the action of another JTO, the same has been shown against my name with a view to paint me in a bad colour. The other JTO has not only not been charge sheeted, he has been made a prosecution witness. This shows that all the three articles of charge levelled against me are totally false and I have been falsely implicated so that my career can be spoiled. This further lends credence to my assertion that my disciplinary authority, when I was working as JTO did not consider these allegations as correct and accepted my

resignation after conducting a preliminary investigation in the case and being satisfied that I had done no wrong. In the circumstances the present charge sheet is highly discriminatory and totally illegal.

7. Sir, as regards Art-I of the charge relating to telephone No.6977 the number of local calls for the fortnight 15-11-91 to 30-11-91 come to 30,260 and the number of calls for the fortnight from 31.12.91 to 15.1.92 come to 70,090 whereas in sharp contrast the number of calls for the period from 30.11.91 to 15.12.91 and 15.12.91 to 31.12.91 come to 170 and 200 respectively. Sir, I have already shown in para 5 above that making over 30,000 calls is an impossibility. In view of this the allegation against that I manipulated the calls is totally wrong. As regards the allegation regarding bill dated 1.6.1992, the same is based on ACE-91(A) prepared by the other JTO. However the above argument also holds good in this case also.

8. Sir, the only other allegation under Art-I is that meter readings relating to telephone No.6977 on 31-1-92, 15-2-92, 29-2-92, 15-3-92, 15-4-92, 30-4-92, 15-5-92, 31-5-92, 15-6-92, 30-6-92, 15-7-92 and 31-7-92 were allegedly corrected by me and I did not attest the corrections so as to cause pecuniary advantage to the

subscriber. No evidence has been brought on record to show that alleged corrections were done by me. Even in the earlier statement of SW-1 which was marked as Ex.S-37, he has stated as under.

"I have perused meter reading statement ACE-91(A)(revised) and fortnightly readings extract and to best of my knowledge the ACE-91(A) found to have the hand writing of Shri N. Rama Krishna or Smt. Padmavathi(Smt. N. Rama Krishna)".

It is thus clear that SW-1 has not stated that fortnightly meter reading register was written by me or I had done any corrections therein. On the other hand in his earlier statement marked as Ex.S-37 SW-1 has stated as follows:

"The fortnightly reading statement in the form of register written by Sri. J. Srinivas, former casual mazdoor presently Regular Mazdoor".

Sir, Dw-1, Shri Srinivas has confirmed that he used to write the fortnightly meter reading register and that he had done the corrections in the register. This has not been challenged by the PO. It is thus established that the corrections in Ex.S-1 in respect of the readings on the dates mentioned above were not done by me and hence the question of my attesting these did not arise. Infact, there are large number of corrections on most of the pages of the register and none has been attested as these were made by the Mazdoor as no clerical assistance was provided

to JTO I/D. Hence this part of the allegation is not proved against me as no evidence was produced by the P.O. Sir, even the P.O. has conceded that the corrections were made by the Mazdoor whenever he noticed in correct reading. I, therefore, pray that I may be exonerated of Article I of the charge.

9. As for Article II of the charge is concerned it is established from the statement SW-1 and documents Ex S-5, S-6 and S-7 that these were not signed and Sent by me and hence the allegations in respect of bills dated 1-4-92 and 1-6-92 of telephone No. 6291 were not related to me. The P.O. has also admitted these facts in his brief. It has also come on record through SW-2 that the JTO was required to give the opening and closing meter readings of the bimonthly cycle and this procedure had the approval of AO(TR). I reproduce what SW-2 has stated for ready reference.

" The JTOs had expressed their inability in furnishing four fortnightly meter readings due to shortage of clerical assistance. Therefore, they were furnishing only opening and closing readings for the billing cycle every two months. This arrangement was agreed to by AO(TR)".

Sir, if Ex S-26, which is the subscribers card of telephone No. 6291 is seen, it reveals that the telephone belongs to the Dy. Director(SW) and is installed in his office. Most of the period, the telephone bills have been in the range of Rs. 150 to

Rs.300/- per bimonthly billing cycle. Since it is an official phone, there is no question of giving any benefit to the subscriber. Sw-1 has confirmed that telephone No.6291 had been under observation on MLOE, hence the number of calls were calculated from the MLOE sheets. It will be recalled that I had called for files relating to excess metering of telephone Nos.. 6291 and 6292, but these have not been shown to me despite the fact that these files were forwarded to V.O. on 4-10-94 as intimated by the GM Telecom Hyderabad Area vide his letter No.TAH/X-1/Disc/NR dated 22-4-1996 (copy enclosed). Thus the allegations in respect of bill dated 1-12-91 are not correct. Similarly during the fortnight between 31.12.91 to 15.1.1992, making 88,100 calls is an impossibility when the telephone did not have STD facility as can be seen from Ex.S-26 i.e. subscribers card. The bills dated 1-4-92 and 1-6-1992 were prepared on the basis of Ex.S-5 and Ex.S-6 which were signed and sent by the other JTO. However excess of one lakh calls in the last fortnight in the case of both these bills is a total impossibility. In view of this I pray that I may kindly be exonerated of this charge which is totally baseless.

10. As regards Article-III is concerned, I wish to submit that ACE-91(A) statements in respect of bills dated 1-4-92 and 1-6-92 i.e. Ex S-5 and Ex S-6 have neither been signed nor sent by me in

respect of Telephone no SGD-6292. I am concerned with bill dated 1-2-92. The bimonthly period for this bill is from 16-11-91 to 15-1-92. The fortnightly calls as per the meter register work out as follows:

Fortnightly period	Opening	closing	No.of metered
	Reading	reading	calls
(i) 15.11.91 to 30.11.91	24080	56530	32,450
(ii) 30.11.91 to 15.12.91	56530	56570	40
(iii) 15.12.91 to 31.12.91	56570	56630	60
(iv) 31.12.91 to 15.1.92	56630	24470	67,840

It would thus be seen that in the fortnights between 15.11.91 to 30.11.91 there are 32,450 calls and between 31.12.91 to 15.1.92 there are 67840 calls against 40 calls and 60 calls in the fortnights, between 30.11.91 to 15.12.91 and 15.12.91 to 31.12.91 respectively. Sir, I have already shown that making over 30,000 calls in a fortnight is not possible. This fact has also been mentioned in the P.O's brief and has also been admitted by Sw-1. A scrutiny of the subscriber's card for telephone No.SGD 6292 (Ex.S-36) will reveal that the party had telephone from 1983 onwards and had only one bill dated 1-4-1985 for Rs.1140/-. All other bills noted in the subscriber's card(Ex.S- 36) range between Rs 100/- to Rs 400/- It is also observed that majority of the bimonthly bills range between Rs.100/- to Rs.200/- only. The department has also failed

to raise any bill on the subscriber for excess calls which proves that there is no truth in the allegations. In the circumstances this charge fails against me. I, therefore, pray I may kindly be exonerated of Article-III of the charge.

11. In view of foregoing, I would humbly request that I may kindly be exonerated of the charges levelled against me as the charge sheet apart from being discriminatory is basically illegal. Further, the department has produced no evidence to show that they have raised any bills for the so called excess calls against the subscribers of telephone Nos. SGD-6977, SGD 6291 and SGD-6292 which the department was duty bound to do. The telephones in question have not even been disconnected. All this shows that the department itself is not convinced that there have been any excess calls. Hence the question of my causing undue benefit to the subscriber and consequent loss to the department did not arise. I once again pray for exoneration. I may add that my probation period has been extended because of this false case in the post of ADET. I pray for Justice.

Hyderabad,
31-12-1996.

Order 2
31/12/96
(N. RAMA KRISHNA)
ADET. HYDERABAD.

TO
Shri KK Kulshrestha, ADG(DI) Dept.of Telecom.New Delhi.

True Copy



ANNEKURE -12

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No. 8/19/94-Vig.II
Government of India
Ministry of Communications
Department of Telecom

West Block-I, Wing-2
Ground Floor
R.K. Puram Sector-I
New Delhi-110066

Dated the 6th May, 1997

M E M O R A N D U M

A copy of the Inquiry Report dated 29.1.1997 submitted by Shri K.K. Kulshrestha, ADG (DI), Department of Telecom, New Delhi, who had been appointed as the Inquiring Authority to inquire into the charges framed against Shri N. Ramakrishna, ADET (P), Hyderabad, is forwarded herewith.

2. The said Shri N. Ramakrishna is hereby informed that he may make such representation as he may wish to make against the findings of the Inquiring Authority. Such representation, if any, shall be made in writing within fifteen days of the receipt of this Memorandum, failing which it will be presumed that he has no representation to make, and further necessary action is liable to be taken accordingly.

3. The receipt of this Memorandum shall be acknowledged by Shri N. Ramakrishna.

By order and in the name of the President,
John Mathew

(JOHN MATHEW)
DESK OFFICER (VIG.II)

Encl. : Copy of Inquiry Report.

✓ Shri N. Ramakrishna
ADET (P)
Hyderabad

(Through the CGM Telecom, A.P. Telecom Circle, Hyderabad).

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NO. 111/95/ADG(DI)
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS

REPORT

DEPARTMENTAL INQUIRY AGAINST SHRI N. RAMAKRISHNA,
FORMERLY J.T.O.(I/D), SANGAREDDY AND NOW ASSISTANT
DIVISIONAL ENGINEER TELECOM (Probationer), HYDERABAD.

I was appointed Inquiring Authority to enquire into the charges against Shri N. Ramakrishna, formerly J.T.O.(I/D), Sangareddy and now Assistant Divisional Engineer Telecom (Probationer), Hyderabad vide Department of Telecommunications order No.8-19/94-Vig.II(i) dated 16th February, 1995. Shri M.S.A. Nutan, Divisional Engineer O/O Telecom District Manager, Kurnool was appointed as Presenting Officer to present the case in support of the articles of charge. Preliminary hearing in this case was held on 16th March, 1995 wherein the schedule for inspection of documents was laid down. Regular hearing was held at New Delhi on 5th and 6th December, 1996. 37 documents produced by the Presenting Officer were taken on record and marked Exs. S-1 to S-37. Presenting Officer examined two witnesses SW-1 and SW-2. Charged Officer examined one witness DW-1. Since Charged Officer did not appear as his own witness, he was examined on the circumstances appearing against him. Presenting Officer submitted his written brief dated 11.12.1996 and Charged Officer has submitted his defence brief dated 31.12.1996.

2. Shri N. Ramakrishna has been charge sheeted for the following articles of charge vide Department of Telecommunications Memorandum No.8-19/94-Vig.II dated 4th August, 1994 :-

"ARTICLE-I That the said Shri N. Ramakrishna while functioning as JTO(I/D), Sangareddy (SGD) in A.P. Telecom Circle during the period from 25.2.91 to 12.2.93,

(a) reported manipulated subscriber meter readings

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in respect of phone No. SGD-6977 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92) which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,910;

(b) reported manipulated subscriber meter readings in respect of phone No. SGD-6977 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,932; and

(c) corrected the meter readings in the meter reading register the meter readings of the subscriber meter SGD-6977 as on 31.1.92, 15.2.92, 29.2.92, 15.3.92, 15.4.92, 30.4.92 15.5.92, 31.5.92, 15.6.92, 30.6.92, 15.7.92 & 31.7.92 without attesting the corrections himself so as to cause undue pecuniary advantage to the said subscriber of phone No. SGD-6977.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Govt. servant thereby contravening Rule 3(1)(i), (ii) and (iii) of the CCS(Conduct) Rules, 1964.

ARTICLE-II That during the aforesaid period and while functioning in the aforesaid office, the said Shri N. Ramakrishna

(a) reported manipulated subscriber meter readings in respect of phone No. SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.9.91 to 15.11.91 (bill dated 1.12.91), which resulted in short billing to the said subscriber to the tune of 12,600 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.13,644/-;

(b) reported manipulated subscriber meter readings in respect of phone No. SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92) which resulted in short billing to the said subscriber to the tune of 87,440 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.96,140/-;

(c) reported manipulated subscriber meter readings in respect of phone No. SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.1.92 to 15.3.92 (bill dated 1.4.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.110,000/-; and

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(d) reported manipulated subscriber meter readings in respect of phone No.SGD-6291 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,991/-.

Thus by his above acts the said Shri N.Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Government servant thereby contravening Rule 3(1)(i), (ii) and (iii) of the CCS(Conduct) Rules, 1964.

ARTICLE-III That during the aforesaid period and while functioning in the aforesaid office, the said Shri N. Ramakrishna

(a) reported manipulated subscriber meter readings in respect of phone No.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.11.91 to 15.1.92 (bill dated 1.2.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,811/-;

(b) reported manipulated subscriber meter readings in respect of phone No.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.1.92 to 15.3.92 (bill dated 1.4.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,690/- ; and

(c) reported manipulated subscriber meter readings in respect of phone No.SGD-6292 to the TDE, Sangareddy for the bimonthly billing period 16.3.92 to 15.5.92 (bill dated 1.6.92), which resulted in short billing to the said subscriber to the tune of 1,00,000 gross metered call units and consequent pecuniary loss to the Department of Telecom to the tune of Rs.1,09,613/-.

Thus by his above acts the said Shri N. Ramakrishna committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a Govt. servant thereby contravening Rule 3(1)(i), (ii) and (iii) of the CCS(Conduct) Rules, 1964.

ASSESSMENT OF EVIDENCE

3. It is stated that while functioning as J.T.O. (I/D), Sangareddy, Charged Officer was required to record telephone subscriber's meter readings, prepare ^{call statement} local charges and forward the same to the TDE, Sangareddy

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In his general examination, Charged Officer has admitted that these were part of his duties, but for recording the meter readings and to prepare local call charges statement, a telephone operator was being deputed. He has further stated that since no Telephone Operator was available, a Casual Mazdoor was being utilised for recording the Meter Readings. Charged Officer has admitted that local call charges statement was being prepared either by him or by some one else under his guidance. DW-1 has deposed that most of the readings in the Register marked Ex.S-1 have been recorded by him.

2. It is alleged that following meter readings in the meter reading register in respect of phone No. SGD-6977 were corrected by Charged Officer without attesting the corrections himself:-

<u>Sl. No.</u>	<u>Date of reading</u>	<u>Meter Reading</u>	<u>Corrected as</u>
1.	31.1.92	25940	95940
2.	15.2.92	26150	96150
3.	29.2.92	26210	96210
4.	15.3.92	26230	96230
5.	15.4.92	26460	96460
6.	30.4.92	26600	96600
7.	15.5.92	26730	96730
8.	31.5.92	26850	96850
9.	15.6.92	26930	96930
10.	30.6.92	27000	97000
11.	15.7.92	27120	97120
12.	31.7.92	27230	97230

Perusal of meter readings of telephone No. SGD-6977 shows that the digit '9' has been over-written on some other digit at pages 99, 129 and 150 of the Meter Reading Register Ex.S-1. DW-1, who was working as Casual Mazdoor during the relevant period, has stated that corrections in the register Ex.S-1 have been done by him. The witness has further stated that there was no proper light arrangement due to which readings could not be recorded properly, and that whenever he noticed correct readings, he carried

contd. 6.00

Exhibit 5-1

readings have been recorded as under:-
Perusal of Meter Reading Register Ex. 5-1 shows that meter resulted in loss of Rs. 1,09,932/- to the department.
Instead of gross metered call units of 1,00,500. This call units of 500 for the period 16.3.92 to 15.5.92
the subscriber of SGD-6977 was billed for gross metered loss of Rs. 1,09,910/- in the bill dated 1.2.92. Again, units of 1,00,720 and thereby the department sustained loss of 1,00,720 as the difference between the metered and gross metered units. The meter reading on 15.5.92 was 16.3.92 and the meter reading on 15.5.92 was 15.5.92.

Date	Meter Reading Recorded	Gross call units
Brought forward	93,430	
15.10.91	93,650	220
31.10.91	93,760	110
15.11.91	94,910	1150
30.11.91	25,170	30260
15.12.91	25,340	170
31.12.91	25,540	200
15.1.92	96,630	720-70,090
31.1.92	96,940	310
15.2.92	96,150	210
29.2.92	96,210	60
15.3.92	96,230	20
31.3.92	26,360	30130
15.4.92	96,460	70100
30.4.92	96,600	140
15.5.92	96,730	130
31.5.92	96,850	120
15.6.92	96,930	80
30.6.92	97,000	70
15.7.92	97,120	120
31.7.92	97,230	110

3.2 There is an apparent mistake in noting down the meter readings in the Register Ex.S-1. Assuming that after the call unit 1,00,000, the meter starts recording from the call unit '1' itself, there is an abrupt jump in the meter readings as detailed below :-

Fortnight From	To	Last meter reading	Current meter reading	No of cal Units
16.11.91	30.11.91	94.910	25,170	30260
1.1.92	15.1.92	25,540	95,630	70090
1.3.92	31.3.92	96230	26,360	30130
1.4.92	15.4.92	26,360	96,460	70100

As rightly pointed out by Charged Officer in his defence brief, even if the subscriber used his telephone round the clock and made one call every minute, he could not have made more than 22,000 local calls in a fortnight. There is no evidence on record to show that this telephone had been provided with STD facility. On the contrary there is evidence on record to show that the subscriber has been billed for making trunk calls to Kakinada (KND) and Hyderabad (HD) which were linked on STD network.



contd....7..

In view of the position explained above, the allegation that Charged Officer caused undue pecuniary advantage to the subscriber and corresponding loss to the department, is not established.

4.1 It is alleged that due to manipulated meter readings, the subscriber of phone No. SGD-6291 was billed for gross metered call units of 300 for the billing cycle 16.9.91 to 15.11.91 instead of gross metered call units of 12,900 and thereby department sustained loss of Rs.13,644/-. In the billing cycle for the period 16.11.91 to 15.1.92, the subscriber was billed for gross metered call units of 3340 instead of gross metered call units of 90,740 and thereby the department sustained loss of Rs.96,140/-. For the billing cycle 16.1.92 to 15.3.92, the subscriber was billed for gross metered call units of 1420 instead of gross metered call units of 1,01,420 and thereby the department sustained loss of ~~Rs.10,000/-~~ Rs.1,10,000/-. Again for the billing cycle for the period 16.3.92 to 15.5.92, the subscriber was billed for gross metered call units of 990 instead of gross metered call units of 1,00,990 and thus the department was put to loss of Rs.1,09,991/-. Meter readings in respect of telephone No. SGD-6291 recorded in the Meter Reading Register Ex.S-1 are as under :-

<u>Date</u>	<u>Reading recorded in Meter Reading Register</u>	<u>Gross call units</u>
15.4.91	31,730	--
30.4.91	32,310	580
15.5.91	33,480	1170
31.5.91	34,390	910
15.6.91	34,780	390
30.6.91	35,240	460
15.7.91	35,650	410
31.7.91	36,950	1300
15.8.91	37,660	710
31.8.91	39,180	1520
15.9.91	39,960	780
30.9.91	44,460	5500
15.10.91	47,710	3250
31.10.91	52,810	5100
15.11.91	52,860	40

30.11.91	54,020	1160
15.12.91	54,530	510
31.12.91	55,500	970
15.1.92	43,600	88100
31.1.92	56,470	12870
15.2.92	57,120	650
29.2.92	57,450	330
15.3.92	45,020	87570
31.3.92	57,970	12950
15.4.92	45,670	87700
30.4.92	45,710	40
15.5.92	46,010	300
31.5.92	46,120	110
15.6.92	46,340	220
30.6.92	46,570	230
15.7.92	46,710	40
31.7.92	46,010	300

The manner in which the above meter readings have been recorded clearly show that Charged Officer never monitored the readings and find the reasons of abrupt spurt in the readings or drop in the readings during certain fortnights.

4.2 The opening and closing meter readings in ACE-91(A) Revised for the billing cycles 16.1.92 to 15.3.92 and 16.3.92 to 15.5.92 (Exs. S-5 and S-6) have been signed by JTO(O/D) and as such Charged Officer cannot be held responsible for wrong billings in respect of the above said two cycles. It is seen that in Exs. S-3 and S-4, Charged Officer has furnished the opening and closing meter readings as follows-

<u>Ex. No.</u>	<u>Date</u>	<u>Meter Reading</u>	<u>Date</u>	<u>Meter Reading</u>
S-3	15.9.91	39,960	15.11.91	40,260
S-4	15.11.91	40,260	15.1.92	43,600

The readings as on 15.11.91 do not tally with the reading recorded in the Meter Reading Register Ex.S-1 which is 52860. A close observation of fortnightly meter readings show that there is an apparent mistake in the meter readings recorded in Ex.S-1 on 15.1.92 as 43600. In the fortnight 1.1.92 to 15.1.92, the subscriber is said to have made 88100 local calls, as if the subscriber continued to make calls round the clock at the

rate of one call every 15 seconds approximately. There is no evidence on record to show that the telephone No. SGD-6291 was provided with STD facility particularly when the subscriber has been billed for making tmunk call to Hyderabad which is linked on STD network (Ex. S-17). In his defence brief, Charged Officer has pleaded that this telephone belongs to the Dy. Director (SW) and is installed in his office; that most of the period, the telephone bills have been in the range of Rs.150/- to Rs.300/- per bi-monthly billing cycle; that this telephone has been under observation on MLOE, hence the number of calls were calculated from the MLOE sheets. Charged Officer has further stated that he had asked for the files relating to excess metering of telephone No. 6291 and 6292 but the same have not been made available to him. It is true that Charged Officer had requested for the files relating to excess metering of telephone No. ~~6292~~⁶²⁹¹ but the same could not be made available during inquiry. Even if it is admitted that there was excess metering detected during obser-
vation, Charged Officer was not expected to alter the meter readings while furnishing information in the ACE-91(A) Revised marked Exs. S-3 and S-4. Subscriber could have been given appropriate rebate in the bill by the TDE, Sangareddy or a note for the same could have been made in the register Ex. S-1. No doubt the telephone No. SGD-6291 was subscribed by the State Government and Charged Officer may not have had any malafide intention in making alteration in the meter readings in Exs. S-3 and S-4, still he was negligent in not supervisong the work of Casual Mazdoor who was recording fortnightly meter readings in the Register Ex. S-1.

5.1 It is alleged that due to manipulated meter readings reported by Charged Officer to the TDE, Sangareddy, the subscriber of SGD-6292 was billed for gross metered call units of 390 for the period 16.11.91 to 15.1.92 instead of for gross metered call units of 1,00,390 and thereby the department was put to a loss of Rs.1,09,811/-. In the billing cycle for the period 16.1.92 to 15.3.92, the subscriber was billed for

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gross metered call units of 120 instead of gross metered call units of 1,00,120 and thereby the Department sustained loss of Rs.1,09,690/-, Again in the billing cycle for the period 16.3.92 to 15.5.92, the subscriber was billed for gross metered call units of 50 instead of for gross metered call units of 1,00,050 and thereby the department sustained loss of Rs.109613/-.

Perusal of meter readings recorded in the Register Ex.S-1 shows as under :-

<u>Date</u>	<u>Meter Reading</u>	<u>No. of call units</u>
15.4.91	23,880	--
30.4.91	23,880	Nil
15.5.91	23,890	10
31.5.91	23,890	Nil
15.6.91	23,890	Nil
30.6.91	23,890	Nil
15.7.91	23,910	20
31.7.91	23,910	Nil
15.8.91	23,910	Nil
31.8.91	23,910	Nil
15.9.91	23,960	50
30.9.91	24,070	110
15.10.91	24,080	10
31.10.91	24,080	Nil
15.11.91	24,080	Nil
30.11.91	56,530	32450
15.12.91	56,570	40
31.12.91	56,630	60
15.1.92	24,470	67840
31.1.92	56,690	32220
15.2.92	56,760	70
29.2.92	56,790	30
15.3.92	24,590	67800
31.3.92	56,810	32220
15.4.92	24630	67820
30.4.92	24,640	10
15.5.92	24,640	Nil
31.5.92	24,660	20
15.6.92	24,680	20
30.6.92	24,720	40
15.7.92	24,750	30
31.7.92	24,800	50

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From the subscriber card Ex.S-36 for telephone No.SGD-6292, it is seen that the existing subscriber was provided this telephone on 29.11.82 and since then his bill has never touched the figure of Rs.500/- except once when he was billed for Rs.1140/-. His calling trend has been very low. As a matter of fact, there has been an obvious mistake in recording the readings by the Casual Muzdoor. There may be plenty of instances of meter jumping but hardly there might have been an instance where the meter has reversed. Making 30,000 calls in a fortnight by an individual subscriber is not possible. Also the information in ACE-91(A) Revised for the billing cycles 16.1.92 to 18.3.92 and 16.3.92 to 15.5.92 (Exs. S-5 and S-6) were not furnished by the Charged Officer and as such he cannot be held responsible for wrong billing for these cycles. Charged Officer has, however, been negligent inasmuch as that he did not ensure correct recording of meter readings.

6. In his Inspection Report No.TAH/IR-4/281 dated 24th June, 1991 marked Ex.D-2(i), the then General Manager, Telecom, Hyderabad Area had observed -

"On review of Fortnightly Meter Reading Register, it is seen that only the meter readings are noted. Difference is to be calculated and the same reviewed w.r.t. the past reading to see non-operation of meters, spurts etc and action taken accordingly." ~~Maximally off track~~
Had Charged Officer complied with the instructions of General Manager Telecom, the errors in the meter readings could have been detected timely.

7. In his defence brief, Charged Officer has brought out that the incident relate to September, 1991 to March, 1992 when he was working as J.T.O.; that he resigned from the post of J.T.O. and the same was accepted with effect from 12.2.93; and that the competent authority, who accepted his resignation, was well aware of the disciplinary case being contemplated against him. He has pleaded that the 'master' had after consideration of records accepted his resignation, thereby absolving him of any misconduct or alternatively had pardoned him of any lapse. Perusal of file Ex.D-3 shows that consequent on his selection in Indian

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Telecom Service Group 'A' and on getting an offer of appointment, Charged Officer submitted a 'Technical Resignation' from the post of J.T.O. While forwarding the resignation letter of Charged Officer to office of the Chief General Manager Telecom, Hederabad, the General Manager Telecom, Hyderabad Area had recorded -

- (1) The resignation may not be accepted at such a short notice without return of stipend paid.
- (2) A disciplinary case is contemplated against the official, the details of which are available with the Vigilance Cell of SHQ.

In cases where Government servant apply for posts in the same or other departments through proper channel and on selection, he is required to resign the previous post for administrative reasons, the benefit of past service could be given for the purpose of pay, pension, leave etc., if otherwise admissible under the rules, treating the resignation as a technical formality. As Charged Officer was to continue to remain in Central Government employment even after resignation and disciplinary action for any misconduct committed earlier could be taken even after his joining new assignment, there would have been no objection in acceptance of resignation of Charged Officer, which was merely a technical formality. In this case the theory of "master pardoning the servant" is not applicable.

8. In his defence brief, Charged Officer has raised a very valid issue. If there was short billing to the tune of Rs.77,781/- in respect of three telephone numbers namely SGD-6977, (short billing of Rs.2,19,842/-) SGD-6291 (short billing of Rs.3,29,775/-) and SGD-6292 (short billing of Rs.3,29,114/-), why no bills have been raised against the subscribers of these telephones whereas these telephones are still working with the same subscribers. According to Charged Officer, this is because department itself is not convinced that there has been any short billing.

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FINDINGS

9. On the basis of oral and documentary evidences adduced before me during inquiry and in view of the reasons given hereinbefore, my findings are -

ARTICLE-I	...	Partly proved.
ARTICLE-II	...	Partly proved.
ARTICLE-III	...	Partly proved.

New Delhi
Dated the 29th January, 1997.

Kulshrestha
(K.K. Kulshrestha)
Inquiring Authority
&
Assistant Director General (DI)

True copy



To
Shri John Mathew
Desk Officer (VIG.II)
Ministry of Communications
Dept of Telecom
West Block - I , Wing - 2 (Ground floor)
R.K.Puram Sector -I
New Delhi - 110 066.

16/5/97

Sub : Disciplinary proceedings against Sri N. Rama Krishna , ADET (P) -
Submission on the report of the Inquiry Officer.

Sir,

With reference to your memorandum No.8/19/94-VigII dated 6th May 1997 received by me on 15-5-1997 forwarding a copy of the report of the Inquiring Authority to me with the direction that I may submit my representation on the findings of the Inquiring Authority , if I so wish , within 15 days on receipt of the above said memorandum , I wish to make the following submissions for the kind consideration of the Disciplinary Authority :

(i) That the Hon'ble Inquiring Authority has exonerated me of the charges that I reported manipulated meter readings in respect of Sangareddy Telephone Nos. SGD - 6977, SGD -6291 and SGD - 6292 included in Article I , II and III of the charge sheet respectively and thereby I caused undue pecuniary advantage to the subscribers and corresponding loss to the Department. The Inquiring Authority vide para 4.2 (page 8 of the report) and para 5.1 (page 11 of the report) has stated that the opening and closing meter readings in ACE-91(A) revised for the billing cycles 16-1-192 to 15-3-1992 and 16-3-1992 to 15-5-1992 (Ex. S-5 and S-6) in respect of telephone No. SGD-6291 and in respect of telephone NO. SGD-6292 respectively were not furnished by me and hence I could not held responsible for wrong billing in the above said cases. The Hon'ble Inquiring Authority has , however , held that I did not supervise the work of the Casual Mazdoor relating to the recording of the meter readings. Thus the Inquiring Authority while exonerating me of the charge of the reporting manipulated readings and causing loss to the Department , has held that due to lack of supervision of the work of the casual mazdoor of recording meter readings the articles of charge I , II and III are partly proved.

(ii) That the Hon'ble Disciplinary Authority , while forwarding the report of the Inquiring Authority , has not expressed any difference of opinion with the findings of the Inquiring Authority and hence it is assumed that the Disciplinary Authority agrees that I had not reported manipulated readings in respect of some of the bills of the Telephone Nos. SGD - 6977, 6291 and 6292 as some bills were prepared on the basis of ACE-91(A) marked as Exhibits S-5 and S-6 prepared by another JTO namely Sri Dattatri Rao , JTO (O/D) who appeared and deposed as SW-1 and confirmed have prepared Exhibits S-5 and S-6. Similarly the findings of the Inquiring Authority that no pecuniary loss was caused to the Department by any of my actions is also acceptable to the Disciplinary Authority

as well as that no corrections were made by me in the meter reading register Exhibit S-1 and hence the question of attesting the corrected entries does not arise. In view of this I am restricting my comments to the part held as proved by the Inquiring Authority namely that I did not supervise the making of entries in the meter reading register by the Casual Mazdoor. Thus the charge held as proved against me relates to lack of supervision on the recording of meter readings by the casual mazdoor.

(iii) That there was no such charge as mentioned in sub-para 2 above made against me in any of the articles of charge. The charge against me under Article I (a) and (b) is that I reported manipulated subscriber meter readings in respect of telephone No. SGD-6977. The same charge is repeated under Article II (a), (b), (c) & (d) as well as Article III (a), (b) & (c). The Inquiring Authority has held that there was no manipulation but an apparent mistake in noting down the meter readings as it was humanly impossible for a subscriber to make more than 22,000 calls per fortnight. 22,000 calls can only be made if the subscriber keeps on making one call every minute all the 24 hours of the day which is clearly an impossibility as the telephone did not have STD facility. The average call rate has been within the range of Rs.600/- or so for bi-monthly bills over the years. The Inquiring Authority has also conceded the point that the Department itself is not convinced that there has been any manipulation in the meter readings of the subscribers as no bills had been raised against the subscribers till to date which should have been done right back in 1991 and 1992. Thus the Hon'ble Inquiring Authority came to the conclusion that no financial loss was caused to the Department. The other finding of Inquiring Authority that I did not supervise the recording of the meter readings during my tenure as JTO is therefore not at all justified as there was no such allegation against me in the charge sheet. The Inquiring Authority has therefore exceeded his jurisdiction in recording this finding and on the basis of this to say that Articles of charge I, II and III are partly proved.

(iv) That the Hon'ble Inquiring Authority has based his finding on lack of supervision on the basis that the recording of meter readings fell within the jurisdiction of my duties. Be it so, but the fact remains that there was no such charge against me that I did not supervise the work of the casual mazdoor relating to recording of meter readings of subscriber meters.

(v) That the Hon'ble Inquiring Authority has quoted from Ex. D-2(i) the remarks of the General Manager Telecom, Hyderabad Area recorded in his report dated 24th June 1991 wherein the GM had observed that only meter readings were recorded and the difference should be calculated and the same reviewed w.r.t. the past reading to see non-operation of meters, spurts etc. and action taken accordingly. In para 6 of the report, the Inquiring Authority has observed that has this been done, the errors in meter readings could have been detected timely. In order to implement the observation of GM cited in para 6, it was necessary for the SDOT to provide clerical assistance for this purpose. I had written a letter to the SDOT, Sangareddy just after 4 days of the recording of the above remarks vide my letter No. JTO/ID/SGD/91-92 dated 28-6-1991 (copy enclosed for ready reference) wherein I had requested for providing a dealing assistant to attend to

clerical duties including monthly MIS statements, extracting of meter readings and preparation of meter reading statements etc. This is on record that no dealing assistant was posted and the Inquiring Authority has admitted this fact at page 4 of his report that no Telephone Operator was deputed for this purpose. As JTO I had tried my best to maintain the telephone exchange in all its technical aspects and no faults have been found. Sir, when no Telephone Operator / Dealing Assistant was provided to assist me despite my request and the remarks of the GM which were known to SDOT, Sangareddy, how can I be charged that I lacked in supervision. There was no one to assist me in the clerical work for implementing the remarks of the GM recorded in his inspection report. The fact that the opening and closing readings for the bi-monthly cycle were being recorded was well known to the SDOT who had his office in Sangareddy exchange itself and who used to supervise the work of JTOs. This is evident from the statement of SW-1 at page 2 of his deposition which is reproduced below :

" I have seen entries against telephone nos. 6291 and 6292 in Ex S-5 and say that the SDOT had called me and pointed out about the meter readings in respect of these two telephones not recorded in ACE-91(A). Since these numbers were under observation on MLOE, the readings were taken from MLOE sheets and recorded in Ex S-5. The readings on MLOE sheet are more authentic than the one recorded in the meter reading register Ex S-1. "

(vi) That from the above deposition of SW-1, it is evident that whenever any telephone was under observation on MLOE, the readings used to be taken from MLOE sheet as these were considered more authentic. Despite this the Inquiring Authority has at page 9 of his report has observed as under :

" Even if it is admitted that there was excess metering detected during observation, Charged Officer was not expected to alter the meter readings while furnishing information in ACE-91 (A) revised marked Ex. S-3 and S-4. Subscriber could have been given appropriate rebate in the bill by the TDE, Sangareddy or a note for the same could have been made in the register Ex. S-1. "

There is no basis for the above observation of the Inquiring Authority as there is no evidence on record of the inquiry for such a procedure being prevalent. If a mistake has been noticed there can never be an objection to the same being corrected before billing the customer. At page 8 of his report, the Inquiring Authority has observed that I was not monitoring the readings and at page 9 of his report, he has observed that I should have changed the reading when the error came to my notice. These two observations contradict each other. I have given the above examples to show the contradiction in the observations of the Hon'ble Inquiring Authority. However the fact remains that there was no charge against me that I did not supervise the recording of meter readings and I was afforded no opportunity to defend my self against this charge.

(vii) That the Inquiring Authority did not properly appreciate the need for putting a telephone on MLOE. Whenever a telephone is put under observation on MLOE, entries used to be made in the Technician's Log Book. This book was asked for by me vide sl no. 12 of the list of additional documents vide my application dated 23-7-1995. From this log book, I could have proved how often the telephone numbers mentioned in the charge sheet were put on MLOE. This document was, however, not made available to me for my effective defence. As a matter of practice, the mazdoor used to record the meter readings and for the purpose of preparing ACE-91(A) the MLOE sheets were taken into consideration. This is fully supported by the statement of SW-1 extracted above.

(viii) That I have clearly been discriminated against when the Constitution of India provides in the chapter of Fundamental Rights, 'Equality before Law' and 'Equal protection of Laws' to all citizens of the Country in as much as the ACE-91(A) Revised Exhibits S-5 and S-6 were prepared and signed by Sri Dattatri Rao who appeared as prosecution witness (SW-1) against me and who admitted having prepared the same. Although the bills prepared on the basis of Exhibits S-5 and S-6 for telephone numbers SGD-6291, SGD-6292 and SGD-6977 for the billing cycles, allegedly caused a financial loss of Rs. 5,49,226/- out of a total alleged loss of Rs. 8,78,731/-, yet Sri Dattatri Rao has not been charge sheeted whereas I have been Charge sheeted for alleged loss for which I did not even prepare the ACE-91(A) Revised. For reference I give below the billing cycle and the alleged loss due to the actions of Sri Dattatri Rao :-

<u>Tel. No.</u>	<u>Billing Cycle</u>	<u>Alleged loss</u>
SGD-6291	16-1-1992 to 15-3-1992 16-3-1992 to 15-5-1992	Rs. 1,10,000/- Rs. 1,09,991/-
SGD-6292	16-1-1992 to 15-5-1992 16-3-1992 to 15-4-1992	Rs. 1,09,690/- Rs. 1,09,613/-
SGD-6977	16-3-1992 to 15-5-1992	Rs. 1,09,932/-
Total :		<u>Rs. 5,49,226/-</u>

(The above figures are as per the charge sheet)

From the above, it is clear that whereas I have been charge sheeted because of the alleged loss due to me of Rs. 3,29,505/- (which of course is not proved during the inquiry against me), Sri Dattatri Rao was not charge sheeted even though the alleged loss due to him worked out to Rs. 5,49,226/- i.e. about Rs. 2 lakhs more than the alleged loss due to me. This clearly shows that there was a concerted move to wreck my career as I was selected as ADET through UPSC examination. Charge sheeting me for manipulated reporting of meter readings (not proved against me) in ACE-91(A) Revised and not charge sheeting Sri Dattatri Rao for the same misconduct, rather making him a prosecution (state) witness speaks volumes about the arbitrary and malafide manner in

which I was charge sheeted. The discrimination against me is apparent on the face of the record.

(ix) That in Article I (c) , the charge against me is that I corrected the meter readings in the meter reading register in respect of subscribers meter SGD-6977 as on 31-1-92 , 15-2-92 , 29-2-92 , 15-3-92 , 15-4-92 , 30-4-92 , 15-5-92 , 31-5-92 , 15-6-92, 30-6-92 , 15-7-92 and 31-7-92 without attesting the corrections so as to cause undue pecuniary advantage to the subscriber of telephone no. SGD-6977. The Hon'ble Inquiring Authority has held that no pecuniary advantage was given to the subscriber. As regards corrections, it has come on record through the depositions of DW-1 that the corrections in the aforesaid meter readings were made by DW-1 as admitted by him in his statement before the Inquiring Authority as under :

" I have seen the register Ex.S-1 and say that most of the readings in this register have been recorded by me. The corrections in the register have been done by me."

The reason for corrections has also been explained by DW-1 as under :

" The cabinet of meters was kept at a place next to MDF with no proper light arrangements. Because of the darkness , the readings could not be recorded properly. Whenever I noticed the correct reading , I carried out corrections in the register also. As a matter of practice the corrections were not got signed from the JTO. "

The above evidence of DW-1 has not been challenged by the P.O. in cross examination. Thus the above evidence has become absolute and correct. That the fact that the readings used to be recorded in meter reading register by DW-1, has also been confirmed by SW-1.

(x) That from the above evidence , it is clear that I did not make the corrections and that as a matter of practice , the corrections were not used to be attested by JTO as per evidence of DW-1 which has not been impeached. Thus the allegation against me that I corrected the meter readings has been proved wrong. The question of attesting the same by me did not arise firstly because I did not make the corrections and secondly there was no practice of attestation of correction carried out by the mazdoor in the register. A scrutiny of the register Ex. S-1 shows that no corrections were ever attested by any before me or after me. The inference of the Inquiring Authority that I should have authenticated any overwritings in the register is not based on the evidence on the record of inquiry. The inference is , therefore , factually incorrect and not proper. The allegation was that I had made the corrections and hence I should have attested the same. Since it has been proved that the corrections were not made by me, the question of attesting the same by me did not arise. There is no allegation against me that I should have attested the corrections made by the mazdoor in the meter reading register (Ex. S-1). This part of the charge is not proved against me.

(89) (96)

2. In view of the above, it is clear that none of the charges levelled against me has been proved. The finding of the Inquiring Authority that these are partly proved is erroneous and not based on records produced during the inquiry. This should not, therefore, be accepted and I pray that I may be exonerated of all the three articles of charge. In the end I reiterate that I have been discriminated against in a highly arbitrary manner as shown in sub-para (viii) of para 1 above. In the end, I once again pray that I should be exonerated in the name of justice and fair play to a Scheduled Caste employee.

Thanking You,

Yours faithfully,

26-5-1997
HYDERABAD

N. RAMA KRISHNA
(N.RAMA KRISHNA)

Encl : one

True Copy



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ANNEXURE 1

From

Junior Telecom Officer
Phones
SANGAREDDY - 502 001

To

The Sub Divisional Officer Telecom
SANGAREDDY - 502 001.

No. JTO/ID/SGD/91-92/5 Dated at Sgd the 28-6-91

Sub : Sanction of TOA to discharge the clerical duties of
MAX II, Sgd and to assist J.T.O.(I/D) in maintaining
the Exchange - Reg.

Ref : Your Office lr. no. P-104/SGD/91-92/II/184 dated at
Sgd the 20-6-91.

With reference to the above letter I would like to
place the following few lines for your kind consideration and
favourable orders for the sanction of a dealing assistant in MAX
II Exchange, Sangareddy for early disposal of clerical duties
like maintenance of leave cases/ log books, preparation of
monthly MIS statements, extracting of meter readings and
preparation of meter reading statements, maintenance of
complaints book and looking after local purchase and subscriber
complaints.

As the U/S is responsible for Technical maintenance of
MAX II Exchange, Battery and Power Plant maintenance, Engine
Alternator maintenance and maintenance of Exchange Building and
Departmental Quarters, the preparation and forwarding of above
statements is getting badly affected.

In view of all these problems , I request you to
kindly attach one suitable Official to J.T.O.(I/D), Sangareddy
for better and smooth service of MAX II Exchange, Sangareddy.

Junior Telecom Officer
Phones
SANGAREDDY - 502 001.

Copy to - The TDE, Sangareddy for favour of information and
necessary action please.

T.C
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CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT

O.A.NO. 1305/97.

Date of Order: 3-10-97.

ween:

• Ramakrishna.

and

.. Applicant.

1. Union of India, rep. by its Secretary, Ministry of Communication Dept.of Telecommunication, Samachar Bhavan, Ashoka Road, New Delhi.
2. The Deputy Director, General Vigilence, Dept.of Telecommunication West Block No.1, Wing No.2, Ground Floor, R.K.Puram, Sector-I, New Delhi.
3. The Chief General Manager, Telecommunication, A.P.Circle, Door Samachar Bhavan, Nampalli, Hyderabad.

.. Respondents.

For the Applicant: Mr. J.Sudheer, Advocate.

For the Respondents: Mr. K.Bhaskara Rao, Addl.CGSC.

CORAM:

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

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

The Tribunal made the following Order:-

Mr.J.Sudheer, for the applicant and Mr.K.Bhaskar Rao for the respondents.

Notice before admission. List it on 16-10-97. The impugned order at A-1 shall not be operated in any manner until further orders.


Deputy Registrar

To:

1. The Secretary, Union of India, Ministry of Communication, Dept.of Telecommunication, Samachar Bhavan, Ashoka Road, New Delhi.
2. The Deputy Director, General Vigilence, Dept.of Telecommunication, West Block No.1, Wing No.2 Ground Floor, R.K.Puram, Sector-I, New Delhi.
3. The Chief General Manager, Telecommunication, A.P.Circle, Door Samachar Bhavan, Nampalli, Hyderabad.
4. One copy to Mr.J.Sudheer, Advocate, CAT Hyd.
5. One copy to Mr. K.Bhaskar Rao, Addl.CGSC CAT.Hyd. (6) One spare copy.

pvm

I Court.

TYPED BY:

CHECKED BY:

COMPARED BY:

APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE.
VICE-CHAIRMAN

And

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

The Hon'ble Mr. B.S. Jai Parameshwari

DATED:- 3/10/97.

ORDER/JUDGMENT.

M.A.,/RA.,/C-A.No.,

in

O.A.No. 1305/97.

T.A.No.

(W.P.)

Admitted and Interim directions issued.

Allowed

Disposed of with Directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected

No order as to costs.

केन्द्रीय प्रशासनिक बंधिकरण
Central Administrative Tribunal

DESPATCH

8 OCT 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH

100

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.ANO.1305/97

Between:

Dt. of Order: 16.10.97.

N.Ramakrishna

...Applicant.

And

The Secretary, Min. of Communication, Dept. of
Telecommunications, Sanchar Bhavan,
Ashoka Road, New Delhi.

The Dy. Director, General Vigilence, Dept. of
Telecommunication, West Block No.1, Wing No.2,
Ground Floor, R.K.Puram, Sector.I, New Delhi.

The Chief General Manager, Telecommunications,
Andhra Pradesh Circle, Doorsanchar Bhavan,
Nampally, Hyderabad.

...Respondents.

Counsel for the Applicant : Mr.J.Sudhir

Counsel for the Respondents : Mr.K.Bhaskara Rao

CORAM:

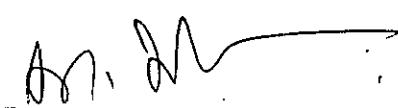
THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

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

THE TRIBUNAL MADE THE FOLLOWING ORDER:

Heard Sri J.Sudhir for the applicant and Sri K.Bhaskara Rao
for the respondents.

2. Admit. 8 weeks for filing reply. Interim order already
passed stands good. List on 17.12.97.


DEPUTY REGISTRAR (J)

..2..

Copy to:

1. The Secretary, Min. of Communications,
Dept. of Telecommunications, Sanchar Bhavan,
Ashoka Road, New Delhi.
2. The Deputy Director, General Vigilence,
Dept. of Telecommunications, West Block No.1,
Wing.2, Ground Floor, R.K.Puram,
Sector-I, New Delhi.
3. The Chief General Manager, Telecommunications,
Andhra Pradesh Circle, Doosanchar Bhavan,
Nampally, Hyderabad.
4. One copy to Mr.J.Sudhir, Advocate, CAT, Hyderabad.
5. One copy to Mr.K.Bhaskara Rao, Addl.CGSC, CAT, Hyderabad.
6. One duplicate copy.

YLR

3/0
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

Dated: 16/10/97

ORDER/JUDGMENT

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

in
D.A.NO. 1305/97

Admitted and Interim Directions
Issued.

Allowed List on 17/12/97

Disposed of with Directions

Dismissed

Dismissed as withdrawn

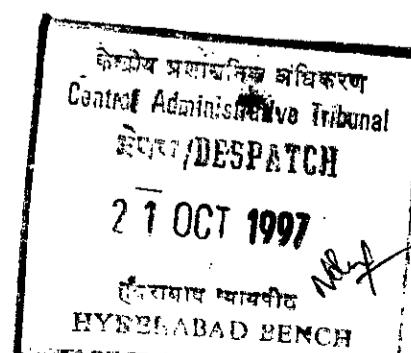
Dismissed for Default

Ordered/Rejected

No order as to costs.

YLR

II Court



M.A.NO. 1

Date of Order: 12-11-97.

Between:

N.Ramakrishna.

and

.. Applicant.

1. Govt.of India, rep. by its Secretary, Ministry of Communications, Dept.of Telecommunication, Sanchar Bhavan, Ashoka Road, New Delhi-1.
2. The Deputy Director General (Vigilence) Dept.of Telecommunications, West Block-I Wing No.2, Ground Floor, R.K.Puram, Sector-I, New Delhi.
3. The Chief General Manager, Telecom, Andhra Pradesh Circle, Door Sanchar Bhavan, Nampally Road, Hyderabad.

.. Respondents.

For the Applicant: Mr. J.Sudheer, Advocate.

For the Respondents: Mr. K.Bhaskar Rao, Addl.CGSC.

COURT:

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

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

The Tribunal made the following Order:-

It is submitted by the learned counsel for the applicant that he has preferred a representation to the 1st respondent urging certain concessions and reliefs. This Tribunal has no objection if the same is disposed of on merits.

List this M.A. along with the O.A.

Deputy Registrar.

To

1. The Secretary, Govt.of India, Ministry of Communications, Dept.of Telecommunication, Sanchar Bhavan, Ashoka Road, New Delhi-1.
2. The Deputy Director General (Vigilence) Dept.of Telecommunication, West Block-I, Wing No.2, Ground Floor, R.K.Puram, Sector-I, New Delhi.
3. The Chief General Manager, Telecom, A.P.Circle, Door Sanchar Bhavan, Nampally Road, Hyderabad.
4. One copy to Mr.J.Sudheer, Advocate, CAT.Hyd.
5. One copy to Mr.K.Bhaskar Rao, Addl.CGSC. CAT.Hyd.
6. One spare copy.

pvm

I Court.

TYPED BY:

CHECKED BY:

COMPARED BY:

APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE.
VICE-CHAIRMAN

And

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

The Hon'ble Mr. B.S.Jai Parameshwar : M(G)

DATED:- 12/11/97

ORDER/JUDGMENT.

M.A./RA./C.A. No.. 1028/97

in

O.A. No. 1305/97.

T.A. No.

(W.P.)

Admitted and Interim directions issued.

Allowed List this p.m.A along with OA

Disposed of with Directions.

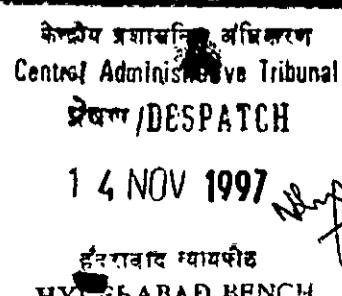
Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered Rejected

No order as to costs.



1

105

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1305 of 1997

Between:

N.Ramakrishna.

...Applicant

And

**Govt.of India,rep. by its Secretary,
Ministry of Communications, Dept.of
Telecommunication, Sanchar Bhavan,
Ashoka Road, New Delhi-1 & 2 Others**

...Respondents

REPLY AFFIDAVIT ON BEHALF OF THE RESPONDENTS

I, **G.V.R.Setty**, S/o G.Govinda Setty aged 50 years R/o. Hyderabad solemnly affirm and state on oath as follows.

1. I am working as **Assistant General Manager(Legal)** in the office of the Chief General Manager Telecom., A.P.Circle, Hyderabad. I am well acquainted with the facts of the case. I am filing this affidavit on behalf of the respondents and I am authorised to do so. All the material averments save those that are expressly admitted herein are denied and the applicant is put to strict proof of the same.
2. It is submitted that the OA is filed seeking a relief of setting aside the Disciplinary Authority's order of punishment contained in No.8-19/94-Vig-II, dated 07-08-1997 directing the respondents to declare the probation of the applicant in the post of Asst.Divisional Engineer Telecom w.e.f.18-02-1995 and to promote him to the post of Divisional Engineer Telecom w.e.f.23-08-96 with all consequential benefits and seeking more or less similar interim relief.
3. It is submitted that the applicant worked as Junior Telecom Officer from 25-02-1991 to 12-02-1993 at Sangareddy. While working as JTO, the applicant got selected to the Indian Telecom Services(Gr'A' services) through UPSC in 1991, and was allotted to ITS. The


Attestor

Law Officer
O/o C.G.M. Telecom,
Hyderabad-A.P.


DepONENT
Asst. General Manager (L.G.),
O/o C.G.M. Telecom
A.P. Hyderabad.

applicant submitted his representation dated 20-1-93 for technical resignation from the post of JTO on 20-1-93. The General Manager, Hyderabad Area while forwarding the application has indicated about the proposed disciplinary action contemplated against him (Annexure-4 to OA). Since the Vigilance Wing of the office of the Chief General Manager was not having details of the contemplated disciplinary proceedings against the applicant at that stage vigilance clearance has been given to applicant on 11-2-93 and accordingly the technical resignation has been accepted by the respondents on 12-2-93 so as to enable the applicant to report for training centre at Hyderabad. During the period applicant was undergoing training, the Disciplinary Authority has come to a conclusion that there exists a prime-facie against the applicant and the disciplinary proceedings have to be initiated against the applicant. Since the Disciplinary Authority contemplated disciplinary proceedings against the applicant, it was decided to extend his probation till finalisation of the Disciplinary Proceedings vide CGM, ALTTC, Ghaziabad vide his Ir.no.91 A 37 (PT)-ALTP, dated 7.3.95. The applicant's probation was extended for three years in the first instance and then by one year. The applicant was served upon a charge-sheet vide DOT Ir.no.8-19/94-vig-II, dt. 4.8.94 under Rule-14 of CCS(CCA)Rules, 1965. Meanwhile, the applicant filed OA No.421/95 before this Hon'ble Tribunal praying for setting aside the order dated 7.3.95 extending the probation period and the same was disposed of as withdrawn by its order dated 22.7.96. The applicant filed another OA No.1111/96 before this Hon'ble Tribunal challenging the charge-sheet dated 4.8.94 and the same was disposed of on 27.2.97 as not pressed for and with a direction to pass final orders expeditiously preferably within a period of 4 weeks.

4. It is submitted that in view of the various stages involved in the disposal of disciplinary proceedings such as advise from Central Vigilance Commission, UPSC etc, the respondents filed MA Nos. 379/97, 523/97 and 709/97 seeking extension of time. The Hon'ble Tribunal granted 45 days time for passing final orders by its order dated 6.6.97 and refused to grant further extension by its orders dated 25.7.97 in MA No.709/97 in MA No.523/97 in OA No.1111/96. Meanwhile the applicant filed another OA No.576/96

Attestor
Attestor 14/2/98

Law Officer
C/o C.G.M. Telecom,
Hyderabad-A.P.

Deponent
Deponent 15/1

Asst. General Manager (Legal)
O/o C.G.M. Telecom
A.P. Hyderabad

seeking promotion as Divisional Engineer w.e.f. the date on which his immediate batchmates were promoted i.e. from July 1996 with all consequential benefits, which was dismissed by the Hon'ble Tribunal by its order dated 6.5.97.

5. It is submitted that the Inquiry Officer submitted his report on 29.1.97. Advice from CVC was received on 7.3.97. Advice from UPSC was received on 5.8.97 and final orders in the disciplinary proceedings were passed on 7.8.97. Meanwhile the applicant filed CP.No.58/97 in OA No.1111/96 which is pending before this Hon'ble Tribunal and a detailed counter was filed explaining the delay of 18 days in finally complying with the orders of the Hon'ble Tribunal. It is submitted that the disciplinary case has resulted in a penalty of stoppage of next increment for a period of one year without cumulative effect.

6. It is submitted that against the order of the Disciplinary Authority dated 7.8.97 the present OA is filed. This Hon'ble Tribunal granted stay on the operation of the impugned order dated 7.8.97 until further orders by its order dated 3.10.97.

7. It is submitted that on receipt of the impugned order the applicant filed a memorial dated 18.9.97 to the President of India. The applicant approached this Hon'ble Tribunal even before the disposal of the said memorial by the President of India.

8. The averments in para 6(a) to (d) are denied emphatically. It is submitted that the impugned order was not issued by Respondent No.2 but "by an order and in the name of the President of India." It is also submitted that the proceedings were held strictly in accordance with provisions contained in Rule-14 of CCS(CCA) Rules, 1965 and as such there is no violation of the principles of natural justice. As regards the allegations made in para 6(c) it is respectfully submitted that all the allegations are denied as false and baseless to the extent indicated in the submissions of the respondents in the OA No.1116/96 earlier filed by the applicant.

Attestor

Neel
16/9/98
Law Officer
O/o C.G.M. Telecom,
Hyderabad-A.P.

Deponent

16/9/98
Asst. General Manager (Legal)
O/o C.G.M. Telecom
A.P. Hyderabad.

9. It is submitted that there is no intentional or undue or wanton delay in the finalisation of the proceedings against the applicant. The respondents have already filed necessary counter affidavit in CP.No.58/97 filed by the applicant in OA No.1111/96.

However, the reasons for 18 days delay in finally implementing the order of the Hon'ble Tribunal are already stated Supra.

10. The averments of the applicant in para 6(d) are denied as false, baseless, mischievous and misleading. It is submitted that the "resignation" of the applicant from the post of Junior Telecom Officer was only a "technical resignation", and it is in no way terminate the master-servent relationship between the applicant and the Government as Asst.Dvisional Engineer(Probationer) even after his technical resignation. It is submitted that in accordance with the orders contained in G.I.Department of Per & Trg., OM No.28034/25/87-Estt(A) dated the 11th February 1988 (Annexure-1); Rule.26(2) CCS(Pension) Rules(Annexure-2); GOI instructions -1 and 3 below Rule 26, CCS(Pension Rules, Swamy's Pension Compilation (Annexure-3); GOI Instructions (4) below FR-22 (Swamy's Compilation of FR & SR (Annexure-4); Rule 9(2) of CCS(Leave)Rules (Annexure-5); the resignation is a 'technical formality'. In cases where Government servants apply for posts in the same or other departments through proper channel and on selection, they were asked to resign to the previous posts for administrative reasons, the benefit of past service may, if otherwise admissible under rules, be given for purposes of fixation of pay retiral benefits and leave in the new post treating the resignation as a Technical formality. It is to further submit that a resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment under the Central Government where service qualifies and thus the master servant relationship has not been terminated in the present case.

11. In reply to the contentions of the applicant that the Vigilance clearance was granted at the time of his technical resignation, it is submitted that the competent authority had not come to the prima-facie conclusion that the applicant was responsible for such misconduct

Deepl
Attestor 16/1/98

Law Officer
O/o C.G.M. Telecom,
Hyderabad-A.P.

Deepl
Deponent

Asst. General Manager (Legal)
O/o C.G.M. Telecom
A.P. Hyderabad,

warranting institution of formal disciplinary proceedings against him. It was only when the applicant was undergoing training that the competent authority, the President of India in consultation with Central Vigilance Commission has come to conclusion that there exists a prima-facie case against him. It is submitted that as per Para 52 of P&T Manual Vol. III (Annexure-6) the time at which an act was committed or the capacity in which it was committed is not material for deciding whether or not the Central Civil Services(classification, Control and Appeal) Rules, 1965 are applicable to an employee. It would, therefore, be quite in order to initiate disciplinary proceedings against a Government Servant for some misconduct which is alleged to have been committed at time when he was not a Government Servant". Similarly the Government of India, Ministry of Home Affairs, OM.No.39/1/67-Ests(A) dated 21.2.1967 (Annexure-7) laysdown as follows.

"It is clarified that the provision of Rule 11 of the CCS (CCA) Rules, 1965 which envisages the imposition of penalties on Government Servants for 'good and sufficient reason' is adequate authority for taking action against a Government Servant in respect of misconduct committed before his employment if the misconduct committed before his employment was of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in service. When such action is taken, the charge should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service".

in Charge
Muns.

12. In reply to the averments of the applicant in para 6(e) it is to submit that, the President of India as the Disciplinary Authority has considered the I.O's report, representation of the applicant on I.O's report, the CVC report and statutory advice rendered by the UPSC as laid down in Art.320 of the Constitution of India and then only passed a speaking order and as such the averments of the applicant that the impugned order imposing penalty was issued by the competent authority without properly considering the case of the applicant are denied as misleading.

Attestor 16/4/98

Law Officer
C/o C.G.M. Telecom,
Hyderabad-A.P.

Deponent 15/4/98

Asst. General Manager (Legal)
O/o C.G.M. Telecom
A.P. Hyderabad

13. In reply to para 6(f) & (g) it is submitted that the charge of negligence is implicit in the charge of manipulating meter readings. It is to submit that the applicant himself accepted that it was his duty to check the correctness of meterreading and their recording in the meter statements during the course of general examination of the accused by the I.O. The fact is that he has reported incorrect meter readings for the purpose of billing. Whether it is negligence on the part of the applicant or concerted effort with a motive to manipulate the readings can only be the outcome of the inquiry. It is submitted that sufficient and conclusive evidence was adduced during the inquiry to prove the charge to the extent that it was the duty of the applicant to record the correct meter readings and that he failed to ensure the same and has to ensure that any over-writings were duly authenticated. It is submitted that such kind of finding cannot be construed as beyond the charge.

In reply to para 6(J) & (m) of the OA, it is to state that after the Disciplinary Authority had come to the conclusion that prima-facie case against the applicant, all available reasonable opportunities were given to the applicant to defend his case. Basing upon the I.O's report, the Disciplinary Authority has awarded a penalty of withholding of one increment for a period of one year without cumulative effect. The Disciplinary Authority while passing the final order has, discussed the findings of the I.O and the statutory advise of UPSC. Hence, it is submitted that the decision of the Disciplinary Authority is legal, constitutional and as per the provisions of Rule 14 of CCS (CCA) Conduct Rules.

15. In reply to para 7 of the OA, it is submitted that the applicant deliberately suppressed the fact that he has submited a memoir to the President on 18.9.97.

In view of what is stated in the previous paras, it is vehemently denied that the applicant has adduced any valid ground for the relief prayed for by him. Further, it is to submit that this Hon'ble Tribunal has no jurisdiction to sit on judgement over the decision of

Attestor

Mub
16/2/98

Law Officer
O/o C.G.M. Telecom
Hyderabad-A.P.

Deponent

Deponent
Asst. General Manager (Legal)
O/o C.G.M. Telecom
A.P. Hyderabad.

the competent disciplinary authority in view of the categorical judgements of the Hon'ble Supreme Court. In State of Andhra Pradesh Vs Sreerama Rao, AIR 1963 SC 1723, the Hon'ble Supreme Court laid down that:

“ There is no warrant for the view that in considering whether a public officer is guilty of the misconduct charged against him, the rule followed in the criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the court, must be applied and if that rule be not applied, the High Court in a petition under Article 226 of the Constitution is competent to declare that the order of the authority holding a departmental inquiry invalid. The High Court is not constituted in a proceeding under Article 226 of the Constitution as a court of appeal over the decision of the authorities holding a departmental inquiry against a public servant; it is concerned to determine whether inquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and if the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the inquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge. It is not the function of the High Court in a petition under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere, when the departmental authority have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of inquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at the conclusion or on

Attestor
16/7/98

Law Officer
C/o C.G.M. Telecom,
Hyderabad-A.P.

Jec
Deponent

Asst. General Manager (Legal)
O/o C.G.M. Telecom
A.P. Hyderabad.

112

similar grounds. But the departmental authorities are, if the inquiry is otherwise properly held, the sole judges of the fact and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding under Article 226 of the Constitution".

The above view has since been reiterated by the Hon'ble Supreme Court in a large number of cases including State of Andhra Pradesh Vs Chitra Venkata Rao, 1975 SCC(L&S) 349, S.Pratap Singh Vs State of Punjab, AIR 1964 SC 72 and Nand Kishore Prasad Vs State of Bihar, AIR 1977 SC 1277.

In state of Haryana and another Vs Rattan Singh, 1977 SCC(L&S) 298, the Hon'ble Supreme Court laid down that:

" The simple point is, was there some evidence or was there no evidence, not in the sense of technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on record".

The above stand is reiterated in Dayashankar Singh Vs Union of India 1992(6) S.L.R.297 (Bom).

In view of what is stated in the above paragraphs, it is submitted that applicant has failed to make out any case either on law or on facts and it is prayed that the Hon'ble Tribunal may be pleased to dismiss the OA and (or) pass such other order (or) orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

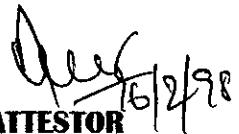


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Solemnly sworn and signed
before me on this 16th day
of Februray, 1998 at Hyderabad.

Asst. General Manager (Legal)
O/o C.G.M. Telecom
A.P. Hyderabad,


ATTESTOR
Law Officer
C/o C.G.M. Telecom,
Hyderabad-A.P.

service may, if otherwise admissible under rules, be given for purposes of fixation of pay in the new post treating the resignation as a 'technical formality'.

[G.I., Dept. of Per. & Trg., O.M. No. 28034/25/87-Estt. (A), dated the 11th February, 1988.]

In all cases prior vigilance clearance should be obtained before taking decision on the request for resignation.—In recent times, cases have come to notice where resignation of officials not falling in the two categories, viz., (i) requests from officials under suspension for resignation, (ii) requests from officials against whom inquiry/investigation is pending (whether he had been placed under suspension or not) for resignation, have been accepted without insisting on vigilance clearance and subsequently it comes to light that the said official while in service had been involved in serious irregularities. In view of this, it has now been decided that in all cases of acceptance of resignation, the competent authority, shall insist, as a mandatory measure, on prior vigilance clearance, before taking decision on the request for resignation. When an authority refers a case for vigilance clearance, the authority competent to accord vigilance clearance should ensure expeditious consideration of the request.

[G.I., Dept. of Per. & Trg., O.M. No. 28034/4/94-Estt. (A), dated the 31st May, 1994.]

Forfeiture of service on resignation

Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service, i.e., the Government servant will not be entitled for any pension, gratuity or terminal benefits. However, he may be granted, *suo motu*, by the authority competent to grant leave, cash equivalent in respect of earned leave at his credit on the date of cessation of service, to the extent of half of such leave at his credit, subject to a maximum of 120 days.

[Rule 26 (1), CCS (Pension) Rules and Rule 39 (6) (ii), CCS (Leave) Rules.]

When resignation will not entail forfeiture of past service

A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment under the Central Government where service qualifies. The leave at his credit on the date of resignation will not also lapse; but the lumpsum cash equivalent of leave salary in respect of leave at his credit will not be paid to him. The benefit of past service will also be available for the purpose of fixation of his pay in the new post subject to the provisions of FR 22.

The order accepting the resignation should clearly indicate that the employee is resigning to join another appointment with proper permission and that the benefits under Rule 26 (2) of CCS (Pension) Rules, 1972, will be admissible to him. The contents of the above order should also

be noted in the service books of the individuals concerned under proper attestation. The issue of any separate sanction is not necessary.

[Rule 26 (2), CCS (Pension) Rules; Rule 9 (2), CCS (Leave) Rules; and GIO (4) below FR 22, *Swamy's Compilation of FR & SR*; GID (3) below Rule 26, CCS (Pension) Rules, *Swamy's Pension Compilation*.]

Distinction between a simple letter of resignation and notice under Rule 5, CCS (TS) Rules

(See Chapter 38.)

Check-list of points for consideration of cases of resignation

For the purpose of expeditious disposal of cases of resignation from Government service including notices given by temporary Government servants under Rule 5 of CCS (TS) Rules, the following check-list of points with reference to which such cases may be examined has been prescribed by the Government.

CHECK-LIST OF POINTS FOR CONSIDERATION

Part I—General Information

1. Name and present designation
2. Post held including name of establishment:
 - (i) Substantive
 - (ii) Officiating
3. Any post, other than the present appointment, held during 6 months prior to the month in which resignation is tendered
4. Permanent residential address

Part II—Points to be checked up before accepting resignation

5. The date on which the Government servant wants to be relieved from service ...
6. (i) Whether any inquiry or investigation or disciplinary case is pending or contemplated
- (ii) Whether under suspension
7. Whether the Government servant concerned has executed any bond for serving the Government for a specified number of years on account of his being given specialized training, fellowship/scholarship for studies or deputed for training whether in India or abroad, and if so, the bond period is over

investigation is pending (whether he had been placed under suspension or not) provide that where such an official submits his resignation, such resignation should not normally be accepted. Where, however, acceptance is considered necessary, in the public interest, the competent authority shall examine the case with reference to the fulfilment of conditions mentioned at para. (ii) above.]

In those cases where acceptance of resignation is considered necessary in the public interest, the resignation may be accepted with the prior approval of the Head of the Department in respect of Groups 'C' and 'D' posts and that of the Minister-in-charge in respect of holders of Groups 'A' and 'B' posts. [In so far as officers of Groups 'A', 'B', 'C' and 'D' cadres of the Indian Audit and Accounts Department are concerned, the resignation may be accepted by the Heads of Departments as designated by the Comptroller and Auditor-General of India.] Concurrence of the Central Vigilance Commission should be obtained before submission of the case to the Minister-in-charge/Comptroller and Auditor-General, if the Central Vigilance Commission had advised initiation of departmental action against the Government servant concerned or such action has been initiated on the advice of the Central Vigilance Commission.

Date when a resignation becomes effective and acceptance/refusal of withdrawal of resignation

A resignation becomes effective when it is accepted and the Government servant is relieved of his duties. If a Government servant who had submitted a resignation, sends an intimation in writing to the appointing authority withdrawing his earlier letter of resignation before its acceptance by the appointing authority, the resignation will be deemed to have been automatically withdrawn and there is no question of accepting the resignation. In case, however, the resignation had been accepted by the appointing authority and the Government servant is to be relieved from a future date, if any request for withdrawing the resignation is made by the Government servant before he is actually relieved of his duties, the normal principle should be to allow the request of the Government servant to withdraw the resignation. If, however, the request for withdrawal is to be refused, the grounds for the rejection of the request should be duly recorded by the appointing authority and suitably intimated to the Government servant concerned.

Rules governing temporary Government servants

Since a temporary Government servant can sever his connection from Government service by giving a notice of termination of service under Rule 5 (1) of the Central Civil Services (TS) Rules, 1965, the instructions

1. G.I., Dept. of Per. & Trg., O.M. No. 28034/4/94-Estt. (A), dated the 31st May, 1994.

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contained in this Office Memorandum relating to acceptance of resignation will not be applicable in cases where a notice of termination of service has been given by a temporary Government servant. If, however, a temporary Government servant submits a letter of resignation in which he does not refer to Rule 5 (1) of the CCS (TS) Rules, 1965, or does not even mention that it may be treated as a notice of termination of service, he can relinquish the charge of the post held by him only after the resignation is duly accepted by the appointing authority and he is relieved of his duties and not after the expiry of the notice period laid down in the Temporary Service Rules.

Rule regulating cases of withdrawal of resignation after it becomes effective

The procedure for withdrawal of resignation after it has become effective and the Government servant had relinquished the charge of his earlier post, are governed by the statutory provisions in sub-rules (4) to (6) of Rule 26 of the CCS (Pension) Rules, 1972, which corresponds to Article 418 (b) of the Civil Service Regulations.

Since the CCS (Pension) Rules, 1972, are applicable only to holders of permanent posts, the above provisions would apply only in the case of a permanent Government servant who had resigned his post. The cases of withdrawal of resignation of permanent Government servants which involve relaxation of any of the provisions of the above rules will need the concurrence of the Ministry of Personnel, Public Grievances and Pensions, as per Rule 88 of the CCS (Pension) Rules, 1972.

Withdrawal of resignation by quasi-permanent Government servants

Cases of quasi-permanent Government servants requesting withdrawal of resignation submitted by them would be considered by the Department of Personnel and Training on merits.

Release of Government servants for appointment in Central Public Enterprises

A Government servant who has been selected for a post in a Central Public Enterprise/Central Autonomous Body may be released only after obtaining and accepting his resignation from the Government service. Resignation from Government service with a view to secure employment in a Central Public Enterprise with proper permission will not entail forfeiture of the service for the purpose of retirement/terminal benefits. In such cases, the Government servant concerned shall be deemed to have retired from service from the date of such resignation and shall be eligible to receive all retirement/terminal benefits as admissible under the relevant rules applicable to him in his parent organization.

When resignation a 'technical formality'

In cases where Government servants apply for posts in the same or other departments through proper channel and on selection, they are asked to resign the previous posts for administrative reasons, the benefit of past

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2. These orders will become effective from 3rd December, 1985. Past cases already decided need not be reopened.

[G.I., Dept. of Per. & Trg., O.M. No. 11012/15/85-Estt. (A), dated the 3rd December, 1985.]

[For regularization of periods of suspension see Fundamental Rules 54, 54-A, 54-B and Administrative Instructions thereunder.]

24. Forfeiture of service on dismissal or removal

Dismissal or removal of a Government servant from a service or post entails forfeiture of his past service.

GOVERNMENT OF INDIA'S DECISION

Termination of service under Temporary Services rules or under the term of appointment for failure to pass prescribed examination, does not entail forfeiture of past service.—The Government of India in consultation with the Ministry of Home Affairs, have held that the termination of service either under CCS (TS) Rules, 1965 or under the terms of appointment for failure to pass a prescribed examination does not amount to dismissal or removal within the meaning of Article 418 (a) CSR (Rule 24). A Government servant whose services are terminated for failure to pass prescribed examination and who is appointed to another post without any break, will count his previous service towards leave and pension.

[C.A.G.'s Letter No. 2092-NGEI/73-67, dated the 23rd September, 1967.]

25. Counting of past service on reinstatement

(1) A Government servant who is dismissed, removed or compulsorily retired from service, but is reinstated on appeal or review, is entitled to count his past service as qualifying service.

(2) The period of interruption in service between the date of dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement, and the period of suspension, if any, shall not count as qualifying service unless regularized as duty or leave by a specific order of the authority which passed the order of reinstatement.

[See Fundamental Rules 54 and 54-A.]

26. Forfeiture of service on resignation

(1) Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service.

(2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment,

1. Substituted by G.I., M.F., Notification No. F. 6 (12)-E. V (A)/72, dated the 7th April, 1977.

whether temporary or permanent, under the Government where service qualifies.

(3) Interruption in service in a case falling under sub-rule (2), due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to him.

(4) The appointing authority may permit a person to withdraw his resignation in the public interest on the following conditions, namely:—

- (i) that the resignation was tendered by the Government servant for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation;
- (ii) that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper;
- (iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days;
- (iv) that the post, which was vacated by the Government servant on the acceptance of his resignation or any other comparable post, is available.

(5) Request for withdrawal of a resignation shall not be accepted by the appointing authority where a Government servant resigns his service or post with a view to taking up an appointment in or under a private commercial company or in or under a corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government.

(6) When an order is passed by the appointing authority allowing a person to withdraw his resignation and to resume duty, the order shall be deemed to include the condonation of interruption in service but the period of interruption shall not count as qualifying service.

[(7) A resignation submitted for the purpose of Rule 37 shall not entail forfeiture of past service under the Government.]

1. Inserted by G.I., Dept. of P. & P.W., Notification No. 4/15/88-P. & P.W. (D), dated the 9th October, 1991, published as S.O. No. 2740 in the Gazette of India, dated the 2nd November, 1991.

GOVERNMENT OF INDIA'S DECISIONS

(1) **When resignation a technical formality and when it subsists.**—A Government servant intending to apply for a post or posts outside his parent office/department under the Government of India should have his application forwarded through the competent authority under whom he was serving at the time of applying for the post. Such an authority should either forward the application or withhold it according as the exigencies of public service may indicate but it should not forward the application conditionally, for example, that in the event of the applicant coming out successful, he will be required to resign his post before taking up the new one. Once the application has been forwarded unconditionally and the person concerned is offered the post applied for, he should be relieved of his duties to join the new post as a matter of course and the question of his resigning the post held by him in such circumstances should not arise. Accordingly the amended article is intended to cover the cases where even though the applications were forwarded by the competent authority, the applicant had been asked for one reason or the other to resign his post before taking up the new one. The above position holds good whether the Government servant held the post in permanent or temporary capacity, before resigning the post.

Situations may arise where the application of a Government servant was not forwarded and the Government servant resigned his appointment of his own volition with a view to his taking up the new post or where it was not possible to forward his application in the public interest but the Government servant had volunteered to resign his post or where the conditions of service in an office demand as a matter of policy that the Government servant should resign his post in the event of his taking up another post outside. In all such cases, it has been held that resignation of public service will subsist and entail forfeiture of past service.

It has been decided that in cases where Government servants apply for posts in the same or other departments through proper channel and on selection, they are asked to resign the previous posts for administrative reasons, the benefit of past service may, if otherwise admissible under rules, be given for purposes of fixation of pay in the new post treating the resignation as a 'technical formality'. The pay in such cases may be fixed under FR 27.

[G.I., M.F., Letter No. 35 (15)-E. V/60, dated the 21st September, 1960, to the Secretary to the Government of Orissa, Finance Department, Bhubaneshwar and G.I., M.F., O.M. No. 3379-E. III (b)/65, dated the 17th June, 1965.]

According to M.H.A., O.M. No. 60/37/63-Ests. (A), dated the 14th July, 1967 (*not printed*), permanent/quasi-permanent Central Government servant appointed under another Central Government department has to resign from his parent department unless he reverts to that Department within a period of two years (three years in exceptional cases) of his appointment in the other department. The Government of India have been considering whether this resignation should entail forfeiture of past service

for purpose of leave and pension of the Government servant concerned. It has been decided that such a resignation should be deemed to be resignation within the meaning of Article 418 (b) of CSRs [Rule 26 (2)] for pension. As a consequence of this decision, continuity of service benefit should be allowed in the matter of leave also.

[Extract from M.H.A., O.M. No. 8/5/68-Ests. (C), dated the 19th December, 1969.]

(2) **Procedure to be followed in accepting resignation from service.**—Instructions issued from time to time on resignation have now been consolidated for facility of reference and guidance of all the Ministries/Departments of the Government of India.

1. **Format of resignation.**—Resignation is an intimation in writing sent to the competent authority by the incumbent of a post, of his intention or proposal to resign the office/post either immediately or from a future specified date. A resignation has to be clear and unconditional.

2. **Circumstances under which resignation should be accepted.**—It is not in the interest of Government to retain an unwilling Government servant in service. The general rule, therefore, is that a resignation of a Government servant from service should be accepted, except in the circumstances indicated below—

(i) Where the Government servant concerned is engaged on work of importance and it would take time to make alternative arrangements for filling the post, the resignation should not be accepted straightforward but only when alternative arrangements for filling the post have been made.

(ii) Where a Government servant, who is under suspension, submits a resignation, the competent authority should examine, with reference to the merit of the disciplinary case pending against the Government servant, whether it would be in the public interest to accept the resignation. Normally, as Government servants are placed under suspension only in cases of grave delinquency, it would not be correct to accept a resignation from a Government servant under suspension. Exceptions to this rule would be where the alleged offences do not involve moral turpitude or where the quantum of evidence against the accused Government servant is not strong enough to justify the assumption that if the departmental proceedings were continued, he would be removed or dismissed from service, or where the departmental proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation.

In those cases where acceptance of resignation is considered necessary in the public interest, the resignation may be accepted with the prior approval of the Head of the Department in respect of Groups 'C' and 'D' posts and that of the

under Rule 26 (2) will be admissible to him. The contents of the above order should also be noted in the service books of the individuals concerned under proper attestation. The issue of any separate sanction has not been considered necessary.

An entry may be made in the service book of the Government servant concerned under proper attestation as laid down above in past cases also where it has been decided to allow the benefits of Rule 26 (2).

[G.I., M.F., O.M. No. F. 3 (6)-E. V (A)/71, dated the 4th December, 1971 and dated the 20th May, 1972.]

27. Effect of interruption in service

(1) An interruption in the service of a Government servant entails forfeiture of his past service, except in the following cases:—

- (a) authorized leave of absence;
- (b) unauthorized absence in continuation of authorized leave of absence so long as the post of absentee is not filled substantively;
- (c) suspension, where it is immediately followed by reinstatement, whether in the same or a different post, or where the Government servant dies or is permitted to retire or is retired on attaining the age of compulsory retirement while under suspension;
- (d) transfer to non-qualifying service in an establishment under the control of the Government if such transfer has been ordered by a competent authority in the public interest;
- (e) joining time while on transfer from one post to another.

(2) Notwithstanding anything contained in sub-rule (1), the [appointing authority] may, by order, commute retrospectively the periods of absence without leave as extraordinary leave.

GOVERNMENT OF INDIA'S DECISION

(1) Treatment of wilful absence from duty not regularized.—Wilful absence from duty, even though not covered by grant of leave does not entail loss of lien. The period of absence not covered by grant of leave shall have to be treated as "dies non" for all purposes, viz., increment, leave and pension. Such absence without leave where it stands singly and not in continuation of any authorized leave of absence will constitute an interruption of service for the purpose of pension and unless the pension sanctioning authority exercises its powers under Article 421, Civil Service Regulations [now Rule 27 of the CCS (Pension) Rules] to treat the period as leave without allowance, the entire past service will stand forfeited.

[Comptroller and Auditor-General's U.O. No. 1947-A/438-58, dated the 12th September, 1958, in Government of India's Ministry of Finance, File No. 11-(52), E. V/58.]

1. Substituted by G.I., D.P. & A.R., Notification No. 6 (1), Pen. (A)/79, dated the 19th May, 1980.

28. Condonation of interruption in service

- (a) In the absence of a specific indication to the contrary in the service book, an interruption between two spells of civil service rendered by a Government servant under Government including civil service rendered and paid out of Defence Services Estimates or Railway Estimates shall be treated as automatically condoned and the pre-interruption service treated as qualifying service.
- (b) Nothing in Clause (a) shall apply to interruption caused by resignation, dismissal or removal from service or for participation in a strike.
- (c) The period of interruption referred to in Clause (a) shall not count as qualifying service.

GOVERNMENT OF INDIA'S DECISIONS

(1) Condonation of unauthorized absence for purpose of pension.—Instructions have been issued from time to time that unauthorized absence in pursuance of concerted action by a group of employees acting in combination should be treated as unauthorized absence resulting in break in service. Fundamental Rule 17-A has also been introduced which enumerates the disabilities that would occur as a result of break in service. It has been noticed that in a few cases of unauthorized absence as a result of concerted action a few appointing authorities did not condone the break under Rule 27 of the Pension Rules for counting the previous service which adversely affected the pension of the officials. In this connection, it needs to be pointed out that the principles to be adopted for condonation of break in service for purposes of pension and that for purposes of other disabilities enumerated in FR 17-A are different. The fact that break in service has not been condoned for purposes of Leave Travel Concession, quasi-permanency and eligibility to appear at departmental examinations should and need not influence the appointing authority adversely in deciding the question of condonation of break for counting the past service of the official for purposes of pension. It is not the intention of Government to deny pensionary benefits to the employees in all cases of break of service. If necessary, the appointing authority may, in its discretion, not condone the break-in-service on account of unauthorized absence for purposes of pension only in exceptional and grave circumstances and not as a matter of course. The question of condonation of break-in-service for the purpose of Pension Rules may be considered *suo motu* without waiting for a representation from the affected officials and orders issued so that the retired employees are not put to financial hardship. It is requested that these instructions may be brought to the notice of all the appointing authorities for their information and guidance.

[D.G., P. & T.'s Letter No. 14/12/82-Vig. III, dated the 23rd September, 1982.]

1. Substituted by G.I., D.P. & A.R. Notification No. 6 (1), Pen. (A)/79, dated the 19th May, 1980.

Minister-in-charge in respect of holders of Groups 'A', and 'B' posts. In so far as Group 'B' officers serving in Indian Audit and Accounts Department are concerned, the resignation of such officers shall not be accepted except with the prior approval of the Comptroller and Auditor-General of India. Concurrence of the Central Vigilance Commission should be obtained before submission of the case to the Minister-in-charge/Comptroller and Auditor-General, if the Central Vigilance Commission had advised initiation of departmental action against the Government servant concerned or such action has been initiated on the advice of the Central Vigilance Commission.

3. A resignation becomes effective when it is accepted and the Government servant is relieved of his duties. If a Government servant who had submitted a resignation, sends an intimation in writing to the appointing authority withdrawing his earlier letter of resignation *before* its acceptance by the appointing authority, the resignation will be deemed to have been automatically withdrawn and there is no question of accepting the resignation. In case, however, the resignation had been accepted by the appointing authority and the Government servant is to be relieved from a future date, if any request for withdrawing the resignation is made by the Government servant before he is actually relieved of his duties, the normal principle should be to allow the request of the Government servant to withdraw the resignation. If, however, the request for withdrawal is to be refused, the grounds for the rejection of the request should be duly recorded by the appointing authority and suitably intimated to the Government servant concerned.

4. **Rules governing temporary Government servants.**—Since a temporary Government servant can sever his connection from Government service by giving a notice of termination of service under Rule 5 (1) of the Central Civil Services (TS) Rules, 1965, the instructions contained in this Office Memorandum relating to acceptance of resignation will not be applicable in cases where a notice of termination of service has been given by a temporary Government servant. If, however, a temporary Government servant submits a letter of resignation in which he does not refer to Rule 5 (1) of the CCS (TS) Rules, 1965, or does not even mention that it may be treated as a notice of termination of service, he can relinquish the charge of the post held by him only after the resignation is duly accepted by the appointing authority and he is relieved of his duties and not after the expiry of the notice period laid down in the Temporary Service Rules.

5. **Withdrawal of resignation—statutory rule regulating cases of withdrawal of resignation from Government service.**—The procedure for withdrawal of resignation after it has become effective and the Government servant had relinquished the charge of his earlier post, are governed by the statutory provisions in sub-rules (4) to (6) of Rule 26 of the CCS

(Pension) Rules, 1972, which corresponds to Article 418 (b) of the Civil Service Regulations.

6. Since the CCS (Pension) Rules, 1972, are applicable only to holders of permanent posts, the above provisions would apply only in the case of a permanent Government servant who had resigned his post. The cases of withdrawal of resignation of permanent Government servants which involve relaxation of any of the provisions of the above rules will need the concurrence of the Ministry of Personnel, Public Grievances and Pensions, as per Rule 88 of the CCS (Pension) Rules, 1972.

7. **Withdrawal of resignation by quasi-permanent Government servants.**—Cases of quasi-permanent Government servants requesting withdrawal of resignation submitted by them would be considered by the Department of Personnel and Training on merits.

8. **Release of Government servants for appointment in Central Public Enterprises.**—A Government servant who has been selected for a post in a Central Public Enterprise/Central Autonomous Body may be released only after obtaining and accepting his resignation from the Government service. Resignation from Government service with a view to secure employment in a Central Public Enterprise with proper permission will not entail forfeiture of the service for the purpose of retirement/terminal benefits. In such cases, the Government servant concerned shall be deemed to have retired from service from the date of such resignation and shall be eligible to receive all retirement/terminal benefits as admissible under the relevant rules applicable to him in his parent organization.

9. **When resignation is a 'technical formality'.**—In cases where Government servants apply for posts in the same or other departments through proper channel and on selection, they are asked to resign the previous posts for administrative reasons, the benefit of past service may, if otherwise admissible under rules, be given for purposes of fixation of pay in the new post treating the resignation as a 'technical formality'.

[G.I., Dept. of Per. & Trg., O.M. No. 28034/25/87-Estt. (A), dated the 11th February, 1988.]

(3) **Procedure to be followed when benefit of past service is allowed.**—Under Rule 26 (2) of CCS (Pension) Rules, 1972, resignation of an appointment to take up, with proper permission, another appointment, whether permanent or temporary, service in which counts in full or in part, is not resignation from public service. A question has been raised whether in such cases a separate sanction should be issued indicating that resignation has been accepted under the above provisions, in order to enable the Accounts Officer to regulate the consequential benefits in the matter of pay fixation, carry forward of leave, pension, etc. The matter has been considered in consultation with the Comptroller and Auditor-General and it has been decided that in cases of the above type the order accepting the resignation should clearly indicate that the employee is resigning to join another appointment with proper permission and that the benefits

other Departments before joining Government service and on that account the application was not routed through proper channel. The matter has been examined and it is now decided that the benefit of past service subject to the same conditions as incorporated in O.M., dated 17-6-1965 above, may be allowed in such cases also subject to the fulfilment of the following conditions:—

- (i) the Government servant at the time of joining should intimate the details of such application immediately on their joining;
- (ii) the Government servant at the time of resignation should specifically make a request, indicating the dates that he is resigning to take up another appointment under the Government/Government Organization for which he applied before joining the Government service and that his resignation may be treated as 'technical' resignation;
- (iii) the authority accepting the resignation should satisfy itself that had the employee been in service on the date of application for the post mentioned by the employee, his application would have been forwarded through proper channel.

[G.I., Dept. of Per. & Trg., O.M. No. 13/24/92-Estt. (Pay-I), dated the 22nd January, 1993.]

(5) Counting service in a scale higher than or identical with the parent cadre.—1. Doubts having been expressed as to whether the benefits of proviso (1) (iii) to F.R. 22 in respect of protection of pay and period of increment would be admissible to Government servants on their appointment directly or on transfer from a post carrying an identical time-scale of pay without fulfilment of the conditions prescribed in that proviso, it was clarified that in such cases the benefit mentioned above will be admissible without fulfilment of those conditions subject to paragraph 2 below.

2. This benefit will not be admissible to an individual who enters Government service for the first time from a post in a body, incorporated or not which is wholly or substantially owned or controlled by Government.

3. In cases of reversion from an ex-cadre to a cadre post on an identical time-scale of pay the benefit of proviso (1) (iii) to F.R. 22 shall be admissible subject to the fulfilment of all the conditions mentioned under the said proviso.

[G.I., M.F., O.M. No. F. 1 (25)-E. III (A)/64, dated the 23rd July, 1968.]

(6) F.R. 22 (I) (1) is applicable to *in situ* promotion also.—Even though promotion under the scheme (career advancements of Groups 'C' and 'D' employees) whereby Groups 'C' and 'D' employees get at least

For references to F.Rs. 22, 22-C, 30 and 31 see the corresponding provisions in the new F.R. 22.

one promotion in their service career, which is *in situ*, may not involve assumption of higher duties and responsibilities, the benefit of F.R. 22 (I) (a) (i) (old F.R. 22-C) will be allowed while fixing pay on promotion as a special dispensation. However, such benefit will not be allowed again at the time of functional promotion to the same scale.

[G.I., M.F., O.M. No. 10 (I)/E. III/88, dated the 13th September, 1991—Para. 2 (g).]

(7) Fixation of pay of CSS Officers on promotion from Under Secretary level to Deputy Secretary level.—(a) In partial modification of item (c) of Order (7) above, it has been decided that in case of promotion of Central Secretariat Service Officers from Under Secretary level to Deputy Secretary level, a minimum increase in basic pay of Rs. 250 p.m. may be granted.

These orders shall take effect from 1st January, 1986.

[G.I., Dept. of Per. & Trg., O.M. No. 5/3/89-Estt. (Pay-I), dated the 6th March, 1991.]

(b) It has been decided in consultation with the Ministry of Finance that the pay of CSS Officers promoted from the post of Under Secretary to Deputy Secretary with effect from 1st January, 1986, may be fixed by applying the following principle:—

The pay shall be fixed at the higher of the two amounts indicated below—

- (i) the minimum of the time-scale of the Selection Grade of CSS;
- (ii) the stage in the time-scale of the Selection Grade of CSS equal to the pay of the officer in Grade I of CSS *plus* Rs. 250, or, if there is no such stage, at the next higher stage.

It has also been decided that in the case of officers officiating in the Selection Grade of CSS, on an enhancement of their substantive pay in Grade I of CSS as a result of increment or otherwise, the officiating pay of the officers in the Selection Grade shall be refixed in accordance with the above fixation, if such a fixation is to their advantage.

[G.I., Dept. of Per. & Trg., O.M. No. 5/3/89-Estt. (Pay-I), dated the 6th August, 1991.]

(8) Fixation of pay of Government servants in ex-cadre post on their permanent absorption.—O.M. No. F. 1 (11)-E. III (B)/69, dated the 20th January, 1970 (*copy enclosed*), provides that pay of those deputationists who draw pay in their parent grade *plus* deputation (duty) allowance in the ex-cadre post may be fixed on their permanent absorption as if the person concerned had elected to draw pay in the scale of the post from the date of his initial appointment on deputation/foreign service, subject to the restrictions laid down in M.F., O.M. No. 10 (24)-E. III/60, dated 9-3-1964. This is further subject to the condition that the pay thus fixed may not be more than the pay *plus* deputation (duty) allowance drawn

For references to F.Rs. 22, 22-C, 30 and 31 see the corresponding provisions in the new F.R. 22.

holding a post in that Department carrying the scale of pay in which the benefit is to be allowed; and

(c) the service will count from the date his junior is promoted on a regular basis and the benefit will be limited to the period the Government servant would have held the post in his parent cadre had he not been appointed to the ex-cadre post.

(II) The President may specify posts outside the ordinary line of service the holder of which may, notwithstanding the provisions of this rule and subject to such conditions as the President may prescribe, be given officiating promotion in the cadre of the service which the authority competent to order promotion may decide, and may thereupon be granted the same pay whether with or without any special pay attached to such posts as they would have received if still in the ordinary line.

(III) For the purpose of this rule, the appointment shall not be deemed to involve the assumption of duties and responsibilities of greater importance if the post to which it is made is on the same scale of pay as the post, other than a tenure post, which the Government servant holds on a regular basis at the time of his promotion or appointment or on a scale of pay identical therewith.

(IV) Notwithstanding anything contained in this rule, where a Government servant holding an ex-cadre post is promoted or appointed regularly to a post in his cadre, his pay in the cadre post will be fixed only with reference to his presumptive pay in the cadre post which he would have held but for his holding any ex-cadre post outside the ordinary line of service by virtue of which he becomes eligible for such promotion or appointment.

AUTHORS' NOTE.—This new version of F.R. 22 was notified by the Government in substitution of the old F.Rs. 22, 22-C, 30 and 31. This was only an exercise in the rationalization and simplification of the old rules dealing with regulation of pay on appointment/promotion from one post to another. There was no intention of liberalizing the existing provisions. All the four rules have been merged into the newly substituted F.R. 22. A table of concordance is given below for reference—

Old Rule	Substituted Rule 22
F.Rs. 22-C & 31	... Clause I (a) (1)
F.R. 22 (a) (ii)	... Clause I (a) (2)
F.R. 22 (a) (iii)	... Clause I (a) (3)
F.R. 30	... Clauses II & III

For orders regarding treatment of special pay for fixation of pay on promotion see Appendix 8 in this compilation.

GOVERNMENT OF INDIA'S ORDERS

(1) Declaration of relative degrees of responsibility.—For the purpose of F.R. 22, a declaration as to the relative degrees of responsibility of two posts should be obtained from the Administrative Head of the Department or the Government of India according as the posts are in the same or different departments.

[G.I., F.D., No. F/113-R.I/30, dated the 19th August, 1930.]

(2) Identical time-scales.—A question arose whether identical time-scales—one attached to posts whose pay is governed by the Civil Service Regulations and the other subject to conditions prescribed by the Fundamental Rules—could be treated as identical for the purpose of the Pay Chapter in the Fundamental Rules. It has been decided with the concurrence of the Auditor-General that when two posts are on identical timescales it is reasonable to hold that the duties and responsibilities to the posts are not very different in nature, irrespective of the fact whether the pay of the post is governed by the Civil Service Regulations or the Fundamental Rules, and that duty rendered in one of them may, therefore, be allowed to count towards increment in the other.

[G.I., F.D., Letter No. 14 (12)-R. I/31, dated the 15th May, 1931.]

NOTE.—This decision applies to all posts governed by the Civil Service Regulations including those paid from the Defence estimates.

[G.I., M.F., O.M. No. F. 2 (14)-Ests. III/59, dated the 28th April, 1959.]

(3) In the case of promotion within the cadre but not on regular basis, fixation of pay to be done under F.R. 22 (I) (a) (1) and restricted under F.R. 35.—See G.I.O. (3) below F.R. 35.

(4) Condonation of resignation for purposes of fixation of pay.—The question whether the benefit of past service for purposes of fixation of pay can be given to a Government servant who resigns his post before taking up appointment in the new post in the same or another Department, has been under the consideration of the Government of India. Normally, the benefit of past service is given only in those cases where such service has not been terminated by resignation/dismissal. The President is, however, pleased to decide that in cases where Government servants apply for posts in the same or other departments through proper channel and on selection, they are asked to resign the previous posts for administrative reasons, the benefit of past service may, if otherwise admissible under rules, be given for purposes of fixation of pay in the new post treating the resignation as a 'technical formality'. The pay in such cases may be fixed under F.R. 27.

[G.I., M.F., O.M. No. 3379-E. III (B)/65, dated the 17th June, 1965.]

A question has now been raised as to whether the above benefit is admissible to Government servants who applied for posts in the same or

For references to F.Rs. 22, 22-C, 30 and 31 see the corresponding provisions in the new F.R. 22.

SWAMY'S COMPILATION OF FRSR PART-III CHAPTER II LEAVE RULES General Conditions 1997 Edn.

ANNEXURE R-5

RULE 9]

GENERAL CONDITIONS

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permitted without dislocating the working of an establishment. These provisions are, however, not intended to be used, as in effect, to abridge the leave entitlement of the Staff. Indeed, it is desirable in the interest of efficiency of public service that Government servants take earned leave at suitable intervals and return to work keen and refreshed.

2. The position has been reviewed by the Government in the light of the recommendation of the Fourth Pay Commission regarding increase in ceiling on earned leave accumulations from 180 days to 240 days. While accepting the recommendation, the Cabinet have also observed that earned leave should not ordinarily be denied to any employee, especially in the last ten years of his career, so that earned leave accumulations beyond 180 days normally do not take place. The leave sanctioning authorities are, therefore, requested to ensure that the earned leave is not ordinarily denied to an employee.

[G.I., Dept. of Per. & Trg., O.M. No. 14028/19/86-Est. (Leave), dated the 29th September, 1986.]

8. Regulation of claim to leave

A Government servant's claim to leave is regulated by the rules in force at the time the leave is applied for and granted.

9. Effect of dismissal, removal or resignation on leave at credit

(1) Except as provided in Rule 39 and this rule, any claim to leave to the credit of a Government servant, who is dismissed or removed or who resigns from Government service, ceases from the date of such dismissal or removal or resignation.

(2) Where a Government servant applies for another post under the Government of India but outside his parent office or department and if such application is forwarded through proper channel and the applicant is required to resign his post before taking up the new one, such resignation shall not result in the lapse of the leave to his credit.

(3) A Government servant, who is dismissed or removed from service and is reinstated on appeal or revision, shall be entitled to count for leave his service prior to dismissal or removal, as the case may be.

(4) A Government servant, who having retired on compensation or invalid pension or gratuity is re-employed and allowed to count his past service for pension, shall be entitled to count his former service towards leave.

GOVERNMENT OF INDIA'S DECISION

Carry-forward of leave in cases where break due to retrenchment is condoned.—1. In supersession of the orders contained in G.I., M.F., O.M. No. F. 5 (57)-E. IV/47, dated the 4th July, 1947, 18th November, 1954 and the 23rd February, 1955 (not reproduced), the President is pleased

(2) When these rules may be applied.—The time at which an act was committed or the capacity in which it was committed is not material for deciding whether or not the Central Civil Services (Classification, Control and Appeal) Rules, 1965, are applicable to an employee. It would, therefore, be quite in order to initiate disciplinary proceedings against a Government servant for some misconduct which is alleged to have been committed at a time when he was not a Government servant, e.g., when he was an Extra-Departmental Agent. [See also Order (1) below Rule 11.]

[Rule 52 of P. & T. Manual, Vol. III.]

PART II

CLASSIFICATION

4. Classification of Services

(1) The Civil Services of the Union shall be classified as follows:—

- Central Civil Services, Group 'A';
- Central Civil Services, Group 'B';
- Central Civil Services, Group 'C';
- Central Civil Services, Group 'D'.

(2) If a Service consists of more than one grade, different grades of such Service may be included in different groups.

5. Constitution of Central Civil Services

The Central Civil Services, Group 'A', Group 'B', Group 'C' and Group 'D', shall consist of the Services and grades of Services specified in the Schedule.

6. Classification of Posts

Civil Posts under the Union other than those ordinarily held by persons to whom these rules do not apply, shall, by a general or special order of the President, be classified as follows:—

- Central Civil Posts, Group 'A';
- Central Civil Posts, Group 'B';
- Central Civil Posts, Group 'C';
- Central Civil Posts, Group 'D'.

1. Substituted by C.S., Dept. of Per., Notification No. 21/2/74-Est. (D), dated the 11th November, 1975, published as S.O. No. 5042 in the Gazette of India, dated the 29th November, 1975.

16-A. All references to Central Civil Services/Central Civil Posts, Class I, Class II, Class III and Class IV in all Rules, Orders, Schedules, Notifications, Regulations, Instructions in force, immediately before the commencement of these rules¹ shall be construed as references to Central Civil Services/Central Civil Posts, Group 'A', Group 'B', Group 'C' and Group 'D' respectively, and any reference to "Class or Classes" therein in this context shall be construed as reference to "Group or Groups", as the case may be.

GOVERNMENT OF INDIA'S ORDERS

Revised Classification of Posts, Groups 'A', 'B', 'C', and 'D'.—In exercise of the powers conferred by Rule 6 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and in supersession of para. 2 of the Notification No. S.O. 5041, dated the 11th November, 1975, published in the Gazette of India, dated the 29th November, 1975, issued by the late Department of Personnel and Administrative Reforms and after consultation with the Comptroller and Auditor-General of India in relation to the persons serving in the Indian Audit and Accounts Department, the President hereby directs that with effect from the date of issue of this order, all Civil posts under the Union shall, subject to such exceptions as Government may, by any general or special order, make from time to time, be classified as follows:—

Sl. No.	Description of posts	Classification of posts
1.	A Central Civil post carrying a pay or a scale of pay with a maximum of not less than Rs. 4,000 ...	Group 'A'
2.	A Central Civil post carrying a pay or a scale of pay with a maximum of not less than Rs. 2,900 but less than Rs. 4,000	Group 'B'
3.	A Central Civil post carrying a pay or a scale of pay with a maximum of over Rs. 1,150 but less than Rs. 2,900	Group 'C'
4.	A Central Civil post carrying a pay or a scale of pay the maximum of which is Rs. 1,150 or less ...	Group 'D'

Provided that posts created on or after 1st January, 1986, as specific additions to existing cadres shall have the same classification as posts in the cadre to which they are added.

1. Inserted by C.S., Dept. of Per., Notification No. 21/2/74-Est. (D), dated the 11th November, 1975, published as S.O. No. 5042 in the Gazette of India, dated the 29th November, 1975.

2. The expression "these rules" refers to the CCS (CCA) Amendment Rules, 1975, published as S.O. No. 5042 in the Gazette of India, dated the 29th November, 1975.

- (iv) reversion of a Government servant officiating in a higher Service, grade or post to a lower Service, grade or post, on the ground that he is considered to be unsuitable for such higher Service, grade or post or on any administrative ground unconnected with his conduct;
- (v) reversion of a Government servant, appointed on probation to any other Service, grade or post, to his permanent Service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing such probation;
- (vi) replacement of the services of a Government servant, whose services had been borrowed from a State Government or any authority under the control of a State Government, at the disposal of the State Government or the authority from which the services of such Government servant had been borrowed;
- (vii) compulsory retirement of a Government servant in accordance with the provisions relating to his superannuation or retirement;
- (viii) termination of the services—
 - (a) of a Government servant appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment or the rules and orders governing such probation, or
 - (b) of a temporary Government servant in accordance with the provisions of sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, or
 - (c) of a Government servant, employed under an agreement, in accordance with the terms of such agreement.

GOVERNMENT OF INDIA'S INSTRUCTIONS

(1) **Departmental action in respect of misconduct committed in earlier employment.**—It is clarified that the provision of Rule 11 of the CCS (CCA) Rules, 1965, which envisages the imposition of penalties on Government servant for 'good and sufficient reason' is adequate authority for taking action against a Government servant in respect of misconduct committed before his employment if the misconduct committed before his employment was of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in service. When such action is taken, the charge should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service.

[G.I., M.H.A., O.M. No. 39/1/67-Est. (A), dated the 21st February, 1967.]

[See also Instruction (2) below Rule 3.]

(2) **Action against employees who are later found ineligible/unqualified for their initial recruitment.**—In GII (1) above, it was clarified that departmental action can be taken against Government servant in respect of misconduct committed before his employment. In M.H.A., O.M. No. 5/1/63-Estt. (D), dated 30-4-1965, Ministries/Departments were also requested to make use of the provision of 'WARNING' inserted in the Attestation Form for taking action against Government servant furnishing false information at the time of appointment.

2. A question has now arisen as to whether a Government servant can be discharged from service where it is discovered later that the Government servant was not qualified or eligible for his initial recruitment in service. The Supreme Court in its judgment in the *District Collector, Vizianagaram v. M. Tripura Sundari Devi* [1990 (4) SLR 237] went into this issue and observed as under—

"It must further be realized by all concerned that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint a person with inferior qualifications in such circumstances unless it is clearly state that the qualifications are relaxable. No court should be a party to the perpetuation of fraudulent practice."

The matter has been examined in consultation with the Ministry of Law and Justice and it has now been decided that wherever it is found that a Government servant, who was not qualified or eligible in terms of the recruitment rules, etc., for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not be retained in service. If he is a probationer or a temporary Government servant, he should be discharged or his service should be terminated. If he has become permanent Government servant, an enquiry as prescribed in Rule 14 of CCS (CCA) Rules, 1965, may be held and if the charges are proved, the Government servant should be removed or dismissed from service. In no circumstances should any other penalty be imposed.

3. Such discharge, termination, removal or dismissal from service would, however, be without prejudice to the right of the Government to prosecute such Government servants.

[G.I., Dept. of Per. & Trg., O.M. No. 11012/7/91-Est. (A), dated the 19th May, 1993.]

(3) **Independence and impartiality to be maintained in official dealings.**—In the M.H.A., O.M. No. 41/2/55-(II)-Estt. (A), dated the 23rd April, 1955, instructions were issued emphasizing the need for Government servants, especially those holding positions of trust and responsibility,

Fair 1st. Case. in
to day i.e 4.3.98 in
Court no 2.

Before C.A.T: Hyderabad

Bench: AT Hyderabad.

O.A: 1305/97



Reply statement

Received (dt)
J. S. Subba
23/2/98

filed on:

filed by: Kota Bhaskara Rao

Add. C.A.S.C

Recd filed
4.3.98
G.S.

1221

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL
BENCH AT HYDERABAD

*Received cert
Dec 23 1997
2-3-98.*

O.A. NO. 1305 OF 1997

Between :

N.Rama Krishna : APPLICANT

And

The Secretary, Ministry of Communications, : RESPONDENTS
Department of Telecommunications, Sanchar Bhavan,
Ashoka Road, New Delhi And others

REJOINDER FILED BY THE ORIGINAL APPLICANT :

I, N.Rama Krishna, S/o Sri N.Venkata Swamy aged about 31years, Occupation : Asst. Divisional Engineer Telecom, R/o Hyderabad, do hereby solemnly and sincerely affirm and state on oath as follows :

1. I am the deponent herein and the Original Applicant in the above Original Application and as such I am well acquainted with the facts disposed hereunder.
2. That, I have perused the Reply Affidavit filed by the Respondents herein. It does not contain any substantial and valid grounds. I deny all the contentions contained therein except those that are admitted specifically by me hereunder.
3. That, the Original Application had been preferred by the Applicant aggrieved by the Departmental Proceedings, which culminated into issue of final orders dated : 07-08-1997 through which the punishment of stoppage of one increment without cumulative effect had been inflicted. It was further prayed to declare the probation of the Applicant from the due date and also to promote the Applicant as Divisional Engineer

Telecom from the date on which his immediate batchmates were promoted, in as much as these benefits have been denied to the Applicant due to the pendency of the Departmental Proceedings. For various grounds raised by the Applicant, the Respondents have either failed to answer properly with any valid reasons or have completely avoided answering.

4. That, one the legal grounds raised by the Applicant herein in the Original Application was with regards to discriminatory aspect in the matter of initiation of the Departmental Proceedings itself against the Applicant while leaving one his colleague Mr. J.Dattatri Rao, absolutely scott-free, who had worked as Junior Telecom Officer (Out door) at the relevant time at Sangareddy. The alleged manipulated meter readings were admittedly signed by two Officials i.e. the Applicant herein (Junior Telecom Officer- indoor) and the said Mr. J. Dattatri Rao (JTO – outdoor). Instead of showing the other person as co-accused, ironically the Respondents have figured him as one of the prosecution witness to prove the charge against the Applicant herein. As a matter of fact the amounts of alleged erroneous meter readings are more in the case of Mr. J.Dattatri Rao than the Applicant herein. When there is a glaring example of violation of Articles 14 & 16 of the Constitution of India, in as much as absolute discrimination and arbitrariness was demonstrated by the Respondents in the matter of initiation of the Disciplinary Proceedings and when the same was taken as one of the legal grounds in para 6(i) of the Original Application, the Respondents have conveniently avoided to answer the said legal ground as they have no answer to putforth. The doctrine of non-traversity of pleadings applies and the same has to be deemed as admitted. It is further mentioned that the said ground of discrimination was raised by the Applicant even before the Inquiry Officer in his written brief submitted to the Inquiry Officer (kindly see Annexure 11 filed along with the Original Application, page 53 at page 62 in para 6). Despite this, the Inquiry Officer did not speak a word about it. Similarly on receiving the Inquiry Officer's report, the Applicant has raised the same ground before the Disciplinary Authority in his submissions on the report of the Inquiry Officer (kindly see Annexure 13 filed along with the Original Application, page 84 at page 87 in para viii). The Disciplinary Authority also maintained absolute silence over this issue while issuing the final impugned orders dated 07-08-97. A reading of the Inquiry Officer's report also shows

that certain have been signed by the said Mr. J.Dattatri Rao, but not the Applicant herein. The Disciplinary Authority is expected to look into this matter while issuing the final orders. But, unfortunately the final impugned orders are cryptic, non-speaking and without application of mind, which is clear from a bare reading of the impugned, order itself. The Applicant has raised the ground of non-application of mind by the Disciplinary Authority, more so in the matter of discriminatory treatment against the Applicant in para 6(l) of the Original Application. As anticipated the Respondents have once again conveniently avoided to answer para 6(l) of the Original Application. What is stated above categorically shows that despite the Applicant's uproar about the discrimination aspect before the Inquiry officer and the Disciplinary authority and even in the present Original Application, the Respondents have been maintaining absolute silence over the issue and their silence itself is ground enough for this Hon'ble Tribunal to appreciate the legal ground of discrimination and quash the impugned proceedings as it amounts to violation of Fundamental Rights guaranteed to the Applicant under Articles 14,16 and 21 of Constitution of India.

5. That, the Applicant has categorically raised a ground in para 6(h) of the Original Application that though the punishment of stoppage of one increment may look trivial, it is causing havoc in his service, in as much as during the pendency of the Disciplinary Proceedings he was denied the benefit of declaration of probation and promotion to the next cadre at appropriate time. It was further contended though the charge of manipulated meter readings was not proved by the Inquiry Officer, unfortunately a new charge of negligence was invented by the Inquiry Officer which was accepted by the Disciplinary Authority who had inflicted the punishment, only to cover up the wrong initiation of Disciplinary Proceedings that too on a discriminatory note. This aspect was also unanswered by the Respondents.
6. That, one of the important grounds raised by the Applicant was that the charge was that the Applicant reported the manipulated meter readings and corrected the meter readings in meter reading register causing pecuniary loss to the Government and gain to the subscribers, which was not proved by the Inquiry Officer. But, he held the charges as partly proved on the ground that there is negligence on the part of the Applicant in supervising the duties of Casual Mazdoor. When in the charge there is no

whisper about failure of supervision of duties of Mazdoor by the Applicant or negligence on the part of the Applicant the Inquiry Officer can not give a finding in that regard. The Inquiry Officer can not go beyond the scope of the charge. This well settled principle has been evolved to avoid violation of the Principles of Natural Justice. No body can be condemned without being heard. Had there been any charge with regards to negligence besides manipulation of meter readings then the Applicant could have produced defence not only with regards to the manipulated meter readings but also in respect of negligence. When negligence was never the part of the charge nor was projected by the prosecution there was no occasion for the Applicant to anticipate such a thing and put forth his defence. When negligence aspect was not put on notice to the Applicant, the same can not be issue of discussion by the Inquiry Officer and he is not expected to give a finding on it. This amounts to violation of the Principles of Natural Justice. This ground was raised in para 6(f) of the Original Application, this was answered by the Respondents in para 13 of their Reply Affidavit. The answer seems to be that negligence is implicit in the charge of manipulated meter reading. Once if there is a ground of manipulation there can not be a ground of negligence. Manipulation is an act that is done intentionally and with a pre-plan. There is any amount mens-ria and one's integrity, honesty is doubted. Whereas, in the case of negligence there is no mens-ria involved. When this is the general understanding of a prudent man, it is incomprehensible how the Respondents can contend before this Hon'ble Tribunal that the charge of negligence is implicit. The judgement cited by the Applicant in para 6(h) of the Original Application are relevant to the present case and there was no comment by the Respondents in this regard. This ground of the Inquiry Officer transgressing the scope of charge has been raised by the Applicant even before the Disciplinary Authority (kindly see Annexure-13 filed along with the Original Application, page 83 at page 85 – para (iii)). The Disciplinary Authority did not consider this aspect and punished the Applicant basing on a finding, which is unsustainable in law. On this ground alone the Impugned Order deserves to be quashed.

7. That, even factually there can not be a finding of negligence. A reading of the report of the Union Public Service Commission (UPSC) categorically shows that the UPSC has noticed that proper personnel was not provided to the Applicant for taking meter

readings. It also noticed that the Applicant was a probationer and a raw candidate. It further commented that the supervisory officers have not taken pains to guide and train the Applicant in the art of correct reading / reporting of telephone meters. It finally concluded that – “The blame for lack of effective supervision can not be laid solely at the door of the C.O.”. After noticing these factors the Authorities ought not to have punished the Applicant herein for negligence.

8. That, right from the beginning the chronological events show that the Respondents are hell bent upon harassing the applicant. First of all, there was no necessity to initiate Disciplinary Proceedings. Second of all, even while initiating the disciplinary proceedings, discrimination was shown. Third of all, the Principles of Natural Justice were violated during the Inquiry, in as much as the Inquiry Officer went beyond the scope of the charge. Fourth of all, the Disciplinary Authority inflicted the punishment mechanically despite the Applicant raising the above said grounds. Now, in the Reply Affidavit the vindictive attitude of the Respondents is demonstrated in para 13 of the Reply Affidavit, wherein a statement is made before this Hon'ble Tribunal stating that the Applicant has reported incorrect meter readings for the purpose of billing. When the evidence on record and the findings of the Inquiry Officer and the report of the UPSC categorically show that the Applicant has not reported incorrect meter readings, the Respondents have the audacity to state before this Hon'ble Tribunal on oath quite contrary to the evidence on record and admitted facts of the case. The irresistible conclusion from what is stated above is that the Applicant is harassed because he belongs to the **SC community**.
9. That, the paras 1&2 of the Reply Affidavit filed by the Respondents need no reply.
10. That, in para 3 of the Reply Affidavit it is stated that it is contended by the Respondents that the clearance has been given by the vigilance wing as it was not having details of the contemplated disciplinary proceedings. This is incorrect, in as much as there was any amount of correspondence between the O/o Chief General Manager and the O/o General Manager Telecom, Hyderabad Area in this regard (kindly see Annexures 4 to 8 filed along with the Original Application). When the Respondents have given the vigilance clearance and accepted the resignation, the

alleged misconduct pertaining to the previous service (which is known to the Respondents before accepting the resignation) can not be the subject matter of the disciplinary proceedings in the subsequent service.

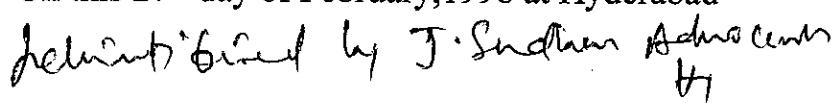
11. That, paras 4,5 and 6 of the Reply Affidavit need no reply as they are factual aspects. In para 7 of the Reply Affidavit it is contended that the Applicant approached this Hon'ble Tribunal while the memorial is pending before the Hon'ble President of India. Memorial is not a **statutory appeal** and pendency of the same is not a bar for this Hon'ble Tribunal to interfere as it is not an effective alternative remedy.
12. That, in para 8 of the Reply Affidavit it was contended that the CCS(CCA) Rules and the Principles of Natural Justice have been complied with, which is false for the reasons stated above. Para 9 of the Reply Affidavit needs no reply.
13. That, in reply to para 10 of the Reply Affidavit it is stated that the Respondents have relied on Annexures I to V filed along with the Reply Affidavit, which only speaks that past service will be counted on technical resignation. There is no dispute about that. The dispute is, once if resignation is accepted after the matter being referred to the vigilance wing and obtaining the clearance of the said wing, it is contention of the Applicant that the alleged irregularities pertaining to the past service can not be raked up. It is for the Department to take necessary steps and once the clearance is given, the same can not be raised which is clear from their own material filed along with the Reply Affidavit (kindly see Annexure 1 of the Reply Affidavit).
14. That, in reply to para 11 of the Reply Affidavit it is stated that the Respondents are relying upon the Annexures 6&7 of the Reply Affidavit to contend that any misconduct pertaining to any period can be subject of disciplinary p[proceedings if it has rational connection with the present employment. Again the Respondents are missing the point that is once the vigilance wing has given clearance the same can not be raised again. It is not the case where the Respondents have come to know about the alleged irregularity after the resignation is accepted.

15. That, in para 12 of the Reply Affidavit it is contended that the penalty has been inflicted after following the procedure and after properly considering the matter. It was already demonstrated above how the Disciplinary Authority demonstrated his non-application of mind and mechanical way of passing of the final orders.
16. That, in reply to para 13, of the Reply Affidavit wherein the Respondents contended that the charge of negligence is implicit in the charge of manipulation. It was also contended that the Applicant reported incorrect meter readings. Both these aspects have been covered in the previous paras.
17. That, in reply to para 15 of the Reply Affidavit it is stated that the Respondents are contending that the Applicant has suppressed the fact of submitting Memorial to the President of India, while replying to para 7 of the Original Application. Obviously, the Respondents seems to have lost sight of para 6(k) of the Original Application wherein it is categorically contended that there is no appeal against the orders of the President of India under Rule 22 of the CCS (CCA) Rules, 1965. Further, as stated above, memorial is no statutory appeal and that is not an effective alternative remedy.
18. That, the Respondents, without properly meeting the legal points, are trying to contend by citing some judgements that this Hon'ble Tribunal can not reassess the evidence and are trying to educate this Hon'ble Tribunal about the scope of judicial review in the matter of disciplinary proceedings. If the Inquiry Officer's findings are perverse and not based on legal evidence, the same are liable to be interfered. When the Principles of Natural Justice are violated or when there is a discrimination and arbitrariness this Hon'ble Tribunal can interfere. When specific grounds are raised basing on which this Hon'ble Tribunal can interfere, the Respondents are silent, but are giving broad principles which may not be relevant to the present case.
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19. That, viewing from any angle, the Original Application filed by the Applicant herein deserves to be allowed with costs.

Hence in the interest of justice, it is prayed that this Hon'ble Tribunal may be pleased to allow the Original Application with exemplary costs.


DEPONENT

Sworn and signed in his name before me
On this 27th day of February, 1998 at Hyderabad


Advocate signed by T. Sudhakar Acharya
H


ADVOCATE

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL, ADDITIONAL BENCH :
AT HYDERABAD

O.A.NO. 1305 OF 1997

REJOINDER TO THE REPLY
AFFIDAVIT- BY ORIGINAL
APPLICANT

DATED : 27-02-1998

FILED BY :

J.SUDHEER
ADVOCATE
3-5-703
Opp. Old MLA Quarters
Himayathnagar
Hyderabad - 500 029



Counsel for the Applicant

*rebelled
4398*

A4 - 25.1.93

A7 - p.36 Clearance by Vif. cell

whether the respondent authorities were justified in issuing the charge sheet A 4894 after accepting the resignation of the applicant effective from 12.2.93, without any reservation?

OA 1305 /97

- 1) In response to an A.O.W. issued 29.9.97 during 1989, the applicant was selected and appointed as JTO(Indoor) at Sangareddy. He worked as such from 25.2.91. Consequent upon his selection as Asst Divl Engr, Telecommunications, he submitted his resignation to the post of JTO (Indoor). His resignation was accepted as from 12.02.93 (A.O. 1305/97)
- 2) While he was undergoing T.O. as Asst Divl. Engr he was served with a memorandum of charges d. 4.8.94 alleging certain acts of misconduct which were committed by him while working as JTO (Indoor) Sangareddy. The copy of the same is at A10. to the OA
- 3) The enquiry was conducted into the charges and the I.O. submitted his report 29.1.97. The copy of the I.O. is at A12. The enquiry opined the charges as 'partly proved'.
- 4) A copy of the report of the I.O. was furnished to the applicant. The Applicant submitted his reply on 26.5.97. A copy of his explanation is at A13
- 5) The President considering the report & findings of the App. imposed the punishment of withholding of merit increment due to the applicant for a period of 1 year with cumulative effect. The order is d.7/8/97 and is at A-1
- 6) He has filed this OA for the following relief.

P.9: p. 16-17.

Reply

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

D.A. No. 1305 of 1997

T.A. No.

DATE OF DECISION

17-3-1998

N. RAMAKRISHNA

Petitioner

MR. J. SUDHEER

Advocate for the
Petitioner(s)

Versus

UNION OF INDIA & OTHERS

Respondent

MR.K.BHASKARA RAO, CGSC

Advocate for the
Respondent(s)

CORAM

The Hon'ble Mr. HON'BLE MR.R. RANGARAJAN, MEMBER(A)

The Hon'ble Mr. HON'BLE MR.B.S.JAI PARAMESHWAR, MEMBER(J)

1. Whether Reporters of local papers may be allowed to see the Judgment ? ~~yes~~ yes
2. To be referred to the Reporter ~~or~~ not ? ~~yes~~ yes
3. Whether their Lordships wish to see the fair copy of the Judgment ? ~~yes~~
4. Whether it needs to be circulated to other Benches of the Tribunal ? ~~yes~~
5. Remarks of Vice-Chairman on columns 1,2,4 (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

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CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH :
AT HYDERABAD.

O.A. NO.1305 OF 1997.

DATE OF ORDER:- 17 -3-1998.

Between :-

N. RAMAKRISHNA .. APPLICANT

A N D

1. Union of India represented by its Secretary, Ministry of Communication, Department of Telecommunication, Samachar Bhavan, Ashoka Road, New Delhi.
2. The Deputy Director, General Vigilance Department of Telecommunication, West Block No. I, Wing No. 2, Ground Floor, R.K.Puram, Sector-I, New Delhi.
3. The Chief General Manager, Telecommunication, Andhra Pradesh Circle, Door Samachar Bhawan, Nampalli, Hyderabad.

.. RESPONDENTS

Counsel for the applicant : Mr. J. Sudheer

Counsel for the respondents : Mr. K. Bhaskara Rao, CGSC

CORAM :

Honourable Mr.R. Rangarajan, Member(Admn.)

Honourable Mr. B.S.Jai Paramdeshwar, Member(Judl.)

O R D E R.

(Per Hon. Mr.B.S.Jai Parameshwar, Member(Judl.))

1. Heard Mr. J. Sudheer, the learned counsel for the applicant and Mr. K.Bhaskara Rao, the learned Standing Counsel for the respondents.
2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 29.9.1997.
3. The facts giving raise to this O.A. may, in brief, be stated thus :-

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(a) In response to the advertisement issued during the year 1989 the applicant was selected and appointed as Junior Telecommunication Officer(Indoor) at Sangareddy Telephone Exchange and he worked as such from 25.2.1991. Consequent upon his selection as Assistant Divisional Engineer, Telecommunications, the applicant submitted his letter of resignation dated 20.1.1993 to the said post. His resignation was accepted by the respondents on and from 12.2.1993 (Annexure-9 to the O.A.).

(b) While he was undergoing training as Assistant Divisional Engineer, Telecommunications, he was served with a Memorandum of Charges dated 4.8.1994 alleging certain acts of misconduct which were committed by him while working as the JTO(Indoor) Sangareddy. The copy of the Memorandum of Charges is at Annexure-10 to the O.A.

(c) An enquiry was conducted into the charges and on 29.1.1997 the Inquiry Officer submitted his report. The copy of the report of the Inquiry Officer is at Annexure-12 to the O.A. The Inquiry Officer recorded a finding that the charges levelled against the accused were "partly proved".

(d) The copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted his explanation dated 26.5.1997. The copy of his explanation is at Annexure-13 to the O.A.

(e) The President considering the report of the Inquiry Officer and the explanation of the applicant agreed with the findings of the Inquiry Officer and imposed the punishment of withholding of next increment due to the applicant for a period of one year without cumulative effect. The order is dated 7.8.1997 and is at Annexure-1 to the O.A.

4. The applicant has filed this O.A. for the following reliefs :-

- (i) To call for the records pertaining to the impugned orders contained in No.8-19/94-Vig.II, dated 07.8.1997 issued by the Respondent No.2 herein and set the same aside as illegal, arbitrary, discriminatory, illogical, irrational, opposed to the principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India.
- (ii) Consequently to direct the respondents herein to declare the probation of the applicant in the post of Assistant Divisional Engineer, Telecom. with effect from 18.02.1995; and
- (iii) Further promote him to the post of Divisional Engineer, Telecom., with effect from 23.8.1996 with all consequential benefits, such as arrears of salary, and promotion etc.

5. The main ground on which the applicant has impugned the order of punishment is that on 12.2.1993 the resignation of the applicant was accepted by the respondents without any reservation and he was relieved on the same day and he joined as Assistant Divisional Engineer, Telecommunications; that once his resignation was accepted without any reservation, the charges could not have been served on him after lapse of nearly a year and half on 4.8.1994; that his resignation was accepted even only after clearance by the Vigilance Cell of that department; that on 11.2.1993 the Vigilance Cell of the department informed the authority that there was neither any disciplinary proceeding pending against him nor the same was contemplated as on date i.e. 11.2.1993; that when his resignation was accepted as JTO(Indoor), he was given a clean chit and he was allowed to join in his post. Therefore, it was not open for the respondents to issue a Charge Memo. while he was working

as Assistant Divisional Engineer, Telecommunications;

that when his resignation was accepted, the relationship of master and servant ceased to exist and the employer is not entitled to take action about any alleged misconduct pertaining to his previous service and that on this ground alone, the whole disciplinary proceeding is vitiated and deserves to be set aside.

6. The respondents have filed the counter stating that the acceptance of resignation of the applicant was only a technical formality; that the applicant resigned the post only to join another post in the same department; that the clearance given by the Vigilance Cell on 11.2.1993 was only to enable the applicant to join the selected post as Assistant Divisional Engineer, Telecommunications; that since the acceptance of the resignation was only a technical formality, the department is in no way restrained from proceeding against the applicant for the alleged misconduct while he was working as JTO (Indoor), Sangareddy; that the applicant had challenged at each and every stage of the disciplinary proceedings by filing O.As. and that the said O.As. were dismissed; that under Rule 26(2) of the CCS(Pension)Rules, acceptance of resignation was a technical one; that the applicant is entitled to count his earlier service as JTO(Indoor) for the purpose of pension and retiral benefits; that the resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment under the Central Government where service qualifies and thus the relationship of master and servant has not at all been terminated in the present case; that as per Para 52 of P&T Manual Vol.III, the time at which an act was committed or the capacity in which it was committed is not material for deciding whether or not the CCS(CCA)Rules,1965 were applicable to

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and employee; that an employee can be proceeded for the alleged misconduct in his past service and the charges specifically state that the misconduct alleged was such that it rendered him unfit and unsuitable for continuing in service; that whether it was negligence on the part of the applicant or concerted effort with a motive to manipulate the readings can only be the outcome of the inquiry; that after considering the report of the Inquiry Officer, the President considered the same and found it proper to impose the penalty vide the impugned order; that the inquiry has been conducted with due observations of the principles of natural justice; that when there is some evidence, the disciplinary authority can consider and pass a punishment and that therefore there are no grounds to interfere with the impugned order.

7. After hearing the learned counsel for both the sides, the only point that arises for our consideration is whether the respondents-authorities were justified in issuing the charge sheet dated 4.8.1994 after accepting the resignation of the applicant effective from 12.2.1993 without any reservation.

8. It is not in dispute that the applicant between 25.2.1991 and 12.2.1993 worked as JTO(Indoor) Sangareddy. On 20.1.1993 the applicant submitted his resignation to the post and the same was accepted on 12.2.1993. As per the extant rules and the CCS(Pension) Rules, the authorities are not expected to accept resignation of an employee mechanically and that too, when there is any contemplation of disciplinary proceedings against an employee. Further when the resignation was just a technical formality in that it was intended to accept another post with proper permission of the authority, then the order accepting the resignation should clearly indicate that the

employee is resigning to join another post with proper permission and that the benefits under Rule 26(2) will be admissible to him. Annexure-9 to the O.A. is the letter dated 12.2.1993 under which resignation of the applicant to the post of JTO(Indoor) has been accepted.

9. On perusal of Annexure-9 it is clear that the authorities accepted the resignation of the applicant without any reservation and that too, they did not even state in clear terms that the resignation was accepted only to enable the applicant to accept another post with permission of the proper authority. In fact, the applicant submitted his letter of resignation on 20.1.1993. At that time, the Assistant Director (Personnel) by his letter dated 25.1.1993 expressed his reservation for accepting the resignation of the applicant for the post for the following reasons:-

- (i) The resignation may not be accepted at such a short notice without return of stipend paid.
- (ii) A disciplinary case is contemplated against the official, the details of which are available with the Vigilance Cell of SHQ.

Annexure-7 is the letter of the Vigilance Officer which letter, refers to Annexure.4. The Vigilance Officer has stated as follows :-

No disciplinary case is pending or contemplated against the above ofdficer in Vigilance Cell of this office as on date. The statement that the details are available with Vigilance cell is incorrect, as no such report is received in this section so far.

In this background, it is now too much for the respondents to contend that the acceptance of resignation of the applicant to the post of JTO(Indoor) was only a technical formality and that the relationship of master and servant had not ceased and that they are

competent to proceed against the applicant for the alleged misconduct committed by him while working as JTO (Indoor), Sangareddy.

10. The learned counsel for the respondents during course of his arguments, relied upon the OM No.39/1/67-Ests.(A) dated 21st February, 1967. We feel it proper to reproduce the said letter as under :-

"(1) Departmental action in respect of misconduct committed in earlier employment.- It is clarified that the provision of Rule 11 of the CCS(CCA) Rules, 1965, which envisages the imposition of penalties on Government servant for 'good and sufficient reason' is adequate authority for taking action against a Government servant in respect of misconduct committed before his employment was of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in service. When such action is taken, the charge should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service."

Relying upon the above O.M., the respondents attempted to justify the issue of charge sheet on 4.8.1994.

11. On analysing the above letter, it is clear that the letter clarified the rule position of Rule 11 of the CCS(CCA)Rules. However, it is stated that when such an action is taken, then the charge sheet should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service. The charge sheet dated 4.8.1994 is at Annexure-1. In the charge sheet it is nowhere indicated that the applicant was not suitable to hold and continue in the post of Assistant Divisional Engineer, Telecommunications. The charge sheet is dated 4.8.1994.

that the respondents accepted the resignation effective from 12.2.1993. Between 12.2.1993 to 4.8.1994 they had not thought of initiating any proceedings against the applicant. The respondents accepted the resignation of the applicant without any reservation. It is not as if they were not aware of any misconduct which was alleged to have been committed by the applicant while working as JTO(Indoor), Sangareddy.

12. Further it is to be noted that the authority accepted the resignation after obtaining the clearance of the Vigilance Officer. As already observed, in Annexure-4 it was stated not to accept the resignation of the applicant without clearance from the Vigilance Cell. The Vigilance Cell in its letter dated 11.2.1993 specifically stated that there was no vigilance case pending with the Cell and that no disciplinary case was pending. It is only on that basis the respondents accepted the resignation by letter dated 12.2.1993 (Annexure-9) which clearly indicates that the authorities took care to see whether there was any contemplation of disciplinary proceedings against the applicant. When that is the case, we fail to understand how the authorities are justified in issuing the charge sheet dated 12.8.1994 after lapse of nearly 18 months. Therefore, in our humble view, the authorities were not justified in accepting the resignation without any reservation and issuing the charge sheet dated 12.8.1994. Further it is to be noted that as per the OM extracted above, the misconduct alleged to have been so committed by an ex/employee should be such that he should not be fit or suitable to continue service. Such details are not to be found in the Charge Memo. Further the very fact that the President decided to impose a minor penalty clearly indicated that the authorities

and knowing fully well accepted his resignation without any reservation and initiated the disciplinary proceedings only to harass him and to create an obstacle in his subsequent career prospects. In that view of the matter, we feel that the charge sheet dated 12.8.1994 was clearly not maintainable and that the orders passed thereon are liable to be set aside.

13. Hence we are of the opinion that the charge sheet dated 12.8.1994 was not justified and the orders passed by the President is not sustainable in law. In this view of the matter, the O.A. is liable to be accepted. Accordingly the O.A. is accepted and we pass the following order :-

(a) The charge sheet dated 12.8.1994 is hereby quashed and the order dated 7.8.1997 passed thereon is set aside.

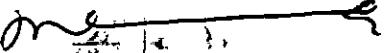
(b) So far as other reliefs claimed by the applicant are concerned, we direct the authorities to consider them in the light of the observations made in this O.A. We cannot give any specific direction with respect to the completion of probation or promotion of the applicant in this O.A.

(Per Hon.Mr.R.Rangarajan, Member(Admn.))

14. I have gone through the judgment of the Hon'ble Shri B.S.Jai Parameshwar, Member(Judl.). I fully agree with the views expressed by him. However, I will like to add the interpretation of the O.M.No.39/1/67-Ests.(A) dated 21.2.1967. The above O.M. envisages imposition of the penalties on a Government servant for good and sufficient reason in respect of the misconduct committed before his employment. It is further stated that such misconduct committed ^{is} of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in

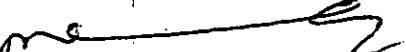
DR

service. If such a view is taken, then the charge sheet should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable in service. From the above, it transpires that the misconduct should be such that will make the applicant unsuitable to be continued in service. In this case, the applicant was not removed from service but was only given minor punishment. If that be the case relying on this letter for issuing charge sheet itself may not be proper. Further the circumstances under which the misconduct committed by an employee needs to be taken note of for making him unsuitable for continuing in service, if such a misconduct is very grave. Such a grave mistake can be related to a criminal charge resulted in conviction or other similar punishments. In this case before his relief from the post of JTO he was not involved in any criminal case. Some corruption charges were alleged against him. But even the Vigilance Officer had submitted that no such allegation ^{was} ~~is~~ pending with him for scrutiny. It is not brought out anywhere that corruption charges levelled against him were such misconduct which necessarily will lead to discharge of the applicant on the ground of unsuitability. Further, in my opinion, quoting of the above letter in this case is absolutely irrelevant and has no nexus with the object to be achieved in issuing the charge sheet to him. In view of the above, I feel that allowing of the applicant ^{to} ~~is~~ in order.


(R. RANGARAJAN)
MEMBER(ADMN.)

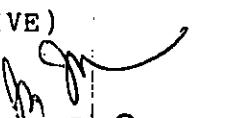
15. In view of what is stated above, the application is allowed. No order as to costs.


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


(R. RANGARAJAN)
MEMBER(ADMINISTRATIVE)

DATED THE 17TH MARCH, 1998.

DJ/

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(142)

Copy to:

1. The Secretary, Min.of Communications, Dept. of Telecommunication, Samachar Bhavan, Ashoka Road, New Delhi.
2. The Deputy Director, Vigilence, Dept. of Telecommunication, West Block No.I, Wing No.2, Ground Floor, R.K.Puram, Sector-I, Neu Delhi.
3. The Chief General Manager, Telecommunication, Andhra Pradesh Circle, Door Samachar Bhavan, Nampalli, Hyderabad.
4. One copy to Mr.J.Sudheer,Advocate,CAT,Hyderabad.
5. One copy to Mr.K.Bhaskara Rao,Addl.CGSC,CAT,Hyderabad.
6. One copy to D.R(A),CAT,Hyderabad.
7. One duplicate copy.
14. Copy to All the Reporters, CAT, Hyderabad.

YLKR

27/3/98
TYPED BY
COMPARED BY

14
Report copy

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

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

DATED: 17/3/98

ORDER/JUDGMENT

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

in
O.A.NO. 1305/57

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

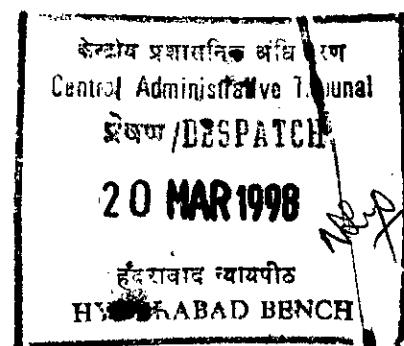
DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL
BENCH : AT HYDERABAD : A.P.

M.A. NO. 1028 OF 1997

IN

O.A. NO. 1305 OF 1997

Between:

N. RAMA KRISHNA S/o N. Venkata Swamy, : APPLICANT
Aged about 31 Years, Occupation: Assistant
Divisional Engineer, Telecom.,
Hyderabad, R/o Hyderabad.

And

1. Government of India represented by)
its Secretary, Ministry of Communications, Department of Telecommunication, Sanchar Bhavan, Ashoka Road,)
New Delhi -1.)
2. The Deputy Director General (Vigilence))
Department of Telecommunication, West) RESPONDENTS
Block -I, Wing No. 2, Ground Floor,)
R.K. Puram, Sector -I, New Delhi.)
3. The Chief General Manager, Telecom.,)
Andhra Pradesh Circle, Door Danchar)
Bhavan, Nampally Road, Hyderabad.)

—
BRIEF FACTS LEADING TO APPLICATION: U/S 8(3) & C.A.T (P) Rules
1985.

a) That, when the Applicant was functioning as Assistant Divisional Engineer, Telecom., Hyderabad, an unwanted disciplinary action was initiated for the alleged misconduct of the *when he was working as J.T.O. Sangareddy.* Applicant, Basing on which his probation was not declared. All his colleagues' probation have been declared except the Applicant herein. For the purpose of drawing increments in the cadre of Assistant Divisional Engineer, Telecom., and also for further promotions one has to pass the Professional Examinations, which the Applicant had appeared. His results were

not declared on the ground that his probation in the cadre of Assistant Divisional Engineer Telecom., have not been declared. In effect, due to the pendency of the Departmental proceedings his probation was not declared in the cadre of Assistant Divisional Engineer, Telecom., and his results were not declared for Professional Examinations, and his Annual Grade Increments were stopped and he is denied promotion to the post of ~~Deputy Executive~~ ^{Divisional} Engineer, while his colleagues and juniors have been promoted.

b) That, the Respondents are taking their sweet time in finalising the Disciplinary Proceedings and finally though there was no charge of negligence of duties the same was held to be proved. The charge is something ie., Manipulation of Meter Readings (doubting the integrity), whereas, it was held that the Applicant was negligent of his duties though such a charge was not framed. Raising various grounds O.A. No. 1305 of 1997 has been filed, the contents of the same may kindly be read as part and parcel of this Miscellaneous Application. On 03-10-1997, having seen the injustice that has been meted out to the Applicant ie., losing all ancillary benefits due to the pendency of the Disciplinary Proceedings and also the fact that the punishment of stoppage of increment has been issued through Impugned Proceedings Dated: 07-08-1997, this Hon'ble Tribunal was pleased to stay the operation of the Impugned Proceedings in any manner until further orders. In other words it has to be treated as though the Applicant is not facing any Disciplinary proceedings or any punishment. In this background and in the background that the Applicant has already denied of his right to

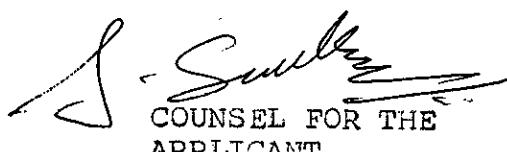
get his probation declared and right to get increments and right of consideration for next cadre, he is entitled for all the above said benefits as they are his legitimate rights. The Respondents cannot deny these benefits to the Applicant during the Disciplinary Proceedings and also after the suspension of the Impugned Proceedings. Even otherwise the punishment awarded being a ~~maxx~~ minor punishment, that may not come in the way for the Applicant to claim for the benefits as stated above. Though the Applicant is entitled for the said benefits from an ante-date the same may be directed to be granted by the Respondents to the Applicant forthwith as the Impugned Proceedings cannot be operated in any manner. As a matter of fact the Applicant has given a representation to this effect on 22-10-1997 and the same is unanswered. This Hon'ble Tribunal may come to the rescue of the Applicant in stopping the perpetual harassment at the hands of the Respondents in the matter of granting benefits as stated above. Hence this Miscellaneous Application.

RELIEF/PRAYER:

Hence in the interests of the Justice it is Prayed that this Hon'ble Tribunal may be pleased to direct the Respondents herein to declare the probation of the Applicant in the post of Assistant Divisional Engineer, Telecom., and also to declare the results of the Professional Examinations held in May, 1995 and December, 1995 by the Respondents and further promotion to the cadre of Divisional Engineer forthwith. And Pass any such other Order or Orders as this Hon'ble Tribunal may deem fit, proper and necessary in the Circumstances of the Case.

V E R I F I C A T I O N

I, N. Rama Krishna S/o Venkata Swamy, Aged about 31 Years, Occupation: Assistant Divisional Engineer, Telecom., Hyderabad, R/o Hyderabad, Applicant herein, do hereby ~~xxxx~~ verify that the contents contained in Paragraphs (a) and (b) of the Application are true and correct to the best of my personal knowledge and that on the basis of the legal advice and that I have not suppressed may material facts therein.


S. Sankaran
COUNSEL FOR THE
APPLICANT


N. Rama Krishna
APPLICANT

H Y D E R A B A D.

DATED:

Direction Petn.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH : AT HYDERABAD

M.A. NO. OF 1997

IN

O.A. NO. 1305 OF 1997



DIRECTION APPLICATION

DATED: 11-11-97

FILED BY:

Received by
Rao Shankar Rao
M.P.K.M.D
11/11/97

J. SUDHEER
Advocate
3-5-703
Opp: Old MLA Quarters
Himayatnagar
Hyderabad - 500 029 (AP)

COUNSEL FOR THE APPLICANT

*Received
Rao Shankar Rao
M.P.K.M.D
11/11/97*

12.11.97

M.A.NO.1028/97 in OA 1305/97

पूर्व तंचार TELECOM

बैच केस/BENCH CASE

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.Mr.J.Sudheer for applicant and
Mr. K.Bhaskar Rao for respondents.M.A. NO. 1028 OF 1997.
IND.A. NO. 1305 OR. 1997

It is submitted by the learned counsel for the applicant that he has preferred a representation to the 1st respondent urging certain concessions and reliefs. This Tribunal has no objection if the same is disposed of on merits.

List this M.A. along with the
OA.

HBSJP

M(J)

HHRR

M(A)

Ranjan P.R.

vsn

Mr. J. Sudheer
COUNSEL FOR THE APPLICANTS.

AND

Mr. K. Bhaskar Rao
Sr. ADDL. STANDING COUNSEL FOR
C.G.Rlys.

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Notice issued in 13-5/97. It
is not valid and shall not be considered in any manner until
further notice.

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CCUIN C. WICER
..... 13-5/97
Certified to be true

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4. The 13-5/97, 13-5/97

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH :
AT HYDERABAD.

O.A. NO.1305 OF 1997.

DATE OF ORDER:- 17 -3-1998.

Between :-

N. RAMAKRISHNA

APPLICANT

A N D

1. Union of India represented by its Secretary, Ministry of Communication, Department of Telecommunication, Samachar Bhavan, Ashoka Road, New Delhi.
2. The Deputy Director, General Vigilance Department of Telecommunication, West Block No.1, Wing No.2, Ground Floor, R.K.Puram, Sector-I, New Delhi.
3. The Chief General Manager, Telecommunication, Andhra Pradesh Circle, Door Samachar Bhawan, Nampalli, Hyderabad.

... RESPONDENTS

Counsel for the applicant : Mr. J. Sudheer

Counsel for the respondents : Mr. K. Bhaskara Rao, CGSC

CORAM :

Honourable Mr.R. Rangarajan, Member(Admn.)

Honourable Mr. B.S.Jai Paramdeshwar, Member(Judl.)

O R D E R .

(Per Hon. Mr.B.S.Jai Parameshwar, Member(Judl.))

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2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 29.9.1997.
3. The facts giving raise to this O.A. may, in brief, be stated thus :-

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[Signature]

✓ 4. The applicant has filed this O.A. for the following reliefs :-

(i) To call for the records pertaining to the impugned orders contained in No.8-19/94-Vig.II, dated 07.8.1997 issued by the Respondent No.2 herein and set the same aside as illegal, arbitrary, discriminatory, illogical, irrational, opposed to the principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India.

(ii) Consequently to direct the respondents herein to declare the probation of the applicant in the post of Assistant Divisional Engineer, Telecom. with effect from 18.02.1995; and

(iii) Further promote him to the post of Divisional Engineer, Telecom., with effect from 23.8.1996 with all consequential benefits, such as arrears of salary, and promotion etc.

5. The main ground on which the applicant has impugned the order of punishment is that on 12.2.1993 the resignation of the applicant was accepted by the respondents without any reservation and he was relieved on the same day and he joined as Assistant Divisional Engineer, Telecommunications; that once his resignation was accepted without any reservation, the charges could not have been served on him after lapse of nearly a year and half on 4.8.1994; that his resignation was accepted even only after clearance by the Vigilance Cell of that department; that on 11.2.1993 the Vigilance Cell of the department informed the authority that there was neither any disciplinary proceeding pending against him nor the same was contemplated as on date i.e. 11.2.1993; that when his resignation was accepted as JTO(Indoor), he was given a clean chit and he was allowed to join in his post. Therefore, it was not open for the respondents to issue a Charge Memo. while he was working as Assistant Divisional Engineer, Telecommunications;

that when his resignation was accepted, the relationship of master and servant ceased to exist and the employer is not entitled to take action about any alleged misconduct pertaining to his previous service and that on this ground alone, the whole disciplinary proceeding is vitiated and deserves to be set aside.

6. The respondents have filed the counter stating that the acceptance of resignation of the applicant was only a technical formality; that the applicant resigned the post only to join another post in the same department; that the clearance given by the Vigilance Cell on 11.2.1993 was only to enable the applicant to join the selected post as Assistant Divisional Engineer, Telecommunications; that since the acceptance of the resignation was only a technical formality, the department is in no way restrained from proceeding against the applicant for the alleged misconduct while he was working as JTO (Indoor), Sangareddy; that the applicant had challenged at each and every stage of the disciplinary proceedings by filing O.As. and that the said O.As. were dismissed; that under Rule 26(2) of the CCS(Pension)Rules, acceptance of resignation was a technical one; that the applicant is entitled to count his earlier service as JTO(Indoor) for the purpose of pension and retiral benefits; that the resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment under the Central Government where service qualifies and thus the relationship of master and servant has not at all been terminated in the present case; that as per Para 52 of P&T Manual Vol.III, the time at which an act was committed or the capacity in which it was committed is not material for deciding whether or not the CCS(CCA)Rules,1965 were applicable to

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an employee; that an employee can be proceeded for the alleged misconduct in his past service and the charges specifically state that the misconduct alleged was such that it rendered him unfit and unsuitable for continuing in service; that whether it was negligence on the part of the applicant or concerted effort with a motive to manipulate the readings can only be the outcome of the inquiry; that after considering the report of the Inquiry Officer, the President considered the same and found it proper to impose the penalty vide the impugned order; that the inquiry has been conducted with due observations of the principles of natural justice; that when there is some evidence, the disciplinary authority can consider and pass a punishment and that therefore there are no grounds to interfere with the impugned order.

7. After hearing the learned counsel for both the sides, the only point that arises for our consideration is whether the respondents-authorities were justified in issuing the charge sheet dated 4.8.1994 after accepting the resignation of the applicant effective from 12.2.1993 without any reservation.

8. It is not in dispute that the applicant between 25.2.1991 and 12.2.1993 worked as JTO(Indoor) Sangareddy. On 20.1.1993 the applicant submitted his resignation to the post and the same was accepted on 12.2.1993. As per the extant rules and the CCS(Pension) Rules, the authorities are not expected to accept resignation of an employee mechanically and that too, when there is any contemplation of disciplinary proceedings against an employee. Further when the resignation was just a technical formality in that it was intended to accept another post with proper permission of the authority, then the order accepting the resignation should clearly indicate that the

employee is resigning to join another post with proper permission and that the benefits under Rule 26(2) will be admissible to him. Annexure-9 to the O.A. is the letter dated 12.2.1993 under which resignation of the applicant to the post of JTO(Indoor) has been accepted.

9. On perusal of Annexure-9 it is clear that the authorities accepted the resignation of the applicant without any reservation and that too, they did not even state in clear terms that the resignation was accepted only to enable the applicant to accept another post with permission of the proper authority. In fact, the applicant submitted his letter of resignation on 20.1.1993. At that time, the Assistant Director (Personnel) by his letter dated 25.1.1993 expressed his reservation for accepting the resignation of the applicant for the post for the following reasons:-

- (i) The resignation may not be accepted at such a short notice without return of stipend paid.
- (ii) A disciplinary case is contemplated against the official, the details of which are available with the Vigilance Cell of SHQ.

Annexure-7 is the letter of the Vigilance Officer which letter, refers to Annexure.4. The Vigilance Officer has stated as follows :-

No disciplinary case is pending or contemplated against the above officer in Vigilance Cell of this office as on date. The statement that the details are available with Vigilance cell is incorrect, as no such report is received in this section so far.

In this background, it is now too much for the respondents to contend that the acceptance of resignation of the applicant to the post of JTO(Indoor) was only a technical formality and that the relationship of master and servant had not ceased and that they are

competent to proceed against the applicant for the alleged misconduct committed by him while working as JTO (Indoor), Sangareddy.

10. The learned counsel for the respondents during course of his arguments, relied upon the OM No.39/1/67-Ests.(A) dated 21st February, 1967. We feel it proper to reproduce the said letter as under :-

"(1) Departmental action in respect of misconduct committed in earlier employment.- It is clarified that the provision of Rule 11 of the CCS(CCA) Rules, 1965, which envisages the imposition of penalties on Government servant for 'good and sufficient reason' is adequate authority for taking action against a Government servant in respect of misconduct committed before his employment was of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in service. When such action is taken, the charge should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service."

Relying upon the above O.M., the respondents attempted to justify the issue of charge sheet on 4.8.1994.

11. On analysing the above letter, it is clear that the letter clarified the rule position of Rule 11 of the CCS(CCA)Rules. However, it is stated that when such an action is taken, then the charge sheet should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service. The charge sheet dated 4.8.1994 is at Annexure-1. In the charge sheet it is nowhere indicated that the applicant was not suitable to hold and continue in the post of Assistant Divisional Engineer, Telecommunications. The charge sheet is dated 4.8.1994.

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that the respondents accepted the resignation effective from 12.2.1993. Between 12.2.1993 to 4.8.1994 they had not thought of initiating any proceedings against the applicant. The respondents accepted the resignation of the applicant without any reservation. It is not as if they were not aware of any misconduct which was alleged to have been committed by the applicant while working as JTO(Indoor), Sangareddy.

12. Further it is to be noted that the authority accepted the resignation after obtaining the clearance of the Vigilance Officer. As already observed, in Annexure-4 it was stated not to accept the resignation of the applicant without clearance from the Vigilance Cell. The Vigilance Cell in its letter dated 11.2.1993 specifically stated that there was no vigilance case pending with the Cell and that no disciplinary case was pending. It is only on that basis the respondents accepted the resignation by letter dated 12.2.1993 (Annexure-9) which clearly indicates that the authorities took care to see whether there was any contemplation of disciplinary proceedings against the applicant. When that is the case, we fail to understand how the authorities are justified in issuing the charge sheet dated 12.8.1994 after lapse of nearly 18 months. Therefore, in our humble view, the authorities were not justified in accepting the resignation without any reservation and issuing the charge sheet dated 12.8.1994. Further it is to be noted that as per the OM extracted above, the misconduct alleged to have been so committed by an ex/employee should be such that he should not be fit or suitable to continue service. Such details are not to be found in the Charge Memo. Further the very fact that the President decided to impose a minor penalty clearly indicated that the authorities

and knowing fully well accepted his resignation without any reservation and initiated the disciplinary proceedings only to harass him and to create an obstacle in his subsequent career prospects. In that view of the matter, we feel that the charge sheet dated 12.8.1994 was clearly not maintainable and that the orders passed thereon are liable to be set aside.

13. Hence we are of the opinion that the charge sheet dated 12.8.1994 was not justified and the orders passed by the President is not sustainable in law. In this view of the matter, the O.A. is liable to be accepted. Accordingly the O.A. is accepted and we pass the following order :-

(a) The charge sheet dated 12.8.1994 is hereby quashed and the order dated 7.8.1997 passed thereon is set aside.

(b) So far as other reliefs claimed by the applicant are concerned, we direct the authorities to consider them in the light of the observations made in this O.A. We cannot give any specific direction with respect to the completion of probation or promotion of the applicant in this O.A.

(Per Hon. Mr. R. Rangarajan, Member(Admn.))

14. I have gone through the judgment of the Hon'ble Shri B.S. Jai Parameshwar, Member(Judl.). I fully agree with the views expressed by him. However, I will like to add the interpretation of the O.M. No. 39/1/67-Ests.(A) dated 21.2.1967. The above O.M. envisages imposition of the penalties on a Government servant for good and sufficient reason in respect of the misconduct committed before his employment. It is further stated that such misconduct committed was of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in

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service. If such a view is taken, then the charge sheet should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable in service. From the above, it transpires that the misconduct should be such that will make the applicant unsuitable to be continued in service. In this case, the applicant was not removed from service but was only given minor punishment. If that be the case relying on this letter for issuing charge sheet itself may not be proper. Further the circumstances under which the misconduct committed by an employee needs to be taken note of for making him unsuitable for continuing in service, if such a misconduct is very grave. Such a grave mistake can be related to a criminal charge resulted in conviction or other similar punishments. In this case before his relief from the post of JTO he was not involved in any criminal case. Some corruption charges were alleged against him. But even the Vigilance Officer had submitted that no such allegation ^{was} pending with him for scrutiny. It is not brought out anywhere that corruption charges levelled against him were such misconduct which necessarily will lead to discharge of the applicant on the ground of unsuitability. Further, in my opinion, quoting of the above letter in this case is absolutely irrelevant and has no nexus with the object to be achieved in issuing the charge sheet to him. In view of the above, I feel that allowing of the applicant ^{to} is in order.

15. In view of what is stated above, the application is allowed. No order as to costs.

205(9)

प्रमाणित गई

CERTIFIED TO BE TRUE COPY

D. C. Deo

प्राधानिक अधिकारी रप्त रजिस्ट्रार (न्याय)
Court Officer/Dy. Registrar
केन्द्रीय प्राधानिक अधिकारी
Central Administrative Tribunal
Delhi - 110054

17-3-78

18-3-78

From
N.Rama Krishna
Asst. Divisional Engineer Telecom
Optical Fibre Equipment Maintenance
Gowliguda, Hyderabad - 500 012

To
The Chairman
Telecom Commission
Sanchar Bhavan
20, Ashoka Road
New Delhi - 110 001

Respected Sir,

Sub : Declaration of Probation wef 18-02-1995 and Promotion to the cadre of Divisional Engineer wef 23-08-1996 with all consequential benefits - case of Sri N.Rama Krishna, ADET(P)-91 - reg.

Ref: Hon'ble CAT, Hyderabad bench judgement dated 17-03-1998 in OA No 1305 of 1997

With reference to the subject mentioned above, I would like to place the following few lines for your kind consideration and favourable orders please.

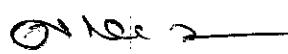
Vide reference mentioned above, the charge sheet dated 12-08-1994 which was issued to me was quashed and the Order passed by Hon'ble President of India on 07-08-1997 withholding my next increment for one year without cumulative effect was set aside. Also the Hon'ble CAT, Hyderabad Bench gave directions to consider the reliefs of declaration probation and promotion to the cadre of Divisional Engineer in the light of the observations made in OA 1305 of 1997.

In this connection, I request you to declare my probation wef 18-02-1995 and further promote me to the cadre of Divisional Engineer wef 23-08-1996 (the date on which my immediate batchmates were promoted).

Thanking you Sir,

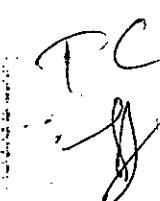
23-03-1998
HYDERABAD

Yours faithfully,


(N.RAMA KRISHNA)

ENCL : Copy of the judgement dated 17-03-1998 in OA 1305 of 1997

Copy to DDG(P), Dept. of Telecom, Sanchar Bhavan, New Delhi


T.C.

High court File No. 113/98

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

WP. NO. 28479 of 1998

WRIT PETITION W.P. NO. 3523 / 1998

W.P. NO. 93582/88

Petition was filed in the High Court of Andhra Pradesh
by ~~Sri~~ VOI, rep. by Secy., Min. of communications,
D/o Telecom, N. Delhi ~~vs~~ N. Rama Krishna &
against the Order/Judgment of this Hon'ble Tribunal dt.
dated 17-3-98
and made in O.A.No. 1305/97.

The High Court was pleased to ~~allow~~ ~~allow~~ Interim
~~order already granted~~
~~suspension stay the operation of judgment on~~ 8-4-99

The Judgment of the Tribunal in O.A.No. 1305/97

and the order of the High Court of Andhra Pradesh enclosed
herewith for perusal.

Submitted.

Deputy Registrar.

Hon'ble Vice-Chairman.

Hon'ble Member (A)

Hon'ble Member (A) II

Hon'ble Member (J)

IN THE HIGH COURT OF JUDICATURE:: ANDHRA PRADESH:: AT HYDERABAD

Thursday the Eighth day of April
One thousand nine hundred and ninety nine

PRESENT:

THE HON'BLE MR. JUSTICE: B. SUBHASHAN REDDY
AND
THE HON'BLE MR. JUSTICE: Y.V. NARAYANA

W.P.M.P.NO. 28479 of 1998
W.V.M.P.NC. 3523 of 1998

W.P.M.P.No. 28479 of 1998:-

Between:-

1. Union of India, rep. by its Secretary Ministry of Communications Dept., of Telecom. New Delhi.
2. The Dy. Director General, Vigilance Dept., of Telecommunications, West Block No.1 Ground Floor, Sanchar Bhavan, R.K. Puram, New Delhi.
3. The Chief General Manager, Telecommunications, A.P., Circle Doorsanchar Bhavan, Abids, Hyderabad.

... Petitioners/Petitioners in WP
No.23582/98 on the file of the High
Court)

AND

28/4/99
1. N. Rama Krishna
2. The Central Administrative Tribunal rep. by its Registrar, Hyderabad.

... Respondents/Respondents in do)

Petition under Section 151 of CPC praying that in the circumstances stated in affidavit filed in the writ petition the High Court will be pleased to suspend the operation of the Judgement of the Central Administrative Tribunal in O.A.No;1305 of 97 dated 17-3-98 pending W.P.No.23582/98 on the file of the High Court.

W.V.M.P.NO. 3523 of 1998:

Between:-

N. Rama Krishna

... Petitioner/Respondent
of 98 on the file of the High
Court

AND

1. Union of India, rep. by its Secretary, Ministry of Communications Dept., of Telecommunications, New Delhi.
2. Chairman, Telecom. Communication Dept., of Telecommunications, Sanchar Bhavan, New Delhi.
3. The Chief General Manager, Telecommunications, A.P., Circle, Door- sanchar Bhavan, Abids, Hyderabad- 500 001.
4. The Central Administrative Tribunal, rep. by its Registrar, Hyd.,

कानूनी प्राप्ति निवारण
नियंत्रण नियमीकरण
HYDERABAD BENCH

... Respondents/Petitioners & Respondents
No.2 in do)

28 APR 1998

Petition under Section 151 of CPC praying that in the circumstances stated in the Counter-affidavit filed in the writ petition No.23582/98 the High Court will be pleased to vacate the interim order of the High Court dated 21-8-98 and made in W.P.M.P.No.28479 of 98 in W.P.No.23582 of 98.

The petitions coming on for hearing, upon perusing the petition and the affidavit filed in the Writ petition No.23582 of 98 and the interim order of the High Court dated 21-8-98 and made in W.P.M.P.No. 28479/98 and the counter and reply affidavit filed therein and upon hearing and upon hearing the arguments of Mr. D. Krishna Murthy, Addl. S.C. for Central Govt. for the petitioners in W.P.M.P.No. 28479 of 98 and Respondents 1 to 3 in W.V.M.P.No.3523 of 98 and of Mr. J. Sudheer, Advocate for the Respondent No.1 in W.P.M.P.No.28479/98

Cont.2.

and petitioner in W.V.M.P.No.3523 of 98, and respondent No.2 in W.P.M.P.No.3479 of 98 not appearing in person or by Advocate and respondent No.4 in W.V.M.P.No.3523 of 98 not necessary as per C.T.

THE COURT MADE THE FOLLOWING ORDER:

Having heard either counsel and having regard to the facts and circumstances of the case and balance of convenience, we vacate the interim order already granted.

Expedite hearing of the writ petition.

Sd/-B. ESTHARY RAO,
ASST. REGISTRAR.

// True copy //

For Asst. Registrar.

To

1. The Registrar, The Central Administrative Tribunal, Hyderabad.
2. One spare copy.
3. One cc to Mr. J. Sudheer, Advocate (OPUC).

KCM

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High Court File No. 113/98

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

W.P.M.P. No. 28479/98

WRIT PETITION NO. 23582/98

Petition was filed in the High Court of Andhra Pradesh by ~~U.O. I rep. by Secy, M/o Communication, Telecom, N. Delhi & Ors~~ against N. Ramachandran & Anr against the Order/Judgment of this Hon'ble Tribunal dt. 17-3-98 and made in O.A.No. 1305/97.

The High Court ~~ased to~~ ~~Dismiss/Allow~~ Order Interim Suspension stay the operation of judgment on 21-8-98.

The Judgment of the Tribunal in O.A.No. 1305/97 and the letter/order of the High Court of Andhra Pradesh enclosed herewith for perusal.

Submitted.

Deputy Registrar (J)

Hon'ble Vice-Chairman

Hon'ble Member (A)

Hon'ble Member (A) II

Hon'ble Member (J)

IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH: AT HYDERABAD

W. P. M. P. NO. 28479 OF 1998

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W.P.NO. 23582 of 1998

BETWEEN:

1. Union of India rep. by its Secretary,
Ministry of Communications, Department, Telecom,
New Delhi
2. The Deputy Director General, Vigilance Department,
of Telecommunication, West Block No. Wing 2, Ground Floor,
Sanchar Bhavan, New Delhi R.K. Puram.
3. The Chief General Manager, Telecommunications,
A.P. Circle, Doorsanchar Bhavan, Abids, Hyderabad.

... Petitioner/Petitioner in W.P.
No.23582/98 on the file of the High Court

1. N. Ramakrishna, Asst. Divisional Engineer, Telecom
O/o. General Manager Telecom, District, Hyderabad.
2. The Central Administrative Tribunal,
rep. by its Registrar, Hyderabad.

• • • Respondents/Respondents in do

COUNSEL FOR THE PETITIONER: Mr. D. Krishna Murthy

FRIDAY THE TWENTY FIRST DAY OF AUGUST 1998

CORAM: THE HON'BLE MR. JUSTICE B. SUBRAHMANYAM REDDY
and

THE HON'BLE MR. JUSTICE VAMAN RAO

Petition filed under Section 151 of C.P.C. praying the High Court to suspend the operation of the judgment of the Central Administrative Tribunal in O.A. No. 1305/97 dated 17-3-1998 pending W.P. No. 23582/98 on the file of the High Court.

The court, while directing issue of notice to the respondents herein to show cause why this application should not be complied with made the following order (The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER: INTERIM SUSPENSION. NOTICE.

Sd/- ANAND KELKAR
ASSISTANT REGISTRAR

for Assistant Registrar

10

1. N. Ramakrishna, Assistant Divisional Engineer, Telecom
o/o. General Manager Telecom, District Hyderabad(RPAD)
2. The Registrar, The Central Administrative Tribunal, Hyderabad(RPAD)
3. One Spare Copy
4. One CC to Mr. D. Krishna Murthy, Advocate (OPC)

YVN

**केंद्रीय वायापनिक अधिकारण
Central Arbitration Service Tribunals
हैदराबाद व्यापरी दृष्टि
HYDERABAD BENCH**

प्राप्त/RECEIVED
विभाग/DEPTAL SET 1/17

Mearing date

RETURN OF THE WRIT OF CERTIORARI ORDER NISI

[To be Ordered on Writ to appear]

The process of the writ of certiorari where of mention is made, was served on respondent this day of One thousand nine hundred and ninety.

This should be served on the Respondent No. and to the High Court.

[Sd]

Writ and Rule nisi

W.P.No. of 199 .

Certified that the required conveyance charges and the process for the service of the process have been collected. It is requested that the English Translation of the process services respect if is vernacular, may be sent along with the Rule nisi returned

FORM No. 8

FORM No. 8

RETURN OF THE WRIT OF CERTIORARI UNDER NISI

To be endorsed on writ to produce

The process of the writ certiorari were of mention is within made with all things launching the same in the several papers hereto annexed, as with commanded.

The Annexure of

The respondent herein

Date

day of

199 .

Sd/-

WRIT OF COURT OR ORDERS-ORDER LIST (TO PRODUCE AND OF TO APPEAR)
IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

Friday, the 21st day of August
One thousand nine hundred and ninety eight
WRIT PETITION NO 23582 of 1998

Between

Petitioner

Union of India

ANE

No.

2. The Central Administrative Respondent
Tribunal, resp by its
Registrar, Hyderabad Respondent

Respondent No.

Mr. D. C. Chung, M. B. Upon motion this day made into this Court by being opinion that the record relating to and touching upon all the matters and contentions raised in the Memorandum of representation petition, a copy of which is annexed hereto, together with the decision therein, should be called for and pursued.

IT IS HEREBY COMMANDED

1) That you, the aforesaid respondent No. do send for our use in High Court of Judicature of Andhra Pradesh, Hyderabad, all and singular the said record and other with all things touching the same as fully and perfectly as they have been made by you and now remain your custody or power together with this, Rule Nisi before the day of 199 . and

That you intend to oppose the petition you the aforesaid Respondent No. do, appear personally or by Advocate be the day of at 10-30 a.m. before the Court to show cause why this Petition should not be complied with and that we may cause further to be done there on what of right and according to Law we shall see fit to be done.

NOTICE:— YOU HAVE TO FILE YOUR COUNTER AFFIDAVIT WITHIN 6 MONTHS, UNLESS OTHERWISE DIRECTED BY THE HIGH COURT, MATERIAL PAPERS RELIED UPON BY YOU SHOULD BE FILED IN BOOK FORM DULY STITCHED GIVING EXHIBIT NUMBERS TO EACH DOCUMENT.

WITNESS the Hon'ble
Andhra Pradesh at Hyderabad, this the
One thousand nine hundred ninety.

Chief Justice of High Court of
day of 1990, the tenth

Assistants' Registrar

- 9 NOV 1998

4-6-1994 for the alleged acts of misconduct committed while working as JTO(Indoor) Sangareddy, that an Inquiry was conducted into the charges and the charges were held "partly proved", that a punishment of withholding of next increment due to him for a period of one year without cumulative effect was imposed by an order dt. 7-8-1997, that the order of punishment is not sustainable for the reason that on acceptance of resignation to the post of JTO (Indoor) no punishment can be imposed subsequently for the alleged misconduct committed prior to resignation to the post of JTO(Indoor).

3. I submit that the petitioners herein filed a reply affidavit to the application denying the allegations made therein and specifically contended that the acceptance of resignation before joining a higher post is only a technical formality, that since the disciplinary Authority contemplated disciplinary proceedings against the first respondent it was decided to extend the probation till the disposal of the disciplinary proceedings; that the disciplinary action is in accordance with the law and that therefore the OA is liable to be dismissed. The Reply affidavit filed in O.A.No.1305/97 may be read as part of this affidavit.

4. I submit that the Hon'ble Tribunal taking an erroneous view of the matter allowed the O.A.No.1305/97 holding that disciplinary action cannot be initiated after accepting resignation to the post and joining another post. I submit that the order of the Hon'ble Tribunal is contrary to law and not sustainable. Aggrieved by the order of the Hon'ble Tribunal this Writ Petition is filed for the following among other:

2nd page corrs.

K. Dattaraju *Deponent*
Attestor 30/07 *Deponent* 30/07
Law Officer *सहायक महाप्रबंधक (विधि)*
O/o C.G.M. Telecom, Asst General Manager (Legal)
2, M. S. J. A. P. 3 म. प्र. दूरसंचार ला. कार्यालय आ. प्र. हैदराबाद-१
O/o C.G.M. Telecom, A.P. Hyd-1

THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

W.P. NO. 23582 OF 1998

Between:

Union of India
represented by its Secretary
Ministry of Communications
Telecommunications and others. Petitioners

And

N.Ramakrishna & another. Respondent

AFFIDAVIT OF PETITIONERS

I, G.V.R.Setty son of Govinda Setty, aged about 50 years, Hindu, Employee, residing at Hyderabad, do hereby solemnly affirm and state as follows:

1. I am the Assistant General Manager (Legal) in the office of the Chief General Manager, Telecommunications, Andhra Pradesh Circle, Hyderabad and as such I am acquainted with the facts of the case. I am authorised to file this affidavit on behalf of petitioners.

2. I submit that the first respondent herein filed O.A.No.1305/97 on the file of Central Administrative Tribuna., Hyderabad Bench, alleging that in pursuance of notification issued in the year 1989 he was selected and appointed as Junior Telecommunications Officer (Indoor) at Sangareddy Telephone Exchange w.e.f. 25-2-1991, that later on he was selected as Assistant Divisional Engineer, Telecommunications, and therefore he submitted resignation to the post of Junior Telecommunications Officer on 20-1-1993; that his resignation was accepted on 12-2-1993; that while he was undergoing training as Asst. Divisional Engineer, Telecommunications, he was served with a charge memo dt.

1st page corrs.

K. *Dasaraju*
Attestor 30/2
Law Officer
O/o C.G.M. Telecom,
Hyderabad-A.P.

Deon
Deponent 30/2
Asst. General Manager (Legal)
1. प्र. दूरसंचार वा कामिनी या.प्र. हैदराबाद-१
O/o C.G.M. Telecom, A.P. Hyd-1

liable for disciplinary action for the misconduct committed while holding the said post.

VII. The Hon'ble Tribunal wrongly construed the O.M.No.39/1/67-Ests.(A) dated 21-2-1967 and erroneously quashed the impugned charge sheet and the order of punishment dt. 4-8-1994.

VIII. The Hon'ble Tribunal gave undue importance to the letter of the Vigilance Officer which is not conclusive proof that no disciplinary action was contemplated against the respondent and erroneously allowed the O.A.

IX. For the aforesaid and other grounds that may be urged at the time of final hearing the order of the Hon'ble Tribunal is liable to be setaside.

5. I submit that the petitioners have no other effective alternative remedy to question the impugned judgement except to invoke the extraordinary jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India. The petitioners have not so far filed any writ or suit in this regard.

6. It is therefore prayed that the Hon'ble Court may be pleased to call for the records in O.A.No.1305/97 on the file of the Central Administrative Tribunal, Hyderabad Bench dated 17-3-1998 and quash the same by issuing a Writ Certiorari or any other appropriate writ or Order and pass such other order as are deemed fit and proper in the facts and circumstances of the case.

7. It is also necessary in the interest of justice that this Hon'ble Court may be pleased to suspend the order in O.A.No.1305/97 on the file of the Central Administrative Tribun-

4th page corrs.

K. Dasarao
Attestor 30/07
Law Officer
C/o C.G.M. Telecom,
Hyderabad-A.P.
4

Deon
Deponent
सहायक महाप्रबंधक (विधि) ~
Asst General Manager (Legal)
म. प. म. दूरसंचार ला. दायरीव आ.प्र. हैदराबाद-१
O/o C.G.M. Telecom, A.P. Hyd-1

IN T
I GROUNDS

The judgement of the Hon'ble Tribunal is contrary to law and the same is liable to be setaside.

II. The Hon'ble Tribunal erred in quashing the charge sheet dated 12-8-1994 and the order dated 7-8-1997.

III. The Hon'ble Tribunal should have seen that the alleged misconduct pertains to the service in the very same department while working in a lower post and therefore there is nothing illegality in initiating disciplinary proceedings against the first respondent after joining the new post.

IV. The Hon'ble Tribunal should have seen that there is no rule which forbids taking the disciplinary action against a Public servant after joining a new/higher post for the misconduct committed while holding/working in a lower post in the same department.

V. The Hon'ble Tribunal failed to see that the resignation to the lower post for joining higher post in the same department is only a technical formality and the same will not absolve the delinquent Public Servant of the misconduct committed by him.

VI. The Hon'ble Tribunal should have seen that as per the provisions of Rule 26(2) of C.C.S.(Pension) Rules a resignation shall not entail forfeiture of past service if it has been submitted to take up with proper permission and other appointment, whether temporary or permanent, under the Government where service qualifies. Therefore, when the Public Servant can avail his service in the previous post to which resignation was submitted for the purpose of Pension, as natural concomitant he is equally

3rd page corrs.

K. Parasuram
Attestor 30/07
Law Officer
C/o C.G.M. Telecom,
Hyderabad-A.P.
3

Deponent 300
Deponent 300
सहायक महाप्रबन्धक (विधि)
Asst. General Manager (Legal)
इ. प्र. फूर्तपार का नाम या.प. हैदराबाद-1
C/o C.G.M. Telecom, A.P. Hyd-1

al, Hyderabad Bench dt. 17-3-1998 pending disposal of the above
writ petition and pass such other orders as are deemed fit and
proper in the facts and circumstances of the case.

5th and last page

Corrections:

Solemnly and sincerely affirmed

on this the 30th day of July 1998

at Hyderabad.

.....
DEPONENT

सह वक्तव्याचारक (विधि)

Asst General Manager (Legal)

ए.म.प्र. दूरसंचार का प्रबंधन जा.प्र. हैदराबाद-१

O/o C.G.M. Telecom, A.P. Hyd-1

K. Basavaraj
ATTESTOR 30/7/98
Law Officer
O/o C.G.M. Telecom,
Hyderabad-A.P.

larly one in the nature of Certiorari calling for records in O.A. No. 1305/97 of the Central Administrative Tribunal, Hyderabad and quash the judgement dt. 17-3-1998 in the OA and pass such other order or orders deemed fit in the facts and circumstances of the case.



COUNSEL FOR PETITIONER

Hyderabad

Date:

18/8/98

1

MEMORANDUM OF WRIT PETITION
(Under Art.226 of the Constitution of India)
IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH::AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

W.P. NO. OF 1998

Between:

1. Union of India
rep. by its Secretary
Ministry of Communications
Dept. of Telecom. New Delhi
2. The Dept and Govt of India, New Delhi, Block 1, Wing 2
2. Chairman, Telecom. Commission
Dept. of Telecommunications
Sanchar Bhavan, New Delhi-110001
Govt of India, R.T. P.W.D.
3. The Chief General Manager
Telecommunications, A.P. Circle
Doorsanchar Bhavan, Abids, Hyderabad Petitioners

AND

1. N. Ramakrishna
Asst. Divl. Engineer Telecom.
O/o General Manager Telecom
Dist. Hyderabad
Hyderabad-33
2. The Central Administrative
Tribunal, rep. by its
Registrar, Hyderabad

The Address for service of all notices and
process of the petitioner is that of his counsel D.Krishna
Murthy, Addl. Standing Counsel, F-315, Sri Dattasai Apartments, 1-7-
1074, RTC X Roads, Hyderabad-500020.

The address for services of the respondents
is the same as given in the cause title.

For the reasons stated in the accompanying
affidavit the petitioner herein prayed that this Hon'ble Court
may be pleased to issue an order, Writ or direction more particu-

FORM NO. 21.

(Sec. Rule 114.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH, HYDERABAD.

O.A/ T.A

M.A. 64 of 98 in OA 1305/98.

1998.

N. Rama Krishna

Applicant (s)

Versus

G. A. V. Gokak, ~~see~~ M/o. Communications

N. Delhi 2. 2. 1998

Respondent(s)

INDEX SHEET

Serial No.	Description of documents and dates.	Pages.
------------	-------------------------------------	--------

Docket orders.

Interim orders

Orders in M.A (s)

Reply Statement

Rejoinder

ORDERS in(Final orders)

7. 8. 98 1) 21

Certified that the file is complete
in all respects.

Signature of Dealing Hand.

(In record section)

Signature of S. O.

(See Rule 12)

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

HYDERABAD.

NO. 6098

ORDER SHEET

CR. NO. 84/98 M

OA. No.

1305

of 1998.

N. Rama Krishna

Applicant(s)

Through M/s

Advocate.

VERSUSA.V. Grocock, Secretary Min. of Communications,New Delhi & 2 off

Respondents(s)

By. Mr.

CGSC

Date	Note of the Registry	Order of the Tribunal
6.8.98		<p>list this case tomorrow.</p> <p><i>R</i> HSS/18 HCJ</p> <p><i>7/8/98</i></p> <p>The CP converted as MA is disposed of, vide order on separate sheet. no costs.</p> <p><i>R</i> HSS/18 HCJ</p> <p><i>D</i> HSS/18 HCJ</p> <p><i>D</i> HSS/18 HCJ</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH
AT HYDERABAD

C.A. No. 84 OF 1998

IN

MA. NO. 640/98 O.A. No. 1305 OF 1997

Between :

N.Rama Krishna S/o Venkata Swamy, Aged about 32 years
Occupation : Asst. Divisional Engineer Telecom, Hyderabad : APPLICANT
R/o Hyderabad.

AND

Sri A.V.Gokak, Secretary to the Govt. of India, Ministry of
Communications, Dept. of Telecommunications, New Delhi : RESPONDENTS
and others.

CONTEMPT APPLICATION FILED UNDER SECTION 17 OF
ADMINISTRATIVE TRIBUNALS ACT, 1985

INDEX

Sl.No.	Description of the Documents relied upon	Page Nos.	Annexure No.
1	Order of the Hon'ble Tribunal in O.A.No. : 1305 of 1997, dated : 17-03-1998	3-12	1
2	Representation of the Applicant dated : 23-03-1998	13	2

Received copy
Bawali
21.7.98

21.7.98
APPLICANT

DATE OF FILING :

REGISTRAR

**Contempt Application Filed -
(Under sec. 17 of Administrative Tribunals Act, 1985)
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL
BENCH : AT HYDERABAD**

CIA. No. 84 OF 1998

ms. 640/28 IN

O.A. No. 1305 OF 1997

Between :

N.Rama Krishna S/o Venkata Swamy, Aged about 32 years
Occupation : Asst. Divisional Engineer Telecom, Hyderabad
R/o Hyderabad.

: APPLICANT

AND

1. Sri A.V.Gokak Secretary to the Govt.of India, Ministry of Communications, Dept. of Telecommunications New Delhi.))
2. Sri G.K.Mehrothra Deputy Director General, Vigilance Department of Telecommunications West Block No.1, Wing No.2 Ground Floor, R.K.Puram Sector - 1 New Delhi.))
3. Sri Ramanujam Chief General Manager Telecom Andhra Pradesh Circle Door Sanchar Bhavan, Nampally Road Hyderabad.))

For the reasons stated in the accompanying Affidavit it is prayed this Hon'ble Tribunal may be pleased to take cognisance of the Contempt of Tribunal against the Respondents herein in disobeying the orders dated : 17-03-1998 in O.A. No.1305 of 1997 and issue summons to the Respondents and punish them in accordance with the contempt of Court or any other provisions of law and pass such other order or orders as this Hon'ble Tribunal may deem fit, proper and necessary in the circumstances of the case.

HYDERABAD

DATED: 21-7-98


A. Smulders

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH
AT HYDERABAD

C.A. No. 84 OF 1998

MS. 60/98 IN

O.A. No. 1305 OF 1997

Between :

N.Rama Krishna S/o Venkata Swamy, Aged about 32 years
Occupation : Asst. Divisional Engineer Telecom, Hyderabad : APPLICANT
R/o Hyderabad.

AND

Sri A.V.Gokak, Secretary to the Govt.of India, Ministry of
Communications, Dept. of Telecommunications, New Delhi : RESPONDENTS
and others.

AFFIDAVIT FILED BY THE APPLICANT

I, N.Rama Krishna, S/o Venkata Swamy, Aged about 32 years, Occupation : Assistant Divisional
Engineer Telecom, Hyderabad, R/o Hyderabad, do hereby solemnly and sincerely affirm and state on
oath as follows :

1. I am the Deponent herein and Original Applicant in the above Original Application and as such
I am well acquainted with the facts of the case deposed hereunder.
2. That the Applicant had preferred O.A.No. 1305 of 1997, before this Hon'ble Tribunal,
aggrieved by the issuance of punishment order dated :07-08-1997.
3. That, this O.A. is the 4th round of litigation in the matter of Disciplinary Proceedings. Though
the Applicant was not at all guilty of any misconduct, charges have been framed and due to the
pendency of the said Disciplinary Proceedings, the Applicant's probation had not been declared in the
cadre of A.D.E.T. and he was not promoted to the next higher cadre (as Divisional Engineer) while all
his batchmates and even juniors are promoted. Finally, the impugned order was issued illegally which
was challenged in the O.A. After hearing both the sides, the O.A. was allowed on 17-03-1998 through
which the impugned proceedings were quashed. In view of allowing of O.A., the Applicant is entitled
for all the benefits which were denied to him due to the pendency of Disciplinary Proceedings. The
Applicant is entitled for declaration of probation in the cadre of A.D.E.T w.e.f. 18-02-1995 and is also
entitled for increments in that cadre. Further, the Applicant is also entitled for promotion to the cadre of
Divisional Engineer with effect from the date on which his immediate junior was promoted, i.e. on 23-
08-1996, with all consequential benefits such as arrears of pay , seniority etc..

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4. That Hon'ble Tribunal while quashing the charge sheet dated 12-08-1994 and the final order dated 07-08-1997, directed the Respondents to consider other reliefs sought in the O.A. such as declaration of probation and promotion to the cadre of Divisional Engineer in the light of the observations made in the O.A. As the said benefits are denied on the ground of pendency of Disciplinary Proceedings and when the Disciplinary Proceedings were quashed by this Hon'ble Tribunal the Respondents are expected to take appropriate steps to grant the said reliefs which were denied illegally. It is necessary to state that the benefits have been denied illegally all these years and the Respondents fairly ought to have granted the said reliefs immediately after the disposal of the case.

5. That, it is necessary to state that appreciating the meritorious services of the Applicant, the Respondents have awarded him the Honorarium for the years 1995-96, 1996-97 and 1997-98 consecutively. The fact that his receiving Honorarium for his meritorious services and further fact that the initiation of Disciplinary Proceedings was quashed by this Hon'ble Tribunal as illegal, itself shows that the Applicant was being penalised by the Respondents for no fault of his that too after succeeding before this Hon'ble Tribunal.

6. That the Applicant has given a representation on 23-03-1998 enclosing a copy of the judgement dated 17-03-1998 in O.A.No. 1305 of 1997 requesting the Respondents to grant him the reliefs that is declaration of probation w.e.f. 18-02-1995 and promotion to the cadre of Divisional Engineer w.e.f. 23-08-1996 with all consequential benefits. When the Hon'ble Tribunal directed the Respondents to consider this aspect, no action has been taken till now. The Respondents are bent upon denying the benefits to the Applicant. The action of the Respondents in denying the benefits to the Applicant despite directions of this Hon'ble Tribunal amounts to deliberate contempt of this Hon'ble Tribunal. The Respondents have taken this Hon'ble Tribunal very lightly. The attitude of the Respondents is depreciable and it is prayed this Hon'ble Tribunal to take cognisance of the contemptuous attitude of the Respondents and take appropriate action. During the pendency of the Contempt Case, it is humbly prayed to direct the Respondents to implement the orders of this Hon'ble Tribunal dated 17-03-1998 in O.A.No. 1305 of 1997 forthwith. Hence this C.A.

Hence in the interest of Justice it is prayed that this Hon'ble Tribunal may be pleased to take cognisance of the Contempt of Tribunal against the Respondents herein in disobeying the orders dated : 17-03-1998 in O.A. No. 1305 of 1997 and issue summons to the Respondents and punish them in accordance with the Contempt of Court or any other provisions of law and pass any such other order or orders as this Hon'ble Tribunal may deem fit, proper and necessary in the circumstances of the case.

Sworn and signed in his name
before me on this the 21st Day
of July 1998, at Hyderabad.


DEPONENT

BEFORE ME.


ADVOCATE: HYDERABAD
(K. R. KOTESWARA RAO)

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH :
AT HYDERABAD.

O.A. NO.1305 OF 1997.

DATE OF ORDER:- 17 -3-1998.

Between :-

N, RAMAKRISHNA

APPLICANT

A N D'

1. Union of India represented by its Secretary, Ministry of Communication, Department of Telecommunication, Samachar Bhavan, Ashoka Road, New Delhi.
2. The Deputy Director, General Vigilance Department of Telecommunication, West Block No.1, Wing No.2, Ground Floor, R.K.Puram, Sector-I, New Delhi.
3. The Chief General Manager, Telecommunication, Andhra Pradesh Circle, Door Samachar Bhawan, Nampalli, Hyderabad.

.. RESPONDENTS

Counsel for the applicant : Mr. J. Sudheer

Counsel for the respondents : Mr. K. Bhaskara Rao, CGSC

CORAM :

Honourable Mr.R. Rangarajan, Member(Admn.)

Honourable Mr. B.S.Jai Paramdeshwar, Member(Judl.)

O R D E R.

(Per Hon. Mr.B.S.Jai Parameshwar, Member(Judl.))

1. Heard Mr. J. Sudheer, the learned counsel for the applicant and Mr. K. Bhaskara Rao, the learned Standing Counsel for the respondents.
2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 29.9.1997.
3. The facts giving raise to this O.A. may, in brief, be stated thus :-

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(a) In response to the advertisement issued during the year 1989 the applicant was selected and appointed as Junior Telecommunication Officer(Indoor) at Sangareddy Telephone Exchange and he worked as such from 25.2.1991. Consequent upon his selection as Assistant Divisional Engineer, Telecommunications, the applicant submitted his letter of resignation dated 20.1.1993 to the said post. His resignation was accepted by the respondents on and from 12.2.1993 (Annexure-9 to the O.A.).

(b) While he was undergoing training as Assistant Divisional Engineer, Telecommunications he was served with a Memorandum of Charges dated 4.8.1994 alleging certain acts of misconduct which were committed by him while working as the JTO(Indoor) Sangareddy. The copy of the Memorandum of Charges is at Annexure-10 to the O.A.

(c) An enquiry was conducted into the charges and on 29.1.1997 the Inquiry Officer submitted his report. The copy of the report of the Inquiry Officer is at Annexure-12 to the O.A. The Inquiry Officer recorded a finding that the charges levelled against the accused were "partly proved".

(d) The copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted his explanation dated 26.5.1997. The copy of his explanation is at Annexure-13 to the O.A.

(e) The President considering the report of the Inquiry Officer and the explanation of the applicant agreed with the findings of the Inquiry Officer and imposed the punishment of withholding of next increment due to the applicant for a period of one year without cumulative effect. The order is dated 7.8.1997 and is at Annexure-1 to the O.A.

4. The applicant has filed this O.A. for the following reliefs :-

(i) To call for the records pertaining to the impugned orders contained in No.8-19/94-Vig.II, dated 07.8.1997 issued by the Respondent No.2 herein and set the same aside as illegal, arbitrary, discriminatory, illogical, irrational, opposed to the principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India.

(ii) Consequently to direct the respondents herein to declare the probation of the applicant in the post of Assistant Divisional Engineer, Telecom. with effect from 18.02.1995; and

(iii) Further promote him to the post of Divisional Engineer, Telecom., with effect from 23.8.1996 with all consequential benefits, such as arrears of salary, and promotion etc.

5. The main ground on which the applicant has impugned the order of punishment is that on 12.2.1993 the resignation of the applicant was accepted by the respondents without any reservation and he was relieved on the same day and he joined as Assistant Divisional Engineer, Telecommunications; that once his resignation was accepted without any reservation, the charges could not have been served on him after lapse of nearly a year and half on 4.8.1994; that his resignation was accepted even only after clearance by the Vigilance Cell of that department; that on 11.2.1993 the Vigilance Cell of the department informed the authority that there was neither any disciplinary proceeding pending against him nor the same was contemplated as on date i.e. 11.2.1993; that when his resignation was accepted as JTO(Indoor), he was given a clean chit and he was allowed to join in his post. Therefore, it was not open for the respondents to issue a Charge Memo. while he was working as Assistant Divisional Engineer, Telecommunications;

that when his resignation was accepted, the relationship of master and servant ceased to exist and the employer is not entitled to take action about any alleged misconduct pertaining to his previous service and that on this ground alone, the whole disciplinary proceeding is vitiated and deserves to be set aside.

6. The respondents have filed the counter stating that the acceptance of resignation of the applicant was only a technical formality; that the applicant resigned the post only to join another post in the same department; that the clearance given by the Vigilance Cell on 11.2.1993 was only to enable the applicant to join the selected post as Assistant Divisional Engineer, Telecommunications; that since the acceptance of the resignation was only a technical formality, the department is in no way restrained from proceeding against the applicant for the alleged misconduct while he was working as JTO (Indoor), Sangareddy; that the applicant had challenged at each and every stage of the disciplinary proceedings by filing O.As. and that the said O.As. were dismissed; that under Rule 26(2) of the CCS(Pension)Rules, acceptance of resignation was a technical one; that the applicant is entitled to count his earlier service as JTO(Indoor) for the purpose of pension and retiral benefits; that the resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment under the Central Government where service qualifies and thus the relationship of master and servant has not at all been terminated in the present case; that as per Para 52 of P&T Manual Vol.III, the time at which an act was committed or the capacity in which it was committed is not material for deciding whether or not the CCS(CCA)Rules,1965 were applicable.

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an employee; that an employee can be proceeded for the alleged misconduct in his past service and the charges specifically state that the misconduct alleged was such that it rendered him unfit and unsuitable for continuing in service; that whether it was negligence on the part of the applicant or concerted effort with a motive to manipulate the readings can only be the outcome of the inquiry; that after considering the report of the Inquiry Officer, the President considered the same and found it proper to impose the penalty vide the impugned order; that the inquiry has been conducted with due observations of the principles of natural justice; that when there is some evidence, the disciplinary authority can consider and pass a punishment and that therefore there are no grounds to interfere with the impugned order.

7. After hearing the learned counsel for both the sides, the only point that arises for our consideration is whether the respondents-authorities were justified in issuing the charge sheet dated 4.8.1994 after accepting the resignation of the applicant effective from 12.2.1993 without any reservation.

8. It is not in dispute that the applicant between 25.2.1991 and 12.2.1993 worked as JTO(Indoor) Sangareddy. On 20.1.1993 the applicant submitted his resignation to the post and the same was accepted on 12.2.1993. As per the extant rules and the CCS(Pension) Rules, the authorities are not expected to accept resignation of an employee mechanically and that too, when there is any contemplation of disciplinary proceedings against an employee. Further when the resignation was just a technical formality in that it was intended to accept another post with proper permission of the authority, then the order accepting the resignation should clearly indicate that the

employee is resigning to join another post with proper permission and that the benefits under Rule 26(2) will be admissible to him. Annexure-9 to the O.A. is the letter dated 12.2.1993 under which resignation of the applicant to the post of JTO(Indoor) has been accepted.

9. On perusal of Annexure-9 it is clear that the authorities accepted the resignation of the applicant without any reservation and that too, they did not even state in clear terms that the resignation was accepted only to enable the applicant to accept another post with permission of the proper authority. In fact, the applicant submitted his letter of resignation on 20.1.1993. At that time, the Assistant Director (Personnel) by his letter dated 25.1.1993 expressed his reservation for accepting the resignation of the applicant for the post for the following reasons:-

- (i) The resignation may not be accepted at such a short notice without return of stipend paid.
- (ii) A disciplinary case is contemplated against the official, the details of which are available with the Vigilance Cell of SHQ.

Annexure-7 is the letter of the Vigilance Officer which letter, refers to Annexure.4. The Vigilance Officer has stated as follows :-

No disciplinary case is pending or contemplated against the above ofdficer in Vigilance Cell of this office as on date. The statement that the details are available with Vigilance cell is incorrect, as no such report is received in this section so far.

In this background, it is now too much for the respondents to contend that the acceptance of resignation of the applicant to the post of JTO(Indoor) was only a technical formality and that the relationship of master and servant had not ceased and that they are

competent to proceed against the applicant for the alleged misconduct committed by him while working as JTO (Indoor), Sangareddy.

10. The learned counsel for the respondents during course of his arguments, relied upon the OM No.39/1/67-Ests.(A) dated 21st February, 1967. We feel it proper to reproduce the said letter as under :-

"(1) Departmental action in respect of misconduct committed in earlier employment.- It is clarified that the provision of Rule 11 of the CCS(CCA) Rules, 1965, which envisages the imposition of penalties on Government servant for 'good and sufficient reason' is adequate authority for taking action against a Government servant in respect of misconduct committed before his employment was of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in service. When such action is taken, the charge should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service."

Relying upon the above O.M., the respondents attempted to justify the issue of charge sheet on 4.8.1994.

11. On analysing the above letter, it is clear that the letter clarified the rule position of Rule 11 of the CCS(CCA)Rules. However, it is stated that when such an action is taken, then the charge sheet should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service. The charge sheet dated 4.8.1994 is at Annexure-1. In the charge sheet it is nowhere indicated that the applicant was not suitable to hold and continue in the post of Assistant Divisional Engineer, Telecommunications. The charge sheet is dated 4.8.1994.

that the respondents accepted the resignation effective from 12.2.1993. Between 12.2.1993 to 4.8.1994 they had not thought of initiating any proceedings against the applicant. The respondents accepted the resignation of the applicant without any reservation. It is not as if they were not aware of any misconduct which was alleged to have been committed by the applicant while working as JTO(Indoor), Sangareddy.

12. Further it is to be noted that the authority accepted the resignation after obtaining the clearance of the Vigilance Officer. As already observed, in Annexure-4 it was stated not to accept the resignation of the applicant without clearance from the Vigilance Cell. The Vigilance Cell in its letter dated 11.2.1993 specifically stated that there was no vigilance case pending with the Cell and that no disciplinary case was pending. It is only on that basis the respondents accepted the resignation by letter dated 12.2.1993 (Annexure-9) which clearly indicates that the authorities took care to see whether there was any contemplation of disciplinary proceedings against the applicant. When that is the case, we fail to understand how the authorities are justified in issuing the charge sheet dated 12.8.1994 after lapse of nearly 18 months. Therefore, in our humble view, the authorities were not justified in accepting the resignation without any reservation and issuing the charge sheet dated 12.8.1994. Further it is to be noted that as per the OM extracted above, the misconduct alleged to have been so committed by an ex/employee should be such that he should not be fit or suitable to continue service. Such details are not to be found in the Charge Memo. Further the very fact that the President decided to impose a minor penalty clearly indicated that the authorities

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and knowing fully well accepted his resignation without any reservation and initiated the disciplinary proceedings only to harass him and to create an obstacle in his subsequent career prospects. In that view of the matter, we feel that the charge sheet dated 12.8.1994 was clearly not maintainable and that the orders passed thereon are liable to be set aside.

13. Hence we are of the opinion that the charge sheet dated 12.8.1994 was not justified and the orders passed by the President is not sustainable in law. In this view of the matter, the O.A. is liable to be accepted. Accordingly the O.A. is accepted and we pass the following order :-

(a) The charge sheet dated 12.8.1994 is hereby quashed and the order dated 7.8.1997 passed thereon is set aside.

(b) So far as other reliefs claimed by the applicant are concerned, we direct the authorities to consider them in the light of the observations made in this O.A. We cannot give any specific direction with respect to the completion of probation or promotion of the applicant in this O.A.

(Per Hon. Mr. R. Rangarajan, Member (Admn.))

14. I have gone through the judgment of the Hon'ble Shri B.S. Jai Parameshwar, Member (Judl.). I fully agree with the views expressed by him. However, I will like to add the interpretation of the O.M. No. 39/1/67-Ests. (A) dated 21.2.1967. The above O.M. envisages imposition of the penalties on a Government servant for good and sufficient reason in respect of the misconduct committed before his employment. It is further stated that such misconduct committed was of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in

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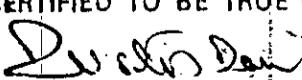
service. If such a view is taken, then the charge sheet should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable in service. From the above, it transpires that the misconduct should be such that will make the applicant unsuitable to be continued in service. In this case, the applicant was not removed from service but was only given minor punishment. If that be the case relying on this letter for issuing charge sheet itself may not be proper. Further the circumstances under which the misconduct committed by an employee needs to be taken note of for making him unsuitable for continuing in service, if such a misconduct is very grave. Such a grave mistake can be related to a criminal charge resulted in conviction or other similar punishments. In this case before his relief from the post of JTO he was not involved in any criminal case. Some corruption charges were alleged against him. But even the Vigilance Officer had submitted that no such allegation ^{was} pending with him for scrutiny. It is not brought out anywhere that corruption charges levelled against him were such misconduct which necessarily will lead to discharge of the applicant on the ground of unsuitability. Further, in my opinion, quoting of the above letter in this case is absolutely irrelevant and has no nexus with the object to be achieved in issuing the charge sheet to him. In view of the above, I feel that allowing of the applicant ^{to} is in order.

15. In view of what is stated above, the application is allowed. No order as to costs.

1505/91

प्रमाणित अस्ति

CERTIFIED TO BE TRUE COPY



स्थायी अधिकारी रप्त रजिस्ट्रार (स्थायी)
Court Officer/Dy. Registrar
केन्द्रीय प्रामाणिक अदाळत
Central Administrative Tribunal

17-3-78

18-3-78

Contempt Petition

IN THE C.A.T., HYDERABAD

C.A. No. 12 of 1998

O.A. No. 305 of 1997

Contempt Application



Filed by

J. Sudheer

Advocate

Counsel for the Applicant

May be filed
27/7/98

From
N.Rama Krishna
Asst. Divisional Engineer Telecom
Optical Fibre Equipment Maintenance
Gowliguda, Hyderabad - 500 012

A2

15 (13)

To
The Chairman
Telecom Commission
Sanchar Bhavan
20, Ashoka Road
New Delhi - 110 001

Respected Sir,

Sub : Declaration of Probation wef 18-02-1995 and Promotion to the cadre of Divisional Engineer wef 23-08-1996 with all consequential benefits - case of Sri N.Rama Krishna, ADET(P)-91 - reg.

Ref : Hon'ble CAT, Hyderabad bench judgement dated 17-03-1998 in OA No 1305 of 1997

With reference to the subject mentioned above, I would like to place the following few lines for your kind consideration and favourable orders please.

Vide reference mentioned above, the charge sheet dated 12-08-1994 which was issued to me was quashed and the Order passed by Hon'ble President of India on 07-08-1997 withholding my next increment for one year without cumulative effect was set aside. Also the Hon'ble CAT, Hyderabad Bench gave directions to consider the reliefs of declaration probation and promotion to the cadre of Divisional Engineer in the light of the observations made in OA 1305 of 1997.

In this connection, I request you to declare my probation wef 18-02-1995 and further promote me to the cadre of Divisional Engineer wef 23-08-1996 (the date on which my immediate batchmates were promoted).

Thanking you Sir,

23-03-1998
HYDERABAD

Yours faithfully,

.....
(N.RAMA KRISHNA)

ENCL : Copy of the judgement dated 17-03-1998 in OA 1305 of 1997

Copy to DDG(P), Dept. of Telecom, Sanchar Bhavan, New Delhi

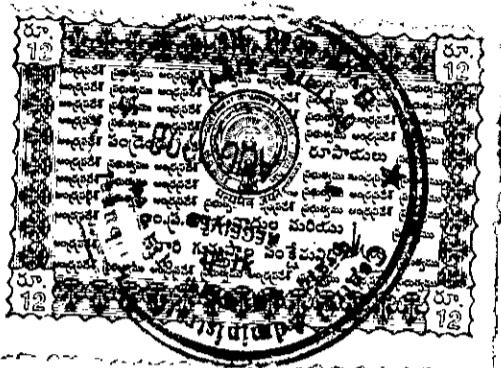
S. No: 80

today 11th of
February 1998

Central Administrative Tribunal,
Hyderabad Bench, Hyderabad.

Cp: 84 | 88

OA/CA No. 1805 of 1997



MEMO OF APPEARANCE

V. RAJESWARA RAO
ADVOCATE

Standing Counsel for Railways,
Addl. Standing Counsel for Central Govt.

Counsel for.....

R. S. R. Rao

Address for Service :

Phone : 272585

104/2 RT, Sanjeevareddy Nagar,
HYDERABAD-500 038.

16

Central Administrative Tribunal, Hyderabad Bench,
HYDERABAD.

Cp 84 188
OA/GAR No. 1305 of 1997

BETWEEN

M. Rame Krishna

Applicant (s)

vs.

Gopal Chennava
Tidam Rep.

Respondent (s)

MEMO OF APPEARANCE

To,

I V. Rajeswara Rao, Advocate, having been authorised.....
..... (here furnish the particulars of authority)
..... by the Central/State Government/Government Servent/..... authority/corporation/
society notified under Sec. 14 of the Administrative Tribunals Act, 1985. Hereby appear for
applicant No/Respondent No and undertake to plead and act
for them in all matters in the aforesaid case.



Place : Hyderabad
Date : 7/8/98
Address of the Counsel for Service
V. Rajeswara Rao
104/2 RT. Sanjeevareddy Nagar,
HYDERABAD - 500 038.

[Signature]
V. RAJESWARA RAO
Standing Counsel for Railways,
Addl. Standing Counsel for Central G

Signature & Designation of the Cou

17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

C.P.No.84 OF 1998 | *converted from A.640/98*

in
O.A.No.1305 OF 1997

Date of Order: 7-8-1998.

Between:

N.Rama Krishna.

.. Applicant

and

1. Sri A.V.Gokak,
Secretary to the Govt. of India,
Ministry of Communications, Department
of Telecommunications, New Delhi.

2. Sri G.K.Mehrothra,
Deputy Director General, Vigilance,
Department of Telecommunications,
West Block No.1, Wing No.2,
Ground Floor, R.K.Puram Sector-1,
New Delhi.

3. Sri Ramanujam,
Chief General Manager Telecom,
Andhra Pradesh Circle,
Door Sanchar Bhavan, Nampally Road,
Hyderabad.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.J.Sudheer

COUNSEL FOR THE RESPONDENTS: Mr.V.Rajeshwara Rao

CORAM:

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

A N D

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

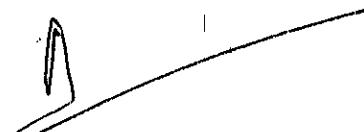
: O R D E R :

ORAL ORDER (AS PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.J.Sudheer for the Applicant and
Mr.V.Rajeshwara Rao for the Respondents,

JS

.....2



2. The C.P. has been filed for non-implementation of the Judgment in O.A. No.1305 of 1997 disposed of on 17-3-1998. That OA was disposed of with the following Orders :-

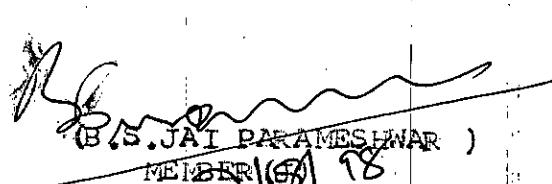
13. (a) The charge sheet dated 12-8-1994 is hereby quashed and the order dated 7-8-1997 passed thereon is set aside.

(b) So far as other reliefs claimed by the applicant are concerned, we direct the authorities to consider them in the light of the observations made in this OA. We cannot give any specific direction with respect to the completion of probation or promotion of the applicant in this O.A.

3. It is now stated for the applicant that, due to the ~~quashing~~ issue of Charge Sheet he was given the relief, as indicated under Para.13(a). But no decision has been taken in pursuance of the direction given in Para.13(b).

4. When a case is referred to the respondents for consideration and no time limit is given, normally this Tribunal gives Six months time in those cases. In the present case, Six months time will lapse ^{only} on 16-9-1998. Hence the C.P. for has to be taken as a M.A./expeditious implementation of the directions given in this OA. The respondents should take a final decision in regard to Para.13(b) of the Judgment expeditiously.

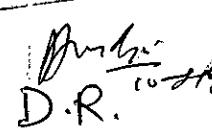
5. With the above direction, the CP converted as M.A. is disposed. No costs.


B.S.JAI PARAMESHWAR)
MEMBER (S)


(R.RANGARAJAN)
MEMBER (A)

DSN.

Dated this the 7th day of August, 1998
Dictated in Open Court


D.R.

19
CP.84/98 in DA.1305/97

Copy to:

1. Sri A.V.Gokak, Secretary to Government of India,
Ministry of Communications, Department of Telecommunications
New Delhi.
2. Sri G.K.Mehrotra, Deputy Director General, Vigilance,
Department of Telecommunications, West Block No1, Wing No:2,
Ground floor, R.K.Puram, Sector-1, New Delhi.
3. Sri Ramanujam, Chief General Manager,
Telecom, A.P.Circle, Doersanchar Bhavan,
Nampally Road, Hyderabad.
4. One copy to Mr.J.Sudhaer, Advocate, BAT, Hyderabad.
5. One copy to Mr.V.Rajeswara Rao, Addl.CGSC, CAT, Hyderabad.
6. One copy to DR(A), CAT, Hyderabad.
7. One spare copy.

srr

Copy to:

1. Sri A.V.Gokak, Secretary to Government of India, Ministry of Communications, Department of Telecommunications New Delhi.
2. Sri G.K.Mehrotra, Deputy Director General, Vigilance, Department of Telecommunications, West Block No1, Wing No.2, Ground floor, R.K.Puram, Sector-1, New Delhi.
3. Sri Ramonujam, Chief General Manager, Telecom, A.P.Circle, Deorsancher Bhawan, Nampally Road, Hyderabad.
4. One copy to Mr.J.Sudheer, Advocate, BAT, Hyderabad.
5. One copy to Mr.V.Rajeswara Rao, Addl.CGSC, CAT, Hyderabad.
6. One copy to DR(A), CAT, Hyderabad.
7. One spare copy.

err

~~12/8/98~~

II COURT

TYED BY

CHECKED BY

COMPARED 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 :

7/8/98

ORDER/JUDGMENT

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

76/98 converted as ~~76/98~~
M.A. 640/98.

in
C.A.NO. 1305/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPENSED 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

11 AUG 1998

हैदराबाद न्यायपीठ
HYDERABAD BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD.

C 76/99 M O.A. NO.

1305

1997

N.R. Krishna

Applicants.

Versus

Mr. Avil Kumar, Secretary, Plotchum, N. Delli & Ors.

Respondent (s)

INDEX SHEET

S	Sl. No.	Description of documents & Date	Pages.
	1.	Docket orders.	1
	2.	Interim Orders.	
	3.	Orders In M.A. (s)	
	4.	Reply Statements.	
	5.	Rejoinder.	
	6.	Orders in (final Orders) 29-7-99.	27 to 29
			30 to 44

23/8/99
Signature of dealing Head
in Record Section.

Signature of S.O.

(SEE RULE 12)

FORM No. 4

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD

ORDER - SHEET

cp. 76199

O.A. No. 1305 OF 1999

N. Rama Krishna.

Applicant(s)

Through M/s J. Sudhir Advocate

V E R S U S

Sri. Anil Kumar, Secy. Govt. of

India D/o Telecom. N Delhi Respondents

Date	Note of the Registry	Order of the Tribunal
29.7.99		<p>Heard. order delivered. The CP is closed. order vide separate Sheets.</p> <p>D ABSSP m(tj)</p> <p>0 HRRN n(A)</p>

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH

AT HYDERABAD

C.A. No. 76 OF 1999

IN

O.A. No. 1305 OF 1997

Between :

N.Rama Krishna S/o N.Venkata Swamy, Aged about 32 years
Occupation : Assistant Divisional Engineer Telecom, Hyderabad
R/o Hyderabad.

: APPLICANT

AND

Sri Anil Kumar, Secretary to Govt. of India, Ministry of
Communications, Dept. of Telecommunications, New Delhi
and Others

: RESPONDENTS

CONTEMPT APPLICATION FILED UNDER SECTION 17 OF ADMINISTRATIVE TRIBUNALS ACT, 1985

INDEX

SI No.	Description of Documents relied upon	Page-Nos.	Annexure No.
1	Order of the Hon'ble Tribunal in O.A. No. 1305 / 97 dated 17-03-1998	5 - 14	A1
2	Order of the Hon'ble Tribunal in M.A. No.640 / 98 in O.A. No. 1305 / 97 dated 07-08-1998	15 - 16	A2
3	Order of the Hon'ble High Court of Judicature, A.P. in W.P.M.P. No. 28479 / 98 in W.P. No. 23582 / 98 dated 21-08-1998	17	A3
4	Order of the Hon'ble High Court of Judicature, A.P. in W.V.M.P. No. 3523 / 98 in W.P.M.P. No. 28479 / 98 in W.P. No. 23582 / 98 dated 08-04-1999	18-19	A4
5	My representation dated 02-05-1999	20-21	A5
6	DoT order No.100 / 36 / 94 – STG.I dated 29-06-1999	22	A6

APPLICANT

DATE OF FILING : 15-07-1999

REGISTRAR

RECEIVED
15-7-1999
REGISTRAR

3

Contempt Application Filed –
(Under Sec. 17 of Administrative Tribunals Act, 1985)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH :

AT HYDERABAD

C.A. No. 76 OF 1999

IN

O.A. No. 1305 OF 1998

Between :

N. Rama Krishna, S/o N. Venkata Swamy, Aged about 32 years
Occupation : Asst. Divisional Engineer Telecom, Hyderabad
R/o Hyderabad.

: APPLICANT

And

1. Sri Anil Kumar
Secretary to the Govt. of India
Ministry of Communications
Department of Telecommunications
New Delhi.
2. Sri G.K. Mehrothra
Deputy Director General (Vigilance)
Department of Telecommunications
West Block No. 1, Wing No. 2
Ground Floor, R.K.Puram Sector -1
New Delhi.
3. Sri Ramanujam
Chief General Manager Telecom
Andhra Pradesh Circle
Door Sanchar Bhavan, Nampally Road
Hyderabad.

: RESPONDENTS

Note : Respondents 2 and 3 are not necessary parties of this Contempt Application

For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Tribunal may be pleased to take cognisance of the Contempt of Tribunal against the Respondents herein in disobeying the orders dated 17-03-1998 in O.A. No. 1305 of 1997 and issue summons to the Respondents and punish them in accordance with the contempt of Court or any other provisions of law and pass such other order or orders as this Hon'ble Tribunal may deem fit, proper and necessary in the circumstances of the case.

Hyderabad

Dated : 15-07-1999


COUNSEL FOR THE APPLICANT

①
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH :
AT HYDERABAD

C.A. No. 76 OF 1999

IN

O.A. No. 1305 OF 1997

Between :

N.Rama Krishna S/o N.Venkata Swamy, Aged about 32 years
Occupation : Assistant Divisional Engineer Telecom, Hyderabad
R/o Hyderabad. : APPLICANT

AND

Sri Anil Kumar, Secretary to Govt. of India, Ministry of
Communications, Dept. of Telecommunications, New Delhi
and Others : RESPONDENTS

AFFIDAVIT FILED BY THE APPLICANT

I, N. Rama Krishna, S/o N. Venkata Swamy, Aged about 32 years, Occupation : Assistant Divisional
Engineer Telecom, Hyderabad, R/o Hyderabad, do hereby solemnly and sincerely affirm and state on
oath as follows :

1. I am the Deponent herein and Original Applicant in the above Original Application and as such I'm
well acquainted with the facts of the case deposed hereunder.
2. That the Applicant had preferred O.A. No. 1305 of 1997 before this Hon'ble Tribunal aggrieved by
the issuance of punishment order dated 07-08-1997.
3. That, this O.A. is the 4th round of litigation in the matter of disciplinary proceedings. Though the
Applicant was not at all guilty of any misconduct, charges have been framed and due to the
pendancy of the said Disciplinary Proceedings, the Applicant was not confirmed as A.D.E.T. by
declaring his probation as successfully completed and he was denied promotion to the next higher
cadre as Divisional Engineer while his batchmates, juniors and even sub-juniors were promoted.
Finally, the impugned order was passed illegally, which was challenged in the O.A. After hearing
both the sides, the O.A. was allowed on 17-03-1998 with the following order :

" 13 (a) the charge sheet dated 12-08-1994 is hereby quashed and the order dated 07-08-
1997 passed thereon is set aside.

13 (b) so far as the other reliefs claimed by the applicant are concerned, we direct the authorities to consider them in the light of the observations made in this O.A. We cannot give any specific direction with respect to the completion of probation or promotion of the applicant in this O.A. "

4. That, as the Department didn't take any steps to extend the service benefits to the Applicant, he preferred C.A. No. 84 / 98 in O.A. No. 1305 / 97, which was converted by this Hon'ble Tribunal as M.A. No. 640 / 98 in O.A. No. 1305 / 97 and was disposed of with the following remarks :

" When a case is referred to the respondents for consideration and no time limit is given, normally this Tribunal gives six months time in those cases. In the present case, six months time will lapse on 16-09-1998. Hence the C.P. has to be taken as a M.A. for expeditious implementation of the directions given in this O.A. The respondents should take a final decision in regard to para 13(b) of the Judgement expeditiously. "

5. That, instead of extending the service benefits to the Applicant, the Department has preferred W.P. No. 23582 / 98 before Hon'ble High Court of Judicature, A.P. and obtained an interim suspension on Hon'ble Tribunal's Order.

6. That, the Applicant filed WVMP No. 3523 / 98 in WPMP No. 28479 / 98 in WP No. 23582 / 98 praying the Hon'ble High Court to vacate the stay that was granted for non-operation of Hon'ble Tribunal's order. The Hon'ble High Court vide their order dated 08-04-1999 vacated the interim order already granted. As such, the order of the Hon'ble Tribunal stands and the respondents have to obey the Hon'ble Tribunal's order and should take a decision regarding the service benefits such as declaration of probation as successfully completed and promotion to the next higher cadre as Divisional Engineer etc. Though this Hon'ble Tribunal gave the respondents time upto 16-09-1998 to implement the orders, the respondents gained more time upto 08-04-1999 till the stay for non-operation of Hon'ble Tribunal's order was vacated in the Hon'ble High Court.

7. That, it is necessary to mention here that appreciating the meritorious services of the Applicant, the Respondents have awarded him the Honorarium consecutively for the years 1995-96, 1996-97, 1997-98 and 1998-99. Also, it is reliably learnt that in March / April 1999, the vigilance branch of the Department has given clearance stating the fact that no disciplinary or vigilance cases are pending against the Applicant.

8. That the Applicant has given a representation on 02-05-1999 enclosing a copy of the order of the Hon'ble High Court dated 08-04-1999 in WVMP No. 3523 / 98 in WPMP No. 28479 / 98 in WP No. 23582 / 98 requesting the respondents to grant him the reliefs, that is, declaration of probation as successfully completed wef 18-02-1995 (the date on which the Applicant completed his 2 years of probationary training and also recommended to that effect by CGMT, ALTTC, Ghaziabad) and promotion to the cadre of Divisional Engineer wef 23-08-1996 (the date on which his immediate junior got his promotion) with all consequential benefits.

9. Though this Hon'ble Tribunal mentioned in their order dated 17-03-1998 the fact that the Department initiated the disciplinary proceedings only to harass the Applicant and to create an obstacle in his subsequent career prospects, the Department took the directions of this Hon'ble Tribunal very lightly and callously and passed orders clearing the probation of the applicant on 15-06-1999 without giving any reasons for extension of the probation of the Applicant from 18-02-1995 to 15-06-1999. This order itself shows how the Respondents are treating this Hon'ble Tribunal and this attitude of the Respondents is depreciable and it is prayed this Hon'ble Tribunal to take cognisance of the contemptuous attitude of the Respondents and take appropriate action against them.

10. That after O.A. No. 1305 / 97 was allowed, the Applicant herein is entitled for declaration of his probation after completion of 2 years of his probationary training and promotion to the next grade on par with his immediate junior in as much as both of them have been denied and delayed to him due to the pendency of the disciplinary proceedings. Once that hitch is gone, the Applicant is entitled for both the above said claims. During the stay granted by the Hon'ble High Court, the Respondents have not declared the probation as the Hon'ble Tribunal's orders were stayed in which the Hon'ble Tribunal quashed the charge memo. The probation has been declared only after the Hon'ble High Court vacated the stay granted earlier. That means, once the stay is vacated by the Hon'ble High Court, the Hon'ble Tribunal's order comes into force and in view of this automatically, the Applicant is entitled for declaration of probation as successfully completed wef 18-02-1995 as the charge memo itself was quashed by the Hon'ble Tribunal, which was the hindrance for declaration of the probation of the Applicant as successfully completed. In view of this legal position only, the Respondents have chosen to declare the probation of the Applicant as successfully completed wef 15-06-1999. When the hindrance (charge memo and pendency of disciplinary proceedings) is wiped off by the Hon'ble Tribunal and when the Hon'ble Tribunal directed the Respondents to consider the claim of the Applicant with regards to both of the claims basing on the observations made in O.A., the Respondents are duty bound to declare the probation of the Applicant as successfully completed on completion of his 2 years of probationary training as though he never faced any disciplinary proceedings. Instead of doing this, curiously, the Respondents have disobeyed the spirit and letter of the directions of this Hon'ble Tribunal and have declared the probation of the Applicant as successfully completed from a later date i.e. 15-06-1999, when they are bound to declare the probation as successfully completed strictly in accordance with the directions and observations of this Hon'ble Tribunal. This is nothing short of contempt of this Hon'ble Tribunal. The Respondents are behaving like a private and chronic litigants. When the Respondents lost both before this Hon'ble Tribunal and before Hon'ble High Court, in obedience of judicial directions and in obedience of Rule of Law, the Respondents ought to have put an end to this unwanted litigation. The above said action of the Respondents amounts to deliberate, intentional and continuous disobedience of this Hon'ble Tribunal and hence this C.A.

11. During the pendency of the contempt case, it is humbly prayed to direct the respondents to implement fully the orders of this Hon'ble Tribunal dated 17-03-1998 in O.A. 1305 / 97 within a week by declaring the probation of the Applicant as successfully completed wef 18-02-1995 (the date on which the Applicant completed his 2 years of probationary training) and by promoting him to the cadre of Divisional Engineer wef 23-08-1996 (the date on which his immediate junior got his promotion) with all consequential benefits such as arrears of pay, seniority etc.

Hence in the interest of the justice, it is prayed that this Hon'ble Tribunal may be pleased to take cognisance of the Contempt of Tribunal against the Respondents herein in disobeying the orders dated 17-03-1998 in O.A. No. 1305 / 97 and issue summons to the Respondents and punish them in accordance with the Contempt of Court or any other provisions of law and pass any such other order or orders as this Hon'ble Tribunal may deem fit, proper and necessary in the circumstances of the case.

DEPONENT

Sworn and signed in his name
before me on this the 15th day of
July, 1999 at Hyderabad.

BEFORE ME

ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH :
AT HYDERABAD.

O.A. NO.1305 OF 1997.

DATE OF ORDER:- 17 -3-1998.

Between :-

N. RAMAKRISHNA

.. APPLICANT

A N D

1. Union of India represented by its Secretary, Ministry of Communication, Department of Telecommunication, Samachar Bhavan, Ashoka Road, New Delhi.
2. The Deputy Director, General Vigilance Department of Telecommunication, West Block No. I, Wing No. 2, Ground Floor, R.K.Puram, Sector-I, New Delhi.
3. The Chief General Manager, Telecommunication, Andhra Pradesh Circle, Door Samachar Bhawan, Nampalli, Hyderabad.

.. RESPONDENTS

Counsel for the applicant : Mr. J. Sudheer

Counsel for the respondents : Mr. K. Bhaskara Rao, CGSC

CORAM :

Honourable Mr.R. Rangarajan, Member(Admn.)

Honourable Mr. B.S.Jai Paramdeshwar, Member(Judl.)

O R D E R.

(Per Hon. Mr.B.S.Jai Parameshwar, Member(Judl.))

1. Heard Mr. J. Sudheer, the learned counsel for the applicant and Mr. K.Bhaskara Rao, the learned Standing Counsel for the respondents.
2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 29.9.1997.
3. The facts giving raise to this O.A. may, in brief, be stated thus :-

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(a) In response to the advertisement issued during the year 1989 the applicant was selected and appointed as Junior Telecommunication Officer(Indoor) at Sangareddy Telephone Exchange and he worked as such from 25.2.1991. Consequent upon his selection as Assistant Divisional Engineer, Telecommunications, the applicant submitted his letter of resignation dated 20.1.1993 to the said post. His resignation was accepted by the respondents on and from 12.2.1993 (Annexure-9 to the O.A.).

(b) While he was undergoing training as Assistant Divisional Engineer, Telecommunications, he was served with a Memorandum of Charges dated 4.8.1994 alleging certain acts of misconduct which were committed by him while working as the JTO(Indoor) Sangareddy. The copy of the Memorandum of Charges is at Annexure-10 to the O.A.

(c) An enquiry was conducted into the charges and on 29.1.1997 the Inquiry Officer submitted his report. The copy of the report of the Inquiry Officer is at Annexure-12 to the O.A. The Inquiry Officer recorded a finding that the charges levelled against the accused were "partly proved".

(d) The copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted his explanation dated 26.5.1997. The copy of his explanation is at Annexure-13 to the O.A.

(e) The President considering the report of the Inquiry Officer and the explanation of the applicant agreed with the findings of the Inquiry Officer and imposed the punishment of withholding of next increment due to the applicant for a period of one year without cumulative effect. The order is dated 7.8.1997 and is at Annexure-1 to the O.A.



4. The applicant has filed this O.A. for the following reliefs :-

(i) To call for the records pertaining to the impugned orders contained in No.8-19/94-Vig.II, dated 07.8.1997 issued by the Respondent No.2 herein and set the same aside as illegal, arbitrary, discriminatory, illogical, irrational, opposed to the principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India.

(ii) Consequently to direct the respondents herein to declare the probation of the applicant in the post of Assistant Divisional Engineer, Telecom. with effect from 18.02.1995; and

(iii) Further promote him to the post of Divisional Engineer, Telecom., with effect from 23.8.1996 with all consequential benefits, such as arrears of salary, and promotion etc.

5. The main ground on which the applicant has impugned the order of punishment is that on 12.2.1993 the resignation of the applicant was accepted by the respondents without any reservation and he was relieved on the same day and he joined as Assistant Divisional Engineer, Telecommunications; that once his resignation was accepted without any reservation, the charges could not have been served on him after lapse of nearly a year and half on 4.8.1994; that his resignation was accepted even only after clearance by the Vigilance Cell of that department; that on 11.2.1993 the Vigilance Cell of the department informed the authority that there was neither any disciplinary proceeding pending against him nor the same was contemplated as on date i.e. 11.2.1993; that when his resignation was accepted as JTO(Indoor), he was given a clean chit and he was allowed to join in his post. Therefore, it was not open for the respondents to issue a Charge Memo. while he was working

as Assistant Divisional Engineer, Telecommunications;

that when his resignation was accepted, the relationship of master and servant ceased to exist and the employer is not entitled to take action about any alleged misconduct pertaining to his previous service and that on this ground alone, the whole disciplinary proceeding is vitiated and deserves to be set aside.

6. The respondents have filed the counter stating that the acceptance of resignation of the applicant was only a technical formality; that the applicant resigned the post only to join another post in the same department; that the clearance given by the Vigilance Cell on 11.2.1993 was only to enable the applicant to join the selected post as Assistant Divisional Engineer, Telecommunications; that since the acceptance of the resignation was only a technical formality, the department is in no way restrained from proceeding against the applicant for the alleged misconduct while he was working as JTO (Indoor), Sangareddy; that the applicant had challenged at each and every stage of the disciplinary proceedings by filing O.As. and that the said O.As. were dismissed; that under Rule 26(2) of the CCS(Pension)Rules, acceptance of resignation was a technical one; that the applicant is entitled to count his earlier service as JTO(Indoor) for the purpose of pension and retiral benefits; that the resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment under the Central Government where service qualifies and thus the relationship of master and servant has not at all been terminated in the present case; that as per Para 52 of P&T Manual Vol.III, the time at which an act was committed or the capacity in which it was committed is not material for deciding whether or not the CCS(CCA)Rules,1965 were applicable to

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an employee; that an employee can be proceeded for the alleged misconduct in his past service and the charges specifically state that the misconduct alleged was such that it rendered him unfit and unsuitable for continuing in service; that whether it was negligence on the part of the applicant or concerted effort with a motive to manipulate the readings can only be the outcome of the inquiry; that after considering the report of the Inquiry Officer, the President considered the same and found it proper to impose the penalty vide the impugned order; that the inquiry has been conducted with due observations of the principles of natural justice; that when there is some evidence, the disciplinary authority can consider and pass a punishment and that therefore there are no grounds to interfere with the impugned order.

7. After hearing the learned counsel for both the sides, the only point that arises for our consideration is whether the respondents-authorities were justified in issuing the charge sheet dated 4.8.1994 after accepting the resignation of the applicant effective from 12.2.1993 without any reservation.

8. It is not in dispute that the applicant between 25.2.1991 and 12.2.1993 worked as JTO(Indoor) Sangareddy. On 20.1.1993 the applicant submitted his resignation to the post and the same was accepted on 12.2.1993. As per the extant rules and the CCS(Pension) Rules, the authorities are not expected to accept resignation of an employee mechanically and that too, when there is any contemplation of disciplinary proceedings against an employee. Further when the resignation was just a technical formality in that it was intended to accept another post with proper permission of the authority, then the order accepting the resignation should clearly indicate that the

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employee is resigning to join another post with proper permission and that the benefits under Rule 26(2) will be admissible to him. Annexure-9 to the O.A. is the letter dated 12.2.1993 under which resignation of the applicant to the post of JTO(Indoor) has been accepted.

9. On perusal of Annexure-9 it is clear that the authorities accepted the resignation of the applicant without any reservation and that too, they did not even state in clear terms that the resignation was accepted only to enable the applicant to accept another post with permission of the proper authority. In fact, the applicant submitted his letter of resignation on 20.1.1993. At that time, the Assistant Director (Personnel) by his letter dated 25.1.1993 expressed his reservation for accepting the resignation of the applicant for the post for the following reasons:-

- (i) The resignation may not be accepted at such a short notice without return of stipend paid.
- (ii) A disciplinary case is contemplated against the official, the details of which are available with the Vigilance Cell of SHQ.

Annexure-7 is the letter of the Vigilance Officer which letter, refers to Annexure.4. The Vigilance Officer has stated as follows :-

No disciplinary case is pending or contemplated against the above officer in Vigilance Cell of this office as on date. The statement that the details are available with Vigilance cell is incorrect, as no such report is received in this section so far.

In this background, it is now too much for the respondents to contend that the acceptance of resignation of the applicant to the post of JTO(Indoor) was only a technical formality and that the relationship of master and servant had not ceased and that they are

competent to proceed against the applicant for the alleged misconduct committed by him while working as JTO (Indoor), Sangareddy.

10. The learned counsel for the respondents during course of his arguments, relied upon the OM No.39/1/67-Ests.(A) dated 21st February, 1967. We feel it proper to reproduce the said letter as under :-

"(1) Departmental action in respect of misconduct committed in earlier employment.- It is clarified that the provision of Rule 11 of the CCS(CCA) Rules,1965, which envisages the imposition of penalties on Government servant for 'good and sufficient reason' is adequate authority for taking action against a Government servant in respect of misconduct committed before his employment was of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in service. When such action is taken, the charge should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service."

Relying upon the above O.M., the respondents attempted to justify the issue of charge sheet on 4.8.1994.

11. On analysing the above letter, it is clear that the letter clarified the rule position of Rule 11 of the CCS(CCA)Rules. However, it is stated that when such an action is taken, then the charge sheet should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service. The charge sheet dated 4.8.1994 is at Annexure-1. In the charge sheet it is nowhere indicated that the applicant was not suitable to hold and continue in the post of Assistant Divisional Engineer, Telecommunications. The charge sheet is dated 4.8.1994.

that the respondents accepted the resignation effective from 12.2.1993. Between 12.2.1993 to 4.8.1994 they had not thought of initiating any proceedings against the applicant. The respondents accepted the resignation of the applicant without any reservation. It is not as if they were not aware of any misconduct which was alleged to have been committed by the applicant while working as JTO(Indoor), Sangareddy.

12. Further it is to be noted that the authority accepted the resignation after obtaining the clearance of the Vigilance Officer. As already observed, in Annexure-4 it was stated not to accept the resignation of the applicant without clearance from the Vigilance Cell. The Vigilance Cell in its letter dated 11.2.1993 specifically stated that there was no vigilance case pending with the Cell and that no disciplinary case was pending. It is only on that basis the respondents accepted the resignation by letter dated 12.2.1993 (Annexure-9) which clearly indicates that the authorities took care to see whether there was any contemplation of disciplinary proceedings against the applicant. When that is the case, we fail to understand how the authorities are justified in issuing the charge sheet dated 12.8.1994 after lapse of nearly 18 months. Therefore, in our humble view, the authorities were not justified in accepting the resignation without any reservation and issuing the charge sheet dated 12.8.1994. Further it is to be noted that as per the OM extracted above, the misconduct alleged to have been so committed by an ex/employee should be such that he should not be fit or suitable to continue service. Such details are not to be found in the Charge Memo. Further the very fact that the President decided to impose a minor penalty clearly indicated that the authorities

and knowing fully well accepted his resignation without any reservation and initiated the disciplinary proceedings only to harass him and to create an obstacle in his subsequent career prospects. In that view of the matter, we feel that the charge sheet dated 12.8.1994 was clearly not maintainable and that the orders passed thereon are liable to be set aside.

13. Hence we are of the opinion that the charge sheet dated 12.8.1994 was not justified and the orders passed by the President is not sustainable in law. In this view of the matter, the O.A. is liable to be accepted. Accordingly the O.A. is accepted and we pass the following order :-

(a) The charge sheet dated 12.8.1994 is hereby quashed and the order dated 7.8.1997 passed thereon is set aside.

(b) So far as other reliefs claimed by the applicant are concerned, we direct the authorities to consider them in the light of the observations made in this O.A. We cannot give any specific direction with respect to the completion of probation or promotion of the applicant in this O.A.


(Per Hon. Mr. R. Rangarajan, Member(Admn.))

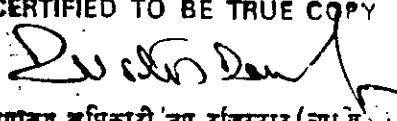
14. I have gone through the judgment of the Hon'ble Shri B.S.Jai Parameshwar, Member(Judl.). I fully agree with the views expressed by him. However, I will like to add the interpretation of the O.M.No.39/1/67-Ests.(A) dated 21.2.1967. The above O.M. envisages imposition of the penalties on a Government servant for good and sufficient reason in respect of the misconduct committed before his employment. It is further stated that such misconduct committed ^{is} of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in

service. If such a view is taken, then the charge sheet should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable in service. From the above, it transpires that the misconduct should be such that will make the applicant unsuitable to be continued in service. In this case, the applicant was not removed from service but was only given minor punishment. If that be the case relying on this letter for issuing charge sheet itself may not be proper. Further the circumstances under which the misconduct committed by an employee needs to be taken note of for making him unsuitable for continuing in service, if such a misconduct is very grave. Such a grave mistake can be related to a criminal charge resulted in conviction or other similar punishments. In this case before his relief from the post of JTO he was not involved in any criminal case. Some corruption charges were alleged against him. But even the Vigilance Officer had submitted that no such allegation ^{was} pending with him for scrutiny. It is not brought out anywhere that corruption charges levelled against him were such misconduct which necessarily will lead to discharge of the applicant on the ground of unsuitability. Further, in my opinion, quoting of the above letter in this case is absolutely irrelevant and has no nexus with the object to be achieved in issuing the charge sheet to him. In view of the above, I feel that allowing of the applicant ^{to} is in order.

15. In view of what is stated above, the application is allowed. No order as to costs.

1305197

प्रमाणित अस्ति
CERTIFIED TO BE TRUE COPY


प्रायोगिक अधिकारी/उप रजिस्ट्रार (न्याय)
Court Officer/Dy. Registrar
केन्द्रीय प्रायोगिक अधिकारण
Central Administrative Tribunal

7-3-98

18-3-98

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
AT HYDERABAD

C.P. No. 84 OF 1998 converted asmt. 640/98.

In
C.A. No. 1305 OF 1997

Date of Order: 7-3-1998.

Between:

H. Rama Krishna. Applicant

..... and

1. Sri A.V. Cokak,
Secretary to the Govt. of India,
Ministry of Communications, Department
of Telecommunications, New Delhi.

2. Sri S.K. Mehrothra,
Deputy Director General, Vigilance,
Department of Telecommunications,
West Block No.1, Wing No.2,
Ground Floor, I.K. Puram Sector-1,
New Delhi.

3. Sri Ramanujam,
Chief General Manager Telecom,
Andhra Pradesh Circle,
Door Sanchar Bhawan, Nampally Road,
Hyderabad.

.... Respondents

COUNSEL FOR THE APPLICANT :: Mr. J. Sukheer

COUNSEL FOR THE RESPONDENTS :: Mr. V. Rajeshwara Rao

COURT:

THE HON'BLE SHRI R. RAJGURU, MEMBER (JUDG.)

A H D

AND HON'BLE SHRI B.S. JAI PATALE, MEMBER (JUDG.)

* O P U D D E R *

GENERAL ORDER (AS PER HON'BLE SHRI R. RAJGURU, MEMBER (A))

Ordered Mr. J. Sukheer for the Applicant and
Mr. V. Rajeshwara Rao for the Respondents

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2. The C.P. has been filed for non-implementation of the Judgment in O.A. No.1305 of 1997 disposed of on 17-3-1998. That OA was disposed of with the following Orders :-

13. (a) The charge sheet dated 12-8-1994 is hereby quashed and the order dated 7-8-1997 passed thereon is set aside.

(b) So far as other reliefs claimed by the applicant are concerned, we direct the authorities to consider them in the light of the observations made in this OA. We cannot give any specific direction with respect to the completion of probation or promotion of the applicant in this O.A.

3. It is now stated for the applicant that, due to the ~~quashing~~ issue of Charge Sheet he was given the relief, as indicated under Para.13(a). But no decision has been taken in pursuance of the direction given in Para.13(b).

4. When a case is referred to the respondents for consideration and no time limit is given, normally this Tribunal gives Six months time in those cases. In the present case, Six months time will lapse ^{only} on 16-9-1998. Hence the C.P. has to be taken as a ~~matter~~ for expeditious implementation of the directions given in this OA. The respondents should take a final decision in regard to Para.13(b) of the Judgment expeditiously.

5. With the above direction, the O.P. ~~converted as O.A.~~ disposed. No costs.

MA 640/8 in

केस संख्या

CASE NUMBER O.A. 1305/97

मामले का नाम

Date of Judgement

17-8-98

Copy Made Read, on

10-8-98

Section Officer (J. D. Reg.)

STATEMENT TO BE TRUE COPY

Prabhakar

IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH: AT HYDERABAD

W.P.M.P.NO. 28479 of 1998

in

NO. 23582 of 1998

BETWEEN A.P.HYD.1

1. Union of India rep. by its Secretary, Ministry of Communications, Department, Telecom, New Delhi
2. The Deputy Director General, Vigilance Department, of Telecommunications, West Block No. Wing 2, Ground Floor, Sanchar Bhavan, New Delhi R.K.Puram,
3. The Chief General Manager, Telecommunications, A.P. Circle, Doorsanchar Bhavan, Abids, Hyderabad.

... Petitioner/Petitioner in W.P No.23582/98 on the file of the High Court and

1. N.Ramakrishna, Asst. Divisional Engineer, Telecom O/o. General Manager Telecom, District, Hyderabad.
2. The Central Administrative Tribunal, rep. by its Registrar, Hyderabad.

.... Respondents/Respondents. in

COUNSEL FOR THE PETITIONER: Mr.D.Krishna Murthy

FRIDAY THE TWENTY FIRST DAY OF AUGUST 1998

CORAM:

THE HON'BLE MR.JUSTICE B.SUBHASHAN REDDY

and

THE HON'BLE MR.JUSTICE VAMAN RAO

Petition filed under Section 151 of C.P.C. praying the High Court to suspend the operation of the judgment of the Central Administrative Tribunal in O.A.No.1305/97 dated 17-3-1998 pending W.P.No.23582/98 on the file of the High Court.

The court, while directing issue of notice to the respondents herein to show cause why this application should not be complied with made the following order (The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER: INTERIM SUSPENSION. NOTICE.

Sd/- ANAND KELKAR
ASSISTANT REGISTRAR

// true copy//

for Assistant Registrar

To

1. N.Ramakrishna, Assistant Divisional Engineer, Telecom O/o. General Manager Telecom, District Hyderabad(RPAD)
2. The Registrar, The Central Administrative Tribunal, Hyderabad(RPAD)
3. One Spare Copy
4. One CC to Mr. D.Krishna Murthy, Advocate (OPUC)

YVN

LC

IN THE HIGH COURT OF JUDICATURE:: ANDHRA PRADESH:: AT HYDERABAD

Thursday the Eighth day of April
One thousand nine hundred and ninety nine

PRESENT:

THE HON'BLE MR. JUSTICE: B. SUBHASHAN REDDY
AND
THE HON'BLE MR. JUSTICE: Y.V. NARAYANA.

W.P.M.P.NO. 28479 of 1998
W.V.M.P.NO. 3523 of 1998

W.P.M.P.No. 28479 of 1998:-

Between:-

1. Union of India, rep. by its Secretary Ministry of Communications Dept., of Telecom. New Delhi.
2. The Dy. Director General, Vigilance Dept., of Telecommunications, West Block No.1 Ground Floor, Sanchar Bhavan, R.K. Puram, New Delhi.
3. The Chief General Manager, Telecommunications, A.P., Circle Doorsanchar Bhavan, Abids, Hyderabad.

... Petitioners/Petitioners in WP
No.23582/98 on the file of the High
Court)

AND

1. N. Rama Krishna
2. The Central Administrative Tribunal rep. by its Registrar, Hyderabad.

... Respondents/Respondents in do)

Petition under Section 151 of CPC praying that in the circumstances stated in affidavit filed in the writ petition the High Court will be pleased to suspend the operation of the Judgement of the Central Administrative Tribunal in O.A.No;1305 of 97 dated 17-3-98 pending W.P.No.23582/98 on the file of the High Court.

W.V.M.P.NO. 3523 of 1998:

Between:-

N. Rama Krishna

... Petitioner/Respondent
of 98 on the file of the High
Court

AND

1. Union of India, rep. by its Secretary, Ministry of Communications Dept., of Telecommunications, New Delhi.
2. Chairman, Telecom. Communication Dept., of Telecommunications, Sanchar Bhavan, New Delhi.
3. The Chief General Manager, Telecommunications, A.P., Circle, Door-Sanchar Bhavan, Abids, Hyderabad- 500 001.
4. The Central Administrative Tribunal, rep. by its Registrar, Hyd.,

(R-4 is not necessary)

... Respondents/Petitioners & Respondent
No.2 in do)

Petition under Section 151 of CPC praying that in the circumstances stated in the Counter-affidavit filed in the writ petition No.23582/98 the High Court will be pleased to vacate the interim order of the High Court dated 21-8-98 and made in W.P.M.P.No.28479 of 98 in W.P.No.23582 of 98.

The petitions coming on for hearing, upon perusing the petition and the affidavit filed in the Writ petition No.23582 of 98 and the interim order of the High Court dated 21-8-98 and made in W.P.M.P.No. 28479/98 and the counter and reply affidavit filed therein and upon hearing and upon hearing the arguments of Mr. ~~Examiner~~ D. Krishna Murthy, Addl. S.C. for Central Govt. for the petitioners in W.P.M.P.No. 28479 of 98 and Respondents 1 to 3 in W.V.M.P.No.3523 of 98 and of Mr. J. Sudheer, Advocate for the Respondent No.1 in W.P.M.P.No.28479/98

and petitioner in WVMP. No. 3523 of 98, and respondent No. 2 in W.P.M.P. No. 28479 of 98 not appearing in person or by Advocate and respondent No. 4 in W.V.M.P. No. 3523 of 98 not necessary as per C.T.

THE COURT MADE THE FOLLOWING ORDER:

Having heard either counsel and having regard to the facts and circumstances of the case and balance of convenience, we vacate the interim order already granted.

Expedite hearing of the writ petition.

Sd/-B. ESTHARY RAO,
ASST. REGISTRAR

// True copy //

ASSIST. RE

For Asst. Registrar.

To

1. The Registrar, The Central Administrative Tribunal, Hyderabad.
2. One spare copy.
3. One cc to Mr. J. Sudheer, Advocate (OFUC).

KCM

we have entered into the middle of

From
N. Rama Krishna
A.D.E.T.(P)-91
Optical Fibre Installations
1st Floor, Telephone Exchange Bldg.
Kavadiguda, Hyderabad.

Hyderabad
02nd May, 1999

To
The Secretary
Ministry of Communications
Department of Telecommunications
Sanchar Bhavan
New Delhi – 110 001.

Sir,

Sub : Declaration of Probation as successfully completed wef 18-02-1995 and promotion to the cadre of Divisional Engineer wef 23-08-96 with all consequential benefits – reg.

Ref : 1. My representation dated 21st April 1999 regarding the matter referred above.
2. Hon'ble High Court of Judicature, A.P. at Hyderabad interim order dated 08-04-1999 in WVMP No.3523 of 1998 in WPMP No. 28479 of 1998 in WP No.23582 of 1998
3. Hon'ble High Court of Judicature of A.P. at Hyderabad interim order dated 21-08-1998 in WPMP No.28479 of 1998 in WP Np.23582 of 1998.
4. Hon'ble C.A.T., Hyderabad Bench order dated 17-03-1998 in O.A. No. 1305 of 1997.

Vide reference (1) mentioned above, it is requested for implementation of the various judgements of Hon'ble High Court of A.P. and Hon'ble C.A.T., Hyderabad Bench. But so far no communication has been received from you in the matter referred above.

It is learnt that the Department has asked for vigilance clearance in connection with declaration of my probation two months ago and the same was sent by Vigilance Branch a month back stating the fact that no disciplinary or vigilance cases are pending against me. But still the case is kept in abeyance and no decision has been taken till date (as no communication has been received by me sofar). Because of the inordinate delay in settling the case, I have been put to a lot of mental agony and financial losses. Moreover my juniors got promoted as

Divisional Engineers while I'm still working as ADET on probation for the last 5 years which is unfair and unjust.

Vide the interim order referred to in (2) above, the stay for non-operation of Hon'ble C.A.T.'s order (referred to in (4) above) was vacated and hence there is no punishment in operation against me. As such, my probation can be declared as successfully completed wef 18-02-1995 and I can be promoted as Divisional Engineer wef 23-08-1996 with all consequential benefits.

Hence, I request you to settle my case before 10th May, 1999 failing which I shall be constrained to move a contempt application before the Hon'ble C.A.T., Hyderabad Bench.

Thanking you,

Yours faithfully,

✓ NC 2 21/5/99

(N. RAMA KRISHNA)

Encl. ① & ② Referred above

BEFORE HON'BLE
C.A.T., HYDERABAD BENCH

C.P. No. of 99

in
O.A. No. 1305 of 97

CONTEMPT PETITION



Filed by

J. SUDHEER
ADVOCATE

Y. APPALA RAJU
ADVOCATE

A-6

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No.100/36/94-STG.I
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20 Ashoka Road, New Delhi-110001

Dated : June 29, 1999

ORDER

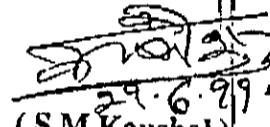
Subject:- Posting of ADEsT on successful completion of probation.

On successful completion of probation, Shri N Ramakrishna, ADET of 1991 batch is posted to AP Circle with immediate effect :-

Sl. No.	Staff No.	Name of the Officer	Date of clearance of probation	Branch of specialisation	Circle allotted
1.	20394	N Ramakrishna	15/06/99	TR	AP

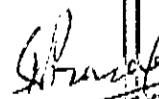
2. The station of posting will be intimated by the Circle to the officer concerned and to the CGMT ALTTC Ghaziabad under intimation to this office.

3. The dates on which the above orders are given effect to may be intimated and the charge report sent to all concerned.


(S M Kaushal)
Assistant Director General (SGT)
Tel.No.3032282

Copy to :-

1. CGMT ALTTC Ghaziabad / BRBRAITT / AP TC
2. CAOs concerned
3. Officer concerned
4. M(S)/Adv(HRD)/DDG(P)/DDG(Trg)/Dir(ST-I/II)/ADG(SGT)
5. SO(STG-III) Section
6. CS to Adv(HRD)
7. Order bundle
8. Spare copy.


(S K Prasad)
Section Officer (STG-I)
Tel.No.3032790

FOR ORDERS OF THE HON'BLE TRIBUNAL:

C.P.SR.No. 2698/99 in OA 1305/97

The above CP SR 2698/99 is filed by Mr.J.Sudheer,Adv.

On Scrutiny of the Application Office raised the following Objections: " When Writ Petition filed by the respondents in OA is pending before the High Court of AP, how this contempt Petition before this Tribunal is maintainable?"

The Counsel replied to the above as Under:

" There is no bar for filing Contempt case before the Hon'ble Tribunal for disobeying the orders of the Tribunal when the Writ filed by the Respondents and contemnors is pending before the Hon'ble High Court. The Judgement of the Hon'ble Tribunal dated 17.3.98 in OA 1305/97 was challenged by the Respondents in the Writ Petition no. 23582/98 before the Hon'ble High Court and obtained interim stay of the Judgement of the Hon'ble Tribunal on 21.8.98. Later upon filing vacate stay on 8.4.99 the Hon'ble High Court was pleased to vacate the stay. In view of the above the Judgement comes into operation. As long as the Judgement of this Hon'ble Tribunal is not suspended, the same has to be implemented and non-implementation amounts to contempt of this Hon'ble Tribunal. Mere pendency of Writ petition against the Orders of this Hon'ble Tribunal without there being any suspension of the Judgement by Hon'ble High Court is not sufficient for the Respondents to say that they need not implement the Judgement of this Hon'ble Tribunal and failure to do so attracts contempt provisions. Hence this contempt Application is maintainable."

Submitted for Orders as to maintainability of the Contempt Application.

Ans 1 18-7-99
for REGISTRATION

Ans 1 20-7-99

Heard Mr. J.Sudheer
for the applicant.

The office note is
overruled. List this CP
for admission hearing.

D
HRRD
M(H)

AB
DHNJ.
HVC

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

CA.76/99 in CA.1305/98

dt. 29-7-99

Between

N. Ramakrishna

: Applicant

and

1. Sri Anil Kumar
Secretary to Govt. of India
Min. of Communications
Dept. of Telecommunications
New Delhi

2. Sri GK Mehrothra
Dy. Director General (Vigilance)
Dept. of Telecommunications
West Block No.1, Wing No.2
Ground Floor, RK Puram, Sector-1
New Delhi

3. Sri Ramanujam
Chief Genl. Manager Telecom
Andhra Pradesh Circle
Door Sanchar Bhavan
Nampally Road
Hyderabad

: Respondents

Counsel for the applicant

: J. Sudheer
Advocate

Counsel for the respondents

: V. Rajeswara Rao
CGSC

Coram

Hon. Mr. R. Rangarajan, Member (Admn.)

Hon. Mr. B.S. Jai Parameshwar, Member (Judl.)





Order

Oral order (per Hon. Mr. R. Rangarajan, Member(Admn.)

Heard Mr. M. Appala Raju for Mr. J. Sudhir for the applicant and Mr. V. Rajeswara Rao for the respondents.

1. The judgement was challenged in the High Court of Andhra Pradesh by filing WP MP No.28479/98 and an interim suspension was given. However, that interim suspension was vacated by WP MP No.28479/98 dated 8-4-1999. The applicant submits that even though the interim suspension has been vacated the respondents have not implemented the judgement.

2. Normally when an interim order is vacated some time should be given. The respondents by their order No.100/36/94-STG.I dated 29-6-99 (Annex.6) have indicated the date of clearance of probation. Hence, it should be held that the respondents have acted on the judgement. In the judgement no direction was given in regard to the date of clearance of probation.

3. If the applicant is going to be aggrieved by the order dated 29-6-1999 he is at liberty to take such proceedings as he deems fit.

4. In view of the above the CP is closed.

(B.S. Sajai Parameshwar)

Member (Jud)

29-7-99

(R. Rangarajan)
Member (Admn.)

Dated : July 29, 1999
Dictated in Open Court

sk

fmh
spk

9✓
1st AND 2nd COURT

COPY TO -

1. HDHNO

2. HHRP M(A)

3. HESOP M(B)

4. D.R. (A)

5. SPARE

TYPED BY
COMPIRED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD.

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

THE HON'BLE MR. H. RAGENDRA PRASAD
MEMBER (ADMN)

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

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

ORDER: Date. 29/7/99

ORDER / JUDGMENT

MA./RA./CP. NO 76/99
IN
DA. NO. 1305199

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED

R.A. CLOSED.

D.A. CLOSED

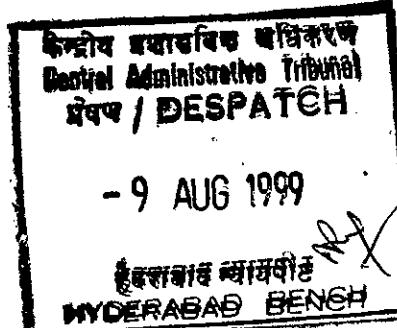
DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS.



CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH :
AT HYDERABAD.

O.A. NO.1305 OF 1997.

DATE OF ORDER:- 17 -3-1998.

Between :-

N. RAMAKRISHNA

APPLICANT

A N D

1. Union of India represented by its Secretary, Ministry of Communication, Department of Telecommunication, Samachar Bhavan, Ashoka Road, New Delhi.
2. The Deputy Director, General Vigilance Department of Telecommunication, West Block No.1, Wing No.2, Ground Floor, R.K.Puram, Sector-I, New Delhi.
3. The Chief General Manager, Telecommunication, Andhra Pradesh Circle, Door Samachar Bhawan, Nampalli, Hyderabad.

.. RESPONDENTS

Counsel for the applicant : Mr. J. Sudheer

Counsel for the respondents : Mr. K. Bhaskara Rao, CGSC

CORAM :

Honourable Mr.R. Rangarajan, Member(Admn.)

Honourable Mr. B.S.Jai Paramdeshwar, Member(Judl.)

O R D E R.

(Per Hon. Mr.B.S.Jai Parameshwar, Member(Judl.))

1. Heard Mr. J. Sudheer, the learned counsel for the applicant and Mr. K.Bhaskara Rao, the learned Standing Counsel for the respondents.
2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 29.9.1997.
3. The facts giving raise to this O.A. may, in brief, be stated thus ;-

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(a) In response to the advertisement issued in the year 1989 the applicant was selected and appointed as Junior Telecommunication Officer(Indoor) at Sangareddy Telephone Exchange and he worked as such from 25.2.1991. Consequent upon his selection as Assistant Divisional Engineer, Telecommunications, the applicant submitted his letter of resignation dated 20.1.1993 to the said post. His resignation was accepted by the respondents on and from 12.2.1993 (Annexure-9 to the O.A.).

(b) While he was undergoing training as Assistant Divisional Engineer, Telecommunications, he was served with a Memorandum of Charges dated 4.8.1994 alleging certain acts of misconduct which were committed by him while working as the JTO(Indoor) Sangareddy. The copy of the Memorandum of Charges is at Annexure-10 to the O.A.

(c) An enquiry was conducted into the charges and on 29.1.1997 the Inquiry Officer submitted his report. The copy of the report of the Inquiry Officer is at Annexure-12 to the O.A. The Inquiry Officer recorded a finding that the charges levelled against the accused were "partly proved".

(d) The copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted his explanation dated 26.5.1997. The copy of his explanation is at Annexure-13 to the O.A.

(e) The President considering the report of the Inquiry Officer and the explanation of the applicant agreed with the findings of the Inquiry Officer and imposed the punishment of withholding of next increment due to the applicant for a period of one year without cumulative effect. The order is dated 7.8.1997 and is at Annexure-1 to the O.A.

4. The applicant has filed this O.A. for the following reliefs :-

- (i) To call for the records pertaining to the impugned orders contained in No.8-19/94-Vig.II, dated 07.8.1997 issued by the Respondent No.2 herein and set the same aside as illegal, arbitrary, discriminatory, illogical, irrational, opposed to the principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India.
- (ii) Consequently to direct the respondents herein to declare the probation of the applicant in the post of Assistant Divisional Engineer, Telecom. with effect from 18.02.1995; and
- (iii) Further promote him to the post of Divisional Engineer, Telecom., with effect from 23.8.1996 with all consequential benefits, such as arrears of salary, and promotion etc.

5. The main ground on which the applicant has impugned the order of punishment is that on 12.2.1993 the resignation of the applicant was accepted by the respondents without any reservation and he was relieved on the same day and he joined as Assistant Divisional Engineer, Telecommunications; that once his resignation was accepted without any reservation, the charges could not have been served on him after lapse of nearly a year and half on 4.8.1994; that his resignation was accepted even only after clearance by the Vigilance Cell of that department; that on 11.2.1993 the Vigilance Cell of the department informed the authority that there was neither any disciplinary proceeding pending against him nor the same was contemplated as on date i.e. 11.2.1993; that when his resignation was accepted as JTO(Indoor), he was given a clean chit and he was allowed to join in his post. Therefore, it was not open for the respondents to issue a Charge Memo. while he was working as Assistant Divisional Engineer, Telecommunications;

that when his resignation was accepted, the relationship of master and servant ceased to exist and the employer is not entitled to take action about any alleged misconduct pertaining to his previous service and that on this ground alone, the whole disciplinary proceeding is vitiated and deserves to be set aside.

6. The respondents have filed the counter stating that the acceptance of resignation of the applicant was only a technical formality; that the applicant resigned the post only to join another post in the same department; that the clearance given by the Vigilance Cell on 11.2.1993 was only to enable the applicant to join the selected post as Assistant Divisional Engineer, Telecommunications; that since the acceptance of the resignation was only a technical formality, the department is in no way restrained from proceeding against the applicant for the alleged misconduct while he was working as JTO (Indoor), Sangareddy; that the applicant had challenged at each and every stage of the disciplinary proceedings by filing O.As. and that the said O.As. were dismissed; that under Rule 26(2) of the CCS(Pension)Rules, acceptance of resignation was a technical one; that the applicant is entitled to count his earlier service as JTO(Indoor) for the purpose of pension and retiral benefits; that the resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment under the Central Government where service qualifies and thus the relationship of master and servant has not at all been terminated in the present case; that as per Para 52 of P&T Manual Vol.III, the time at which an act was committed or the capacity in which it was committed is not material for deciding whether or not the CCS(CCA)Rules,1965 were applicable to

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an employee; that an employee can be proceeded for the alleged misconduct in his past service and the charges specifically state that the misconduct alleged was such that it rendered him unfit and unsuitable for continuing in service; that whether it was negligence on the part of the applicant or concerted effort with a motive to manipulate the readings can only be the outcome of the inquiry; that after considering the report of the Inquiry Officer, the President considered the same and found it proper to impose the penalty vide the impugned order; that the inquiry has been conducted with due observations of the principles of natural justice; that when there is some evidence, the disciplinary authority can consider and pass a punishment and that therefore there are no grounds to interfere with the impugned order.

7. After hearing the learned counsel for both the sides, the only point that arises for our consideration is whether the respondents-authorities were justified in issuing the charge sheet dated 4.8.1994 after accepting the resignation of the applicant effective from 12.2.1993 without any reservation.

8. It is not in dispute that the applicant between 25.2.1991 and 12.2.1993 worked as JTO(Indoor) Sangareddy. On 20.1.1993 the applicant submitted his resignation to the post and the same was accepted on 12.2.1993. As per the extant rules and the CCS(Pension) Rules, the authorities are not expected to accept resignation of an employee mechanically and that too, when there is any contemplation of disciplinary proceedings against an employee. Further when the resignation was just a technical formality in that it was intended to accept another post with proper permission of the authority, then the order accepting the resignation should clearly indicate that the

employee is resigning to join another post with proper permission and that the benefits under Rule 26(2) will be admissible to him. Annexure-9 to the O.A. is the letter dated 12.2.1993 under which resignation of the applicant to the post of JTO(Indoor) has been accepted.

9. On perusal of Annexure-9 it is clear that the authorities accepted the resignation of the applicant without any reservation and that too, they did not even state in clear terms that the resignation was accepted only to enable the applicant to accept another post with permission of the proper authority. In fact, the applicant submitted his letter of resignation on 20.1.1993. At that time, the Assistant Director (Personnel) by his letter dated 25.1.1993 expressed his reservation for accepting the resignation of the applicant for the post for the following reasons:-

- (i) The resignation may not be accepted at such a short notice without return of stipend paid.
- (ii) A disciplinary case is contemplated against the official, the details of which are available with the Vigilance Cell of SHQ.

Annexure-7 is the letter of the Vigilance Officer which letter, refers to Annexure.4. The Vigilance Officer has stated as follows :-

No disciplinary case is pending or contemplated against the above officer in Vigilance Cell of this office as on date. The statement that the details are available with Vigilance cell is incorrect, as no such report is received in this section so far.

In this background, it is now too much for the respondents to contend that the acceptance of resignation of the applicant to the post of JTO(Indoor) was only a technical formality and that the relationship of master and servant had not ceased and that they are

competent to proceed against the applicant for the alleged misconduct committed by him while working as JTO (Indoor), Sangareddy.

10. The learned counsel for the respondents during course of his arguments, relied upon the OM No.39/1/67-Ests.(A) dated 21st February, 1967. We feel it proper to reproduce the said letter as under :-

"(1) Departmental action in respect of misconduct committed in earlier employment.- It is clarified that the provision of Rule 11 of the CCS(CCA) Rules, 1965, which envisages the imposition of penalties on Government servant for 'good and sufficient reason' is adequate authority for taking action against a Government servant in respect of misconduct committed before his employment was of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in service. When such action is taken, the charge should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service."

Relying upon the above O.M., the respondents attempted to justify the issue of charge sheet on 4.8.1994.

11. On analysing the above letter, it is clear that the letter clarified the rule position of Rule 11 of the CCS(CCA)Rules. However, it is stated that when such an action is taken, then the charge sheet should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service. The charge sheet dated 4.8.1994 is at Annexure-1. In the charge sheet it is nowhere indicated that the applicant was not suitable to hold and continue in the post of Assistant Divisional Engineer, Telecommunications. The charge sheet is dated 4.8.1994.

that the respondents accepted the resignation effective from 12.2.1993. Between 12.2.1993 to 4.8.1994 they had not thought of initiating any proceedings against the applicant. The respondents accepted the resignation of the applicant without any reservation. It is not as if they were not aware of any misconduct which was alleged to have been committed by the applicant while working as JTO(Indoor), Sangareddy.

12. Further it is to be noted that the authority accepted the resignation after obtaining the clearance of the Vigilance Officer. As already observed, in Annexure-4 it was stated not to accept the resignation of the applicant without clearance from the Vigilance Cell. The Vigilance Cell in its letter dated 11.2.1993 specifically stated that there was no vigilance case pending with the Cell and that no disciplinary case was pending. It is only on that basis the respondents accepted the resignation by letter dated 12.2.1993 (Annexure-9) which clearly indicates that the authorities took care to see whether there was any contemplation of disciplinary proceedings against the applicant. When that is the case, we fail to understand how the authorities are justified in issuing the charge sheet dated 12.8.1994 after lapse of nearly 18 months. Therefore, in our humble view, the authorities were not justified in accepting the resignation without any reservation and issuing the charge sheet dated 12.8.1994. Further it is to be noted that as per the OM extracted above, the misconduct alleged to have been so committed by an ex/employee should be such that he should not be fit or suitable to continue service. Such details are not to be found in the Charge Memo. Further the very fact that the President decided to impose a minor penalty clearly indicated that the authorities

and knowing fully well accepted his resignation without any reservation and initiated the disciplinary proceedings only to harass him and to create an obstacle in his subsequent career prospects. In that view of the matter, we feel that the charge sheet dated 12.8.1994 was clearly not maintainable and that the orders passed thereon are liable to be set aside.

13. Hence we are of the opinion that the charge sheet dated 12.8.1994 was not justified and the orders passed by the President is not sustainable in law. In this view of the matter, the O.A. is liable to be accepted. Accordingly the O.A. is accepted and we pass the following order :-

(a) The charge sheet dated 12.8.1994 is hereby quashed and the order dated 7.8.1997 passed thereon is set aside.

(b) So far as other reliefs claimed by the applicant are concerned, we direct the authorities to consider them in the light of the observations made in this O.A. We cannot give any specific direction with respect to the completion of probation or promotion of the applicant in this O.A.

(Per Hon. Mr. R. Rangarajan, Member (Admn.))

14. I have gone through the judgment of the Hon'ble Shri B.S.Jai Parameshwar, Member (Judl.). I fully agree with the views expressed by him. However, I will like to add the interpretation of the O.M. No. 39/1/67-Ests. (A) dated 21.2.1967. The above O.M. envisages imposition of the penalties on a Government servant for good and sufficient reason in respect of the misconduct committed before his employment. It is further stated that such misconduct committed was of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in

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service. If such a view is taken, then the charge sheet should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable in service. From the above, it transpires that the misconduct should be such that will make the applicant unsuitable to be continued in service. In this case, the applicant was not removed from service but was only given minor punishment. If that be the case relying on this letter for issuing charge sheet itself may not be proper. Further the circumstances under which the misconduct committed by an employee needs to be taken note of for making him unsuitable for continuing in service, if such a misconduct is very grave. Such a grave mistake can be related to a criminal charge resulted in conviction or other similar punishments. In this case before his relief from the post of JTO he was not involved in any criminal case. Some corruption charges were alleged against him. But even the Vigilance Officer had submitted that no such allegation ^{was} pending with him for scrutiny. It is not brought out anywhere that corruption charges levelled against him were such misconduct which necessarily will lead to discharge of the applicant on the ground of unsuitability. Further, in my opinion, quoting of the above letter in this case is absolutely irrelevant and has no nexus with the object to be achieved in issuing the charge sheet to him. In view of the above, I feel that allowing of the ^{Two} applicant is in order.

15. In view of what is stated above, the application is allowed. No order as to costs.

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ENTITLED TO BE TRUE COPY

म्याग्निक अधिकारी/रज परिवर्तनार (न्या वे)
Court Officer/Dy. Registrar
केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

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II. THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

C.P.No.84 OF 1998 converted as C.A.640/98.

in

C.A.No.1305 OF 1997

Date of Order: 7-8-1998.

Between:

H.Kama Krishna.

.. Applicant

J a n d

1. Sri A.V.Cokak,
Secretary to the Govt.of India,
Ministry of Communications,Department
of Telecommunications, New Delhi.

2. Sri G.K.Mhrothra,
Deputy Director General, Vigilance,
Department of Telecommunications,
West Block No.1, Wing No.2,
Ground Floor, I.K.Puram Sector-1,
New Delhi.

3. Sri Ramanujam,
Chief General Manager Telecom,
Andhra Pradesh Circle,
Door Sanchar Bhawan, Nampally Road,
Hyderabad.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.J.Sukheer

COUNSEL FOR THE RESPONDENTS :: Mr.V.Rajeshwara Rao

COUNSEL:

THE HON'BLE SHRI R.MANGALAJI, MEMBER (JUDG.)

A N D

THE HON'BLE SHRI B.S.JAI PARESHWAR (JUDG.)

* O R D E R *

O R I G I N A L ORDER (AS PER HON'BLE SHRI R.MANGALAJI, MEMBER (A))

In-aid Mr.J.Sukheer for the Applicant and
Mr.V.Rajeshwara Rao for the Respondents

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2. The C.P. has been filed for non-implementation of the Judgment in O.A. No.1305 of 1997 disposed of on 17-3-1998. That OA was disposed of with the following Orders :-

13. "(a) The charge sheet dated 12-8-1994 is hereby quashed and the order dated 7-8-1997 passed thereon is set aside.

(b) So far as other reliefs claimed by the applicant are concerned, we direct the authorities to consider them in the light of the observations made in this OA. We cannot give any specific direction with respect to the completion of probation or promotion of the applicant in this O.A. #

3. It is now stated for the applicant that, due to the ~~quashing~~ issue of Charge Sheet he was given the relief, as indicated under Para.13(a). But no decision has been taken in pursuance of the direction given in Para.13(b).

4. When a case is referred to the respondents for consideration and no time limit is given, normally this Tribunal gives Six months time in those cases. In the present case, Six months time will lapse on 16-9-1998. Hence the C.P. has to be taken as a ~~matter~~ for expeditious implementation of the directions given in this OA. The respondents should take a final decision in regard to Para.13(b) of the Judgment expeditiously.

5. With the above direction, the O.A. is disposed. No costs.

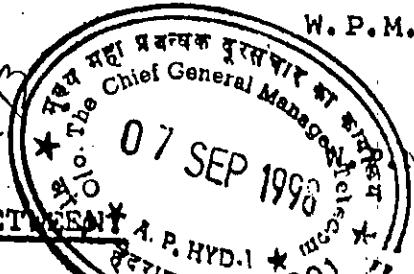
MA 64098 in	केस संख्या
CASE NUMBER OA. 1305/97	
नम्बर का लालाहा	
Date of Judgement	7-8-98
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Section Officer (J. D.)	
Dy. Regd.	

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IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH: AT HYDERABAD



W.P.M.P.NO. 28479 of 1998

in

NO. 23582 of 1998

BETWEEN

1. Union of India rep. by its Secretary, Ministry of Communications, Department, Telecom, New Delhi
2. The Deputy Director General, Vigilence Department, of Telecommunications, West Block No. Wing 2, Ground Floor, Sanchar Bhavan, New Delhi R.K.Puram,
3. The Chief General Manager, Telecommunications, A.P. Circle, Doosanchar Bhavan, Abids, Hyderabad.

and

... Petitioner/Petitioner in W.P. No. 23582/98 on the file of the High Court

1. N. Ramakrishna, Asst. Divisional Engineer, Telecom O/o. General Manager Telecom, District, Hyderabad.
2. The Central Administrative Tribunal, rep. by its Registrar, Hyderabad.

.... Respondents/Respondents in d

COUNSEL FOR THE PETITIONER: Mr. D. Krishna Murthy

FRIDAY THE TWENTY FIRST DAY OF AUGUST 1998

CORAM:

THE HON'BLE MR. JUSTICE B. SUBHASHAN REDDY

and

THE HON'BLE MR. JUSTICE VAMAN RAO

Petition filed under Section 151 of C.P.C. praying the High Court to suspend the operation of the judgment of the Central Administrative Tribunal in O.A. No. 1305/97 dated 17-3-1998 pending W.P.No. 23582/98 on the file of the High Court.

The court, while directing issue of notice to the respondents herein to show cause why this application should not be complied with made the following order (The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER: INTERIM SUSPENSION. NOTICE.

Sd/- ANAND KELKAR
ASSISTANT REGISTRAR

// true copy//

for Assistant Registrar

To

1. N. Ramakrishna, Assistant Divisional Engineer, Telecom O/o. General Manager Telecom, District Hyderabad (RPAD)
2. The Registrar, The Central Administrative Tribunal, Hyderabad (RPAD)
3. One Spare Copy
4. One CC to Mr. D. Krishna Murthy, Advocate (OPUC)

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IN THE HIGH COURT OF JUDICATURE:: ANDHRA PRADESH:: AT HYDERABAD

Thursday the Eighth day of April
One thousand nine hundred and ninety nine

PRESENT:

THE HON'BLE MR. JUSTICE: B. SUBHASHAN REDDY
AND
THE HON'BLR MR. JUSTICE: Y.V. NARAYANA.

W.P.M.P.NO. 28479 of 1998
W.V.M.P.NO. 3523 of 1998

W.P.M.P.No. 28479 of 1998:-

Between:-

1. Union of India, rep. by its Secretary Ministry of Communications Dept., of Telecom. New Delhi.
2. The Dy. Director General, Vigilance Dept., of Telecommunications, West Block No.1 Ground Floor, Sanchar Bhavan, R.K. Puram, New Delhi.
3. The Chief General Manager, Telecommunications, A.P., Circle Doorsanchar Bhavan, Abids, Hyderabad.

... Petitioners/Petitioners in WP
No.23582/98 on the file of the High
Court)

AND

1. N. Rama Krishna
2. The Central Administrative Tribunal rep. by its Registrar, Hyderabad.

... Respondents/Respondents in do)

Petition under Section 151 of CPC praying that in the circumstances stated in affidavit filed in the writ petition the High Court will be pleased to suspend the operation of the Judgement of the Central Administrative Tribunal in O.A.No;1305 of 97 dated 17-3-98 pending W.P.No.23582/98 on the file of the High Court.

W.V.M.P.NO. 3523 of 1998:

Between:-

N. Rama Krishna

... Petitioner/~~Exkikianek~~ Respondent
of 98 on the file of the High
Court

AND

1. Union of India, rep. by its Secretary, Ministry of Communications Dept., of Telecommunications, New Delhi.
2. Chairman, Telecom. Communication Dept., of Telecommunications, Sanchar Bhavan, New Delhi.
3. The Chief General Manager, Telecommunications, A.P., Circle, Door Sanchar Bhavan, Abids, Hyderabad- 500 001.
4. The Central Administrative Tribunal, rep. by its Registrar, Hyd.,

(R-4 is not necessary)

... Respondents/Petitioners' & Respondent
No.2 in do)

Petition under Section 151 of CPC praying that in the circumstances stated in the Counter-affidavit filed in the writ petition No.23582/98 the High Court will be pleased to vacate the interim order of the High Court dated 21-8-98 and made in W.P.M.P.No.28479 of 98 in W.P.No.23582 of 98.

The petitions coming on for hearing, upon perusing the petition and the affidavit filed in the Writ petition No.23582 of 98 and the interim order of the High Court dated 21-8-98 and made in W.P.M.P.No. 28479/98 and the counter and reply affidavit filed therein and upon hearing and upon hearing the arguments of Mr. ~~xExkikianek~~ D. Krishna Murthy, Addl. S.C. for Central Govt. for the petitioners in W.P.M.P.No. 28479 of 98 and Respondents 1 to 3 in WVPMP.No.3523 of 98 and of Mr. J. Sudheer, Advocate for the Respondent No.1 in WPMMP.No.28479/98

- 2 -

and petitioner in WVMP.No.3523 of 98, and respondent No.2 in W.P.M.P.No. 28479 of 98 not appearing in person or by Advocate and respondent No.4 in W.V.M.P.No.3523 of 98 not necessary as per C.T.

THE COURT MADE THE FOLLOWING ORDER:

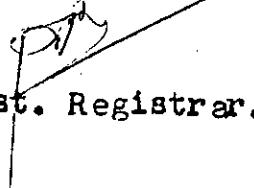
Having heard either counsel and having regard to the facts and circumstances of the case and balance of convenience, we vacate the interim order already granted.

Expedite hearing of the writ petition.

Sd/-B. ESTHARY RAO,
ASST. REGISTRAR.

Q221-0-1 : Be JSD

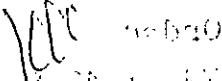
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For Asst. Registrar.

To

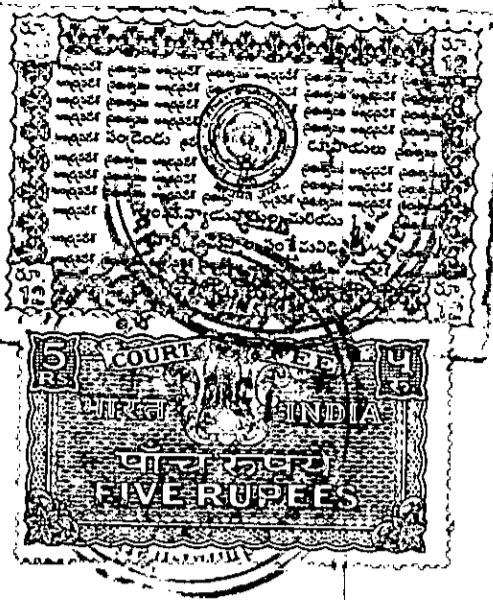
1. The Registrar, The Central Administrative Tribunal, Hyderabad.
2. One spare copy.
3. One cc to Mr. J. Sudheer, Advocate (OPUC).

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RECORDED & INDEXED





DISTRICT

C. A. T. HYD
BEFORE THE HON'BLE
HIGH COURT OF A.P./APAT/CAT
AT HYDERABAD.

Cl No.

of 1997

Against

Cl No.

1305

of 1997

On the file of the _____

VAKALAT

ACCEPTED

Advocate for

Petitioner
Applicant
Appellant
Respondent

Date 15-7 1997.

Accepted

Address for Service :

Phone : 3220533 (O)
7638312 (R)

SUDHEER JONNALAGADDA,
B.Sc., B.L.,
ADVOCATE

3-5-703, Opp. Old M.L.A. Quarters, Himayatnagar,
HYDERABAD - 500 029. (A.P.)

BEFORE THE HON'BLE HIGH COURT OF A.P./APAT/CAT
AT HYDERABAD.

CP No. 176 of 1999
OA No. 1305 of 97
AGAINST

No. of 199 on the file of the court of.....

N.Rama Krishna

Petitioners
Applicants
Appellants

Respondents

VERSES

Sri Amit Kumar, Secretary to Govt of India
Ministry of Communications, Dept. of Telecom
New Delhi

I/We

Petitioners/Applicants/Appellants/Respondents In the above Petition/Application/Appeal
do hereby appoint and retain.

SUDHEER JONNALAGADDA,
B.Sc., B.L.,
ADVOCATE

Y. APPALA RAJU
ADVOCATE

Advocate of the High Court to appear for Me/Us in the above Petition/Application/Appeal
and to conduct and prosecute (or defend) the same and all proceedings that may be taken
in respect of any application connected with the same or any decree or order passed therein,
including all applications for return of documents or the receipt of any moneys that may be
payable to Me/Us in the said Petition/Application/Appeal and also to appear in all applications
under Clause XV of the Letters Patent and in petitions for leave to appeal to the Supreme Court
of India and in all applications, for review of Judgement.



I Certify that the contents of this Vakalat were read out and explained in
Telugu / Hindi _____ in my presence to the
_____ executants who appeared perfectly to
have understood the same and made his/her/ their signature(s) or mark in my presence.

Executed before me on this the 15th day of July 1999

ADVOCATE, HYDERABAD.