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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

D.A. No. 1634 OF 1997.

DATE OF ORDER: 24-2-1999.

BETWEEN:

Bachu Malleswara Prasad.

....Applicant

and

1. The Union of India, rep. by Director General Telecom, Sunder Bhavan, New Delhi-1.
2. The Deputy General Manager (Admn), O/o General Manager Telecom, Telecom District, Vijayawada-10, Krishna District.
3. The Asst. General Manager (Admn), O/o General Manager, Telecom, Telecom District, Vijayawada-10, Krishna District.
4. The Inquiry Officer, Asst. Superintendent (TEL-TFE), Central Telegraph Office, Vijayawada-1, at Present Inquiry Officer & Junior Telecom Officer, O/o G.M. Telecom, Lakshmiapuram, Guntur.007. Respondents

COUNSEL FOR THE APPLICANT :: Mr. J. Venugopala Rao

COUNSEL FOR THE RESPONDENTS :: Mr. V. Rajeshwara Rao

CORAM:

THE HON'BLE SRI R. RANGARAJAN, MEMBER (ADMN)

AND

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

: ORDER:

ORAL ORDER (PER HON'BLE SRI B. S. JAI PARAMESHWAR, MEMBER (J))

None for the Applicant. Heard Mr. V. Rajeshwara Rao, learned Standing Counsel for the Respondents.

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2. The applicant herein was selected to the post of Office Assistant in the year 1982. He joined duty at Machilipatnam on 31-5-1983. It is stated that, at the time of applying for the post, he had passed Tenth Class and was eligible to be appointed to the said post.

3. The Divisional Engineer, Telecommunications, Krishna Telecom Division, Machilipatnam, issued Proceedings No.E-84/83-84/55, dated:15-6-1983, appointing the applicant as Telecom Office Assistant after his completion of prescribed course of training and issued regular appointment order in the scale of pay of Rs.260-480/-.

4. The Divisional Engineer, Telecommunications, Krishna Telecom Division, Machilipatnam, issued a Charge Memo bearing No.X/BMP/TOA/84-85/1, dated:20-9-1984. The misconduct alleged against the applicant reads as follows:-

"That the said Sri B.Malleswara Prasad, working as Telecom Office Assistant, O/o D.E.Telem, Machilipatnam, while applying for the post of office assistant in Krishna Telecom District has furnished marks secured in SSC examination and date of birth. On verification with school authorities, it was revealed that the information furnished by the said Sri B.Malleswara Prasad while applying for the post of office assistant is incorrect and not genuine. Thus the said Sri B.Malleswara-Prasad obtained wrongful employment in P&T Department and thus exhibited lack of

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integrity and conduct unbecoming of a Government servant under Rules 3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964."

5. An enquiry was initiated against the applicant on 26-10-1984. The applicant participated in the enquiry. The Inquiry Officer submitted his report dated: 30-9-1995, holding that the charge levelled against the applicant was proved. The Disciplinary Authority after considering the report of the Inquiry Officer and also the representation of the applicant, agreed with the findings of the Inquiry Officer and imposed the penalty of dismissal of the applicant from service, vide his Proceedings No. X/BMP/88-95/51, dated: 29-2-1996. The applicant submitted an Appeal to the Deputy General Manager (Administration), Telecom, Vijayawada on 4-4-1996. The Appellate Authority by his Proceedings No. VTD/X/BMP/88-97/58, dated: 24-9-1997, rejected the appeal and confirmed the Order of punishment.

6. Hence, the applicant has filed this OA challenging the Order of dismissal passed by the Disciplinary Authority on 29-2-1996 and confirmed by the 2nd respondent by his Order dated: 24-9-1997, praying to set aside the same and for a consequential direction to the respondents to reinstate the applicant into service with all consequential benefits.

7. The respondents have filed their counter stating that the applicant while applying for the post of

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Telecom Office Assistant in the year 1982, had filled up the application in his own handwriting furnishing certain particulars detailed in page.2 of the reply. They submit that the applicant was provisionally selected to the post of Telecom Office Assistant in Krishna Division for the second half year 1982 recruitment and he was directed to attend the Interview on 3-11-1982 along with original documents. He was provisionally selected subject to the condition that, issue of information to such candidates shall not confer any right of absorption unless regular orders are issued after completion of usual formalities. Further they submit that the Divisional Engineer, Telecom addressed a letter to the Secretary, Board of Secondary Education, Andhra Pradesh for verification of the Certificates in respect of certain candidates including that of the applicant, vide his letter dated:3-3-1983 (Annexure-A-III to the O.A.). The Additional Joint Secretary, office of the Commissioner for Government Examinations, while replying the said letter(Annexure.9 to the OA), certified the genuineness of certain Certificates. On receipt of the same and after following other formalities, the applicant was appointed on 15-6-1983. Thereafter, a letter was addressed to the Head Master, P.High School, Gudur, Krishna District, making certain enquiries. The Head Master, P.High School, Gudur, replied that the certificates pertaining to four candidates including the applicant were bogus and they had not studied in the said Institution. In this

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background, a Charge Memo was issued to the applicant and an enquiry was conducted. During the enquiry, sufficient opportunity was given to the applicant. With regard to certain applications decided by this Tribunal and referred to by the applicant in the OA, the respondents have submitted that in OA.No.1139 of 1992, the Order of this Tribunal has been set aside by the Apex Court on 18-11-1997. In OA.No.27 of 1990, the Order was set aside by the Hon'ble Supreme Court in CA.No.2748 of 1992, and the Hon'ble Supreme Court ordered for De-novo enquiry. Thus they submit that there are no reasons to interfere with the impugned Orders.

8. The charges levelled against the applicant is that, while applying for the post he submitted a false SSC Certificate. During enquiry the applicant was at liberty to substantiate his innocence and that the Certificate produced by him was in fact a genuine one.

9. During the course of hearing, the learned Counsel for the Respondents relied upon the Order dated: 17-2-1997 passed in OA.No.800 of 1997. In the said OA, also the applicant therein was also proceeded against for producing a false SSC Certificate.

10. The applicant while challenging the impugned Orders has attempted to question the procedure adopted by the Inquiry Officer. The Disciplinary Authorities are only fact finding bodies and the

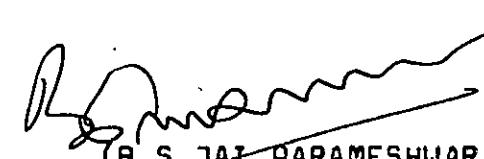
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strict proof of evidence is not applicable. Further it was for the applicant to establish that the SSC Certificate produced by him at the time of his appointment was a genuine one. When the respondent-authorities made enquiries with the concerned High School authorities and felt that the Certificate produced by the applicant was a faked one, the applicant has not attempted to rebut the same.

11. The contentions raised in OA.No.800 of 1997 are the same as the contentions raised in this OA. Hence, the reasons recorded by us in the said OA are amply applicable to this case also.

12. In view of the above, we find no merit in this OA, and the OA is dismissed leaving the parties to bear their own costs.

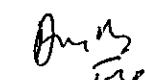

(B.S.JAI PARAMESHWAR)
MEMBER (JUDL)
24/2/99


(R.RANGARAJAN)
MEMBER (ADMN)

DATED: this the 24th day of February, 1999

Dictated to steno in the Open Court

DSN


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Ist and IIInd Court.

Copy to:

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2. HHRC M(A)
3. HGSOP M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

4.P.R. (A)
5. SPARE

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

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

THE HON'BLE R. RANGARAJAN
MEMBER (A)

THE HON'BLE MR. B.S. DAI PARAMESHW R.
MEMBER (J)

DATED:

24/2/99

ORDER/JUDGMENT

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

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D.A. NO. : 1634/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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