

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.584/99

DATE OF ORDER : 14.3.2000

Between :-

A.Narayana

...Applicant

And

1. The Chief General Manager,
Telecommunications, AP Circle,
Abids, Hyderabad.
2. The General Manager, Telecom District,
Tirupati - 517 501.
3. The Telecom District Manager,
Dept. of Telecommunications,
Tirupati.

...Respondents

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Counsel for the Applicant : Shri V.Venkateshwar Rao

Counsel for the Respondents : Shri B.N.Sarma, Sr.CGSC

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CORAM:

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

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

(Order per Hon'ble Shri B.S.Jai Parameswar, Member (J)).

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(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

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Heard Shri N.Prabhakar for Shri V.Venkateshwar Rao, learned counsel for the applicant and Shri M.C.Jacob for B.N.Sharma, learned Standing Counsel for the Respondents.

2. This is the second round of litigation.
3. The applicant herein while working as Cashier in the Office of D.E.Telecom, Tirupati during the period from 1977, appears to have committed certain financial irregularities. For that the Director, Telecommunications, Tirupati by his proceedings No.TAT/ST/12/1/4 dated 26.8.1985 issued a charge memo. The applicant denied the charges. The said charge memo was enquired into by the Sr.Superintendent, Telegraph Traffic, Kurnool, who by the time submitted the report was holding the post of the Director, on promotion. The Inquiry Officer by his report dt.2.8.1991 held that the charges 1 and 2 are proved and charge No.3 is not proved. A copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted his explanation dt.12.12.1991.
4. After considering the representation of the applicant the report of the Inquiry Officer and the inquiry records, the Disciplinary Authority (the Respondent No.3) by his proceedings No.X/TDM/DSC/91-92 dated 24.1.1992 imposed the penalty of with holding of two increments with effect from 1.6.1992 for a period of 2 years with cumulative effect in the scale of pay of Rs.1400-2300.
5. Against the said punishment order, the applicant preferred an appeal to the Respondent No.2. A copy of the appeal is at Annexure-VII pages 26 to 33 to the OA dated 9.3.1992.
6. The Appellate Authority by his proceedings dated 26.3.1993 had rejected the appeal and confirmed the punishment.
7. Then the applicant approached this Tribunal in OA 1107/94 challenging the punishment order as well as the order passed by the Appellate Authority. During the hearing of the said OA, this Tribunal formed an opinion that the

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Appellate Authority had not considered the various grounds raised by the applicant in his memo of appeal and accordingly remitted the matter back to the Appellate Authority for fresh consideration. Accordingly the Appellate Authority considered the appeal of the applicant afresh and by his proceedings dated 19.12.1998 confirmed the punishment and rejected the appeal.

8. The applicant has filed this application challenging the order dated 24.1.1992 passed by the Disciplinary Authority and the order dated 19.12.1998 passed by the Appellate Authority praying to set aside the same and to grant him all consequential benefits such as arrears of pay and allowances, promotion etc.,.

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

- (a) The inquiry officer violated the principles of natural justice while conducting the inquiry. He was biased towards him. His report is prejudiced;
- (b) There were many irregularities and illegalities committed by the Inquiry Authority during the course of conducting of the inquiry;
- (c) The inquiry authority illegally and arbitrarily rejected the request of the applicant to summon the documents/witnesses for examination.
- (d) The post of Director (TTE) is superior in status kwith reference to the powers exercised by him in comparison to the post of TDM who has imposed the penalty on the applicant. Hence Respondent NO.3 who is sub-ordinate to the disciplinary Authority cannot be expected to act independently in the matter of coming to the conclusion as to the guilt of the applicant; and
- (e) Respondent No.3 is not competent to impose the penalty on the applicant. The appellate authority has not applied its mind to the various grounds taken by him in the memorandum of appeal.

10. The Respondents have filed a reply. They submit that as per the directions given in OA 1107/94 the appellate authority considered the appeal and the applicant did not utilize the opportunity given to him of personal hearing. That the appellate authority considered the various grounds raised by the applicant and



that he came to the conclusion by a speaking order. Thus they submit that there are no grounds to interfere with the orders of the respondent authorities.

11. The applicant challenged the manner of conducting the inquiry by the Inquiry Officer. He has not stated what were the irregularities or illegalities committed by the Inquiry Officer. The applicant appeared to have had submitted a bias petition to the Disciplinary Authority and the same was considered and rejected. When that is so and in the absence of material particulars, we are not in a position to come to the conclusion that there were irregularities and illegalities in the conducting of the inquiry.

12. The grievance of the applicant is that the Inquiry Officer failed to summon the documents and witnesses on his behalf. He has not stated what documents he had requested the Inquiry Officer to summon. He has not furnished the list of witnesses whom he wanted to examine. It is for the applicant to explain how those documents were relevant in coming to the conclusion whether any injustice or prejudice has been caused to him. Vague allegations that the inquiry officer arbitrarily rejected his prayer is not sufficient to set aside the order of punishment.

13. The Director (TT) issued the charge memo. The TDM has imposed the penalty. It is contended that the TDM is lower in rank and he is not competent to impose the penalty. The respondents in para-11 of the reply submit that the Director and TDM are equal in rank and are JAG officers. Both are in the scale of pay of Rs.3700-5700 (pre-revised). Hence the contentions of the applicant that the respondent No.3 was not competent to impose the penalty is rejected.

14. As per Annexure A-3 page-13, the Senior Superintendent T.T.Kurnool was appointed as the Inquiry Officer. By the time, the Inquiry Officer submitted his report in 1991, he was promoted as Director (TT).

15. The appellate authority in para-5 of his order has observed as under :-

5. As per para (II) under Rule-14 of CCS(CCA) Rules, 1965, Inquiry Officers to be senior in rank to the Officers enquired against. The

Committee on subordinate legislation (fourth Lok Sabha) have recently

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examined the question of appointment of Inquiry Officers to inquiry into the charges leveled against delinquent officers under CCS(CCA) Rules, 1965. The Committee observed that the inquiries should be conducted by an Officer who is sufficiently senior to the officer whose conduct is being inquired into as inquiry by a junior Officer can not command confidence which is deserves. Thus it can be seen, no where it is mentioned that the Disciplinary Authority and Inquiry Officer should not be of same rank. This is also to mention that this case has been completed complying with the procedure laid down in the CCS (CCA) Rules, 1965.

16. The Respondents in their reply in para-10 has stated that Inquiry Officer and Disciplinary Authority are of the same rank belonging to JAG and the Director, Telecom and the TDM (Respondent No.3) are equal and belong to JAG. That means the authority who issued the charge sheet and the authority who submitted the inquiry report are of the same rank. This is because of promotion of the Inquiry Officer. The applicant has not filed any rejoinder to the reply. We find no irregularity in this aspect. The report of the Inquiry Officer cannot in any way be improper. The inquiry officer got promoted to higher rank before he submitted the inquiry report. His position as the inquiry authority was not in any way changed. No ^{fault} ~~pace~~ can be found with the inquiry authority.

17. Further, the impugned punishment order was issued by the T.D.M. The Director as well as the T.D.M. are equal in rank. Hence we do not find any irregularity in the punishment order. Therefore the contention of the applicant is rejected.

18. As already observed, this Tribunal earlier set aside the order of the appellate authority and remanded the matter to the appellate authority for consideration afresh. We directed the Appellate Authority to consider the grounds raised by the applicant and the appeal and to pass a speaking order.

19. Accordingly the appellate authority has passed the impugned order dated 19.12.1998. We have perused the order of the Appellate Authority. The




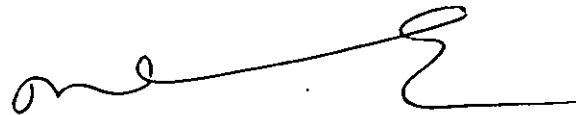
Appellate Authority has taken into consideration all the grounds raised by the applicant and also the grounds we had noted in the body of the order. It cannot be said that the appellate authority has not considered the grounds raised by the applicant in the appeal. Further, there is no substance in the contention of the applicant that the appellate authority has not applied his mind to the facts and circumstances of the case.

20 The Hon'ble Supreme Court in the case of State Bank of Patiala and others Vs. K.Sharma (AIR 1996 SC 1669) dealt in detail the principles of natural justice to be followed in the disciplinary proceedings and held that the court or Tribunal shall not set aside the order passed by the Disciplinary Authority only on technical grounds. The above principle squarely applies to this case also.

21. In that view of the matter, we find no merits in this OA and the same is liable to be dismissed.

22. Accordingly the O.A. is dismissed. No order as to costs.


(B.S.JAI PARAMESHWAR)
14-13-00
MEMBER (J)


(R.RANGARAJAN)
MEMBER (A)

Dated: March, 2000.

Dictated in Open Court.

Avl/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
HYDERABAD.

1ST AND 2ND COURT

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

COPY TO

1. HDHND

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

2. HRRN (ADMN) MEMBER. THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

3. HBSJP. M. (JUDL)

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

4. D.R. (ADMN)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

DATE OF ORDER 14/3/00

~~MA/RA/CF. NO~~

IN

C.A. NO.

584/09

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO

