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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. 1266/99

Date: 5.7.2000

Between:

P. Nageswara Rao

.. Applicant

A N D

1. The Chief General Manager,
Telecom,
Doorsanchar Bhavan, Bhopal,
Madhyapradesh.
2. The Member(Finance)
Department of Telecommunication,
Sanchar Bhavan,
New Delhi.
3. The Director General,
Department of Telecommunication,
New Delhi.

.. Respondents

Counsel for the applicant : Mr. K.Venkateswara Rao

Counsel for the respondents: Mr. B.Narasimha Sharma, Sr.CGSC

Coram:

Hon. Shri R. Rangarajan, Member (A)

Hon. Shri B.S.Jai Parameshwar, Member(J)

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(Per Hon. Shri B.S. Jai Parameshwar, Member(J))

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Heard Mr. K. Venkateswara Rao, learned counsel for the applicant and Mr. M.C. Jacob, for Mr. B. Narasimha Sharma, Sr. CGSC, learned standing counsel for the respondents.

2. Between 24-6-1991 and 12-7-1996 the applicant was working as Senior Accounts Officer (Cash) in the O/O Telecom District Manager, Morena in Durg Division, Madhya Pradesh. At that time a post of Senior Accounts Officer (TR) was vacant. The applicant was in current charge of the said post. The said post was filled up on 11-5-1994.

3. The respondent authorities had issued instructions to record meter readings of the PCO/STD telephone booths on the last day of the month, to issue demand notes to the operators and to recover the revenue within 10th of the month. It is stated that such strict instructions were issued to augment the revenue of the TRA unit.

4. The applicant submits that when he took over the post of Senior Accounts Officer (Cash) in the TRA Unit it was economically ⁱⁿ disorder and that by his labour and dedicated service he brought the same in order.

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5. One Mr. Qureshi was the owner of PCO/STD Telephone Booth bearing No. 4192 new No.2478.

6. The respondent authorities noticed that the TRA unit had allowed the said operator to continue to operate the telephone services without recovering the monthly revenue punctually and allowing the arrears to accumulate to the tune of Rs.1,85,895/-

7. The applicant was issued with a minor penalty charge memo dt. 8-12-95 by the CGM Telecom, Bhopal, for his lapses in not recovering the revenue to the department. The applicant submitted his explanation. The CGM Telecom Bhopal was not convinced with the explanation offered by the applicant. Hence the CGM Telecom Bhopal by the impugned order No.VIG/19/95/10 dt. 15-4-96 (Annexure A-V page 21 to 23 to the OA) imposed a penalty of withholding one increment for a period of three years without cumulative effect.

8. Against the said penalty order the applicant submitted an appeal to the respondent No.2. The appeal is dt. 13-6-96 and a copy is kept at Annexure VII page 25 to the OA. As there was certain delay in considering his appeal the applicant approached this Tribunal in OA 1372/98 which was decided on 16-10-98 directing the respondent no.2 to dispose of the appeal within a specified time.

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9. Accordingly the Appellate Authority

by his proceedings No:2-3/98-Vtg.II dt. 16-3-99

rejected the appeal.

10. The applicant has filed this OA

for the following reliefs :

"to call for the records relating to order No.Vtg/90/95/10 dt. 15-4-96 issued by the Chief General Manager, Telecom, Doorsanchar Bhawan, Bhopal and the appellate order No. 2-3/98-Vtg.II dt. 16-3-1999 issued by the Member(Finance)Telecom Commission, New Delhi and quash ~~the same by holding the impugned orders~~ imposing the penalty of withholding of one increment for three years without cumulative effect as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution and opposed to all canons of equity, justice and fairplay and consequently declare that the applicant is entitled for all benefits of pay and allowances seniority and promotion and other attendant benefits."

11. The respondents have filed their reply.

Though the bills were raised by the Sub Divisional

officer(phones) Jagadaiapur it was the primary

responsibility of the Senior Accounts Officer for

collection of the revenue of the STD/PCO. The applicant

failed to monitor payment of the bills and also

bring this fact to his official superiors. The applicant

allowed the arrears to accumulate for over six months

and it was the responsibility of the applicant to

recover the dues punctually in accordance with the

instructions issued by the official superior.

All the officials in the TRA unit including the dealing assistant, section supervisor and JAO were working under the control of the applicant. The applicant being the head of the revenue section was expected to streamline the working of the TRA unit and collect the revenue without fail. There was no dispensation of Accounts Officer's duties and ^{and} responsibility of the applicant is the final billing authority. The Accounts Officer is expected to see all the rules and orders in force. The lapses on the part of SDO(phones) or on the part of the dealing assistant, section supervisor and JAO will not absolve the responsibility of the applicant. In fact, it ^{was} the duty of the applicant to correct the lapses on the part of the SDO(Phones) Jagadapur and his subordinates viz. the dealing assistant, Section Supervisor and the JAO. Further the disciplinary authority as well as the appellate authority have taken a lenient view of the matter and imposed only a minor penalty even though the loss is estimated to the tune of one lakh and odd.

12. During the course of the arguments the learned counsel for the applicant strongly contended that unless and until his subordinates bring to his notice he will not come in the picture of non recovery of any ~~dues~~ from the PCO/STD.

It is the responsibility of the dealing assistant

section supervisor and JAO. Unless these subordinates place before him the position of arrears outstanding from the PCO/STD he cannot come to know of the actual position. In fact the primary responsibility rested on these subordinates and that these subordinates failed to perform their legitimate duties. He has been made a scape goat allowing the SDO(phones) and other subordinates to go scotfree. Further, he submits that without his knowledge the telephone number of PCO was changed from 4192 to 2478. This change was also not brought to his notice. It is submitted that it was he who brought the TRA unit in order even though he was holding the post of Senior¹Accounts Officer(TR) during the period. Thus he submits that the applicant has been made a scapegoat and the officials responsible for the loss have been allowed to go scotfree. Lastly he submitted that in a similar case an official has been visited with lesser penalty and that the penalty imposed on him is excessive.

13. Though the arguments advanced by the learned counsel for the applicant appears to be audible but not acceptable. The applicant is the ^{billing} final authority. He was expected to know the collection of the revenue from his subordinates. If in case there was any lapse on the part of the subordinates in bringing to ^{his notice} the outstanding

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he should have taken them to task. The instructions given by this official superiors were clear and unambiguous. The readings should be recorded on the last day of the month, demand notices should be send on the first day of the successive month and recovery should be made by tenth. Atleast these instructions were within the knowledge of the applicant. The applicant cannot claim ignorance of the instructions. When that was so on the eleventh day of the month he should have called for the necessary explanation from the dealing assistant section supervisor and the JAO about the amount recovered and the amount outstanding. The duties of the senior accounts officer is to maintain accounts properly and to watch the collection of the revenue. He cannot leave it to the hands of his subordinates who may be lax in their duties. Their laxity does not absolve the responsibility of the applicant. The applicant cannot take shelter under the premise that it was the responsibility of the dealing assistant, section supervisor and JAO. He was expected to give proper instructions and guidance for recovery of the revenue due to TRA Unit.

14. It is stated that the applicant was incharge of the Senior Accounts Officer (TR Unit) during that time and that he was holding two posts and had higher responsibilities. If that was so he should have brought this to the notice of higher authorities immediately requesting them to provide

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an assistant for the proper functioning of his duties. It appears that the applicant has been paid extra remuneration for holding the post of Sr. Accounts Officer in the TRA unit. When that is so he cannot now say that he ^{was} burdened with higher responsibility and he could not attend or concentrate on the recovery of the revenue.


15. As regards his contention that the SDO(Phones) Jagadapur, had changed the telephone number of the PCO/STD from 4192 to 2478 we feel that his contention cannot be accepted. He is expected to know the change in the number of PCO/STD. Merely because he was not aware of the change in the telephone number of PCO/STD is not a ground to say that the applicant was not at all responsible. The respondents have clearly stated that the applicant is the final ~~billing~~ authority and was expected to supervise the duties of the dealing assistant, SO and JAO. When that is so he failed to perform his legitimate duties and also to protect or safeguard the interest of the department.

16. Considering all these facts and circumstances of the case we feel that the respondent authorities have taken a proper decision to impose a penalty which we feel a most lenient one. The applicant attempted to contend that for a similar misconduct another official was visited with a lesser punishment. We are not inclined to compare the duties of the applicant and the duties of the other officials


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who was imposed with a lesser penalty. The applicant cannot compare the misconduct done by him with the punishment imposed on another official. In that view of the matter we find no justification to interfere with the impugned orders passed by the respondent authorities.

17. The OA lacks merit, and is liable to be dismissed. Accordingly OA is dismissed. No order as to costs.


(B.S. JAI PARAMESHWAR)
Member (J)
5171208

MD


(R. RANGARAJAN)
Member (A)


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

COPY TO

1. HDHND

2. HRRN (ADMN.) MEMBER

3. HBSJP (JUDL.) MEMBER

4. D.R. (ADMN.)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

~~1ST AND 2ND COURT~~

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

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

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

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

DATE OF ORDER 5/7/2000

MA/RA/CP. NO.
IN

CA. NO. 1266/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALL ORED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

~~DISMISSED~~

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

(8 copies)

