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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.364/96

Date of order: 25.7.2000

V.N.Upachyay, S/o Shri R.D.Upachyay, employeē as Lineman, Phones,  
Vigyan Nagar, Kota.

...Applicant.

Vs.

1. Union of India through the Secretary Telecom, Mini. of Communication, Govt. of India, New Delhi.
2. Telecom Distt. Engineer, Kota District, Kota.
3. Asstt.Engineer Cables II, Telecom Deptt, Kota District, Kota.
4. Divisional Engineer Phones, O/o Telecom Distt.Manager, Kota.

...Respondents.

Mr.Shiv Kumar - Counsel for applicant.

Mr.K.N.Shrimal - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original application filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes the following prayers:

~~1.~~ the chargesheet dated 7.3.94, disciplinary order dated 21.7.95 and imposition of penalty and appellate order dated 21.11.95 rejecting of appeal may be declared illegal, arbitrary, against the rules and same may please be set aside with all consequential benefits.

2. In brief facts of the case as stated by the applicant are that while working on the post of Lineman at Kota, a memorandum of charge sheet under Rule 16 of the CCS (CCA) Rules, 1965 was issued to him for imposing minor penalty. Thereafter the respondents issued letter dated 2.11.94 by which an explanation was sought from the applicant regarding the irregularities committed by him in the lines of underground cables. The applicant submitted his representation dated 21.12.94 and 28.3.95 and also demanded an enquiry in the matter but without considering his reply, respondent No.3 issued order dated 21.7.95 by which punishment of stoppage of two increments for 3 years with cumulative effect was imposed upon the applicant. The applicant submitted an appeal which was also rejected by order dated 21.11.95. It is stated that the charge sheet was issued to the applicant for imposing minor penalty whereas a major penalty was imposed upon the applicant under Rule 14 of the CCS (CCA) Rules which is per se illegal, arbitrary and against the rules. Therefore, the order of the disciplinary authority as well as the appellate authority is liable to be set aside.

3. Reply was filed. In the reply, it is stated that issuance of the

order dated 21.7.95 was perfectly correct and legal and the appellate authority before passing the order dated 21.11.95 carefully gone through the record and the order passed by the disciplinary authority and thereafter dismissed the appeal. Therefore, the penalty imposed upon the applicant is just, proper and legal.

4. Heard the learned counsel for the parties and also perused the whole record.


5. The learned counsel for the applicant has only argued that the penalty imposed upon the applicant vide order dated 21.7.95 is a major penalty which could have been imposed after a detailed enquiry in accordance with rules.

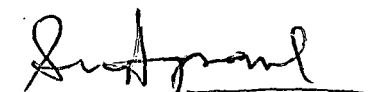
6. We have given anxious consideration to the contention of the learned counsel for the applicant and also heard the arguments of the learned counsel for the respondents.

7. Admittedly the applicant was served upon a charge sheet under Rule 16 of the CCS(CCA) Rules, 1965 for imposing minor penalty. It is also an admitted position that the disciplinary authority imposed upon the applicant a penalty of stoppage of two increments for 3 years with future effect, which is a major penalty as defined under Rule 14 of the CCS(CCA) Rules, which could have been imposed upon the applicant after a detailed enquiry on a charge sheet issued for major penalty. But in this case, admittedly, the chargesheet issued is under Rule 16 of the CCS (CCA) Rules, 1965 for imposing minor penalty. Therefore, the penalty imposed upon the applicant vide order dated 21.7.95 (Annx.A1) is per se illegal and liable to be quashed and on the basis of the order imposing penalty dated 21.7.95, the order of the appellate authority rejecting the appeal filed by the applicant is also liable to be quashed.

8. We, therefore, quash and set aside the order dated 21.7.95 (Annx.A1) issued by respondent No.3, (the disciplinary authority) and order dated 21.12.95 issued by respondent No.2 (appellate authority) who dismissed the appeal filed by the applicant. This order shall not preclude the respondents to initiate disciplinary proceedings against the applicant, in accordance with rules.

9. The O.A is allowed accordingly with no order as to costs.

  
(N.P. Nawani)  
Member (A).

  
(S.K. Agarwal)  
Member (J).