

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 5.1.2001

OA 505/96

P.N.Meena, Telegraph Master (Testing) O/o Central Telegraph Office, M.I.Road, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Telecommunication, Sanchar Bhawan, New Delhi.
2. Director General (HPD), Department of Telecom, New Delhi.
3. Chief General Manager, Rajasthan Telecom Circle, Near Government Press, Jaipur.
4. Asstt.Chief Supdt. (General), Central Telegraph Office, M.I.Road, Jaipur.

... Respondents

CORAM:

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

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.P.V.Calla

For the Respondents ... Mr.Hemant Gupta, proxy cocounsel
for Mr.M.Rafiq

O R D E R

PER HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, Applicant P.N.Meena has prayed for setting aside the impugned order dated 20.5.93 (Annexure A/1), modified punishment order i.e. appellate order dated 1.9.93 (Annexure A/2) and the revisional order dated 25.8.95 (Annexure A/3), with all consequential benefits.

2. Applicant's case is that he was initially appointed on

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the post of Telegraphist in the year 1969 and is presently working on the post of Telegraph Master (Testing) in the scale Rs.1400-2300. The applicant was served with a charge-sheet vide memo dated 28.11.91. On conclusion of inquiry, the inquiry officer submitted the inquiry report holding the applicant as not guilty. The disciplinary authority, however, disagreeing with the findings of the inquiry officer imposed upon the applicant penalty of withholding of one increment for a period of three years without cumulative effect, vide his order dated 20.5.93 (Annexure A/1). In appeal against the said order of the disciplinary authority, the penalty was reduced to withholding of one increment for two years without cumulative effect, vide order dated 1.9.93 (Annexure A/2). Review Petition preferred by the applicant was rejected vide order dated 25.8.95 (Annexure A/3). Contention of the applicant is that disagreement of the disciplinary authority with the observations of the inquiry officer was not conveyed to him before imposing the penalty and, therefore, action of the respondents is in violation of principles of natural justice, hence this application.

3. Notices were issued to the respondents and they have filed their reply.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. Learned cocounsel for the applicant has cited a judgement of Hon'ble the Supreme Court in support of his contention that the applicant cannot be punished without affording him an opportunity to defend his case. This

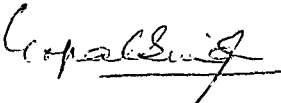
Counsel for

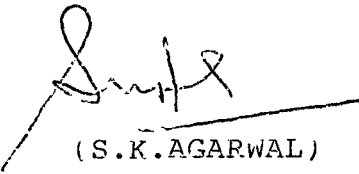
judgement is being discussed in subsequent paragraph.

6. In Punjab National Bank and Others V/s Kunj Behari Misra, (1998) 7 SCC 84, it has been held by Hon'ble the Supreme Court that if disciplinary authority differs with the findings of the inquiry officer, an opportunity of representation to the charged official is required to be given before imposing upon him any penalty.

7. In view of the law laid down, as above, we are firmly of the view that principals of natural justice have been violated in the instant case inasmuch as the note of disagreement of the disciplinary authority has not been conveyed to the applicant so as to enable him to put up his defence. In this view of the matter, we are firmly of the view that the disciplinary proceedings against the applicant are vitiated and, therefore, the case deserves to be remitted back to the disciplinary authority for further proceeding in the matter from the stage of giving a copy of the note of disagreement of the disciplinary authority to the applicant. Accordingly, the orders of the disciplinary authority, appellate authority and revision authority, at Annexures A/1, A/2 and A/3, would become nonest at this stage.

8. In the light of above discussion, the OA is allowed. Respondents' orders dated 20.5.93 (Annexure A/1), 1.9.93 (Annexure A/2) and 25.8.95 (Annexure A/3) are quashed and set aside. Respondents will, however, be free to continue the disciplinary proceedings against the applicant from the stage of making available the disagreement of the disciplinary authority with the inquiry officer to the applicant. No costs.


(GOPAL SINGH)
MEMBER (A)


(S.K. AGARWAL)
MEMBER (J)