

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXX No. . 286. . . . of 1998

DATE OF DECISION 16.2.2001.....

Shri Anil Ch Nath

PETITIONER(S)

Mr B.K. Sharma, Mr S. Sarma, Mr M. Goswami and
Mr D.K. Sarma

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

Mr B.C. Pathak, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.286 of 1998

Date of decision: This the 16th day of February 2001

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Anil Ch Nath,
Senior Section Supervisor of CGMT,
Assam Telecom Circle,
Guwahati.

.....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma,
Mr M. Goswami and Mr D.K. Sarma.

- versus -

1. The Union of India, represented by the Secretary, Ministry of Communication, New Delhi.
2. The Chief General Manager, Telecom, Assam Telecom Circle, Guwahati.
3. The Deputy General Manager (Admn.), Office of the CGMT, Assam Circle, Guwahati.

.....Respondents

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

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O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 assailing the propriety of the departmental proceeding as well as the penalty imposed in the said proceeding in the following circumstances:

A departmental ^{Proceeding} ~~enquiry~~ was initiated under Rule 14 of the CCS (CCA) Rules, 1965 against the applicant for conducting enquiry into the charges reproduced below:

"While Sri A.C. Nath, S.S. was posted and functioning in the various posts at Circle Office, Guwahati, he committed a gross irregularities intentionally by violating the Departmental rules and procedures with ill motive.

That Sri A.C. Nath, S.S. was promoted from U.D.C. to Section Supervisor under S.C. quota and was allotted

Departmental Quarter at Beltola under S.C. quota though Sri A.C. Nath entered into the Department as O.C. community. It is authenticated that Sri Nath had misguided the Department by not pointing out his actual caste community in case of his promotion from U.D.C. to S.S. Thus he was enjoying facilities of "S.C." community in getting benefit of promotion and allotment of Departmental quarter by depriving the deserving officials."

A statement of the imputations or misconduct or mis-behaviour that was proposed to be taken against the applicant was also furnished to the applicant.

2. The applicant submitted his written statement in defence and thereafter the enquiry was held. The Inquiry Officer submitted his report holding the applicant guilty of the charge. The Disciplinary Authority acted upon the report of the Inquiry Officer and imposed the penalty of reduction to a lower stage of pay in the time-scale and accordingly the Disciplinary Authority ordered for reduction of pay of the applicant by five stages from Rs.2000 to Rs.1760 in the time-scale of pay of Rs.1400-40-1800-EB-50-2300. The applicant submitted an appeal against the aforesaid order and the Appellate Authority rejected the same. The applicant has, therefore, filed this application assailing the legitimacy of the impugned order.

3. The applicant mainly assailed the order on the ground of procedural impropriety caused due to inaction of the Disciplinary Authority and also for violation of the principles of natural justice.

4. Mr B.K. Sharma, learned Sr. counsel, appearing on behalf of the applicant submitted that the respondent authority, while conducting the enquiry infringed the procedural safeguard granted to the delinquent officer at every stage. According to the learned Sr. Counsel, the Disciplinary Authority acted on materials, those of which were not furnished to the applicant. Mr M. Goswami, supplementing the argument, contended that even the purported charges did not indicate clearly the nature of the allegations for countering the allegations made therein. Mr Goswami further submitted that allegations which were not cited in the charges, were, later on, acted upon by the Inquiry Officer.

5. Mr B.C. Pathak, learned Addl. C.G.S.C., placed before us the records and submitted that the enquiry was conducted duly as per procedure prescribed under the law and therefore, no interference is called for.

6. Upon hearing the learned counsel for the parties and considering the materials on record, the following facts stare on the face of the record. The chargememo apparently did not contain the allegations of accepting money by renting out the departmental quarter. The respondent authority seemingly acted on materials without providing the applicant any opportunity to have his say and counter the allegations. The Inquiry Officer as well as the Disciplinary Authority acted upon the report of the Deputy Commissioner, Nagaon indicating that the applicant did not belong to the SC community. Admittedly, the aforesaid report did not find mention in the list of documents furnished to the applicant. The aforesaid enquiry was made after drawing out the charge and before holding the enquiry. The enquiry conducted by the Deputy Commissioner at Nagaon was behind the back of the applicant. Mr Pathak submitted that the said report was furnished to the applicant during the course of the enquiry and the delinquent officer was made aware of it. Mere furnishing of the copy cannot be said to be adequate compliance of the principles of natural justice. At no point of time, either in the charge memo or in the charge, the applicant was made aware that the said report would be acted upon. The Inquiry Officer did not examine any witnesses. Even in the enquiry the Inquiry Officer did not seek for any explanation from the applicant as to the contents of the report, thereby providing him at least an opportunity to rebut. In a managerial enquiry the authorities are bound to adhere by the disciplinary rules and follow the principles of fairness. The CCS rules provide for the procedure for imposing major penalty. The rules provide for giving reasonable opportunity to the delinquent officer to defend his case effectively in conformity of the spirit enjoined in Article 311(2). The Disciplinary Authority in

this.....

this case by not adhering to the principles of natural justice and on that count alone the impugned penalty based on the faulty disciplinary proceeding cannot be sustained.

7. In the circumstances the impugned order is set aside and we allow the application. There shall, however, be no order as to costs.

KK Sharma
(K. K. SHARMA)
ADMINISTRATIVE MEMBER

D. N. Chowdhury
(D. N. CHOWDHURY)
VICE-CHAIRMAN

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