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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 511 of 2001

Jabalpur, this the 7th day of May, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

Vishnu Prasad Vyas  
S/o Shri Ghanshyam Vyas  
aged about 40 years,  
Telecom Office Assistant (TOA)  
O/o S.D.O.T. Jawad,  
R/o Omjee Baldi's House  
Neemuch Road, Ratangarh,  
Distt. Neemuch.

APPLICANT

(By Advocate - Shri S. Paul)

VERSUS

1. Union of India  
through its Secretary,  
Deptt. of Telecommunication,  
Sanchar Bhawan,  
New Delhi.
2. The Chief General Manager,  
(Telecom),  
Bhopal.
3. The General Manager,  
Telecom,  
Mandsaur.
4. The Sub Divisional Officer,  
(Telegraph), Jawad,  
Jawad.
5. The Divisional Engineer  
(Administration), Telephone,  
Exchange, Mandsaur.

APPLICANT

(By Advocate - Shri P. Shankaran)

ORDER (ORAL)

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has sought the following  
main reliefs:-

"(ii) Set aside the order dt. 1.5.98 of Censure  
Annexure-A-4.

(iii) Command the respondents to consider and promote  
the applicant as Sr. TOA (Gen) w.e.f. May, 1993 at par with  
his juniors with all consequential benefits"

2. The brief facts of the case are that the applicant  
~~while he~~ was working as Telecom Office Assistant (in short 'TOA'),  
a charge sheet under Rules 46 of CCS (CCA) Rules, 1965 had been

issued to him on 5.10.1993. The applicant has submitted his representation dated 10.10.1993 (Annexure-A-2) against the charges. The disciplinary authority has considered the representation of the applicant and vide order dated 1.5.98 (Annexure-A-4) has imposed the penalty of Censure on the applicant and the applicant is challenging the said order in the year 2001. Thus there is a delay of about 3 years in filing this OA. The applicant has also moved an application for condonation of delay.

3. We have heard both the parties on the application for condonation of delay.


4. After hearing both the parties, we allow the application for condonation of delay.

5. By filing this OA, the applicant has challenged the orders of the disciplinary authority, ~~and also the disciplinary authority~~ and also claimed for promotion as Sr. TOA. The main contention of the applicant is that he has not been considered and promoted to the post of Sr. TOA because the penalty of Censure was imposed upon him. Hence this OA.

6. Heard the learned counsel for the parties on merits also.

7.1 The learned counsel for the applicant submits that the applicant has been issued a charge sheet for imposing the minor penalty. The disciplinary authority while considering the representation of the applicant has not held that the applicant is guilty of the charges. However, at the same time the disciplinary authority has imposed the penalty of the Censure on the applicant which has come on the way of promotion of the applicant to the post of Sr. TOA.

7.2 On the other hand the learned counsel for the respondents states that penalty of Censure imposed on the applicant has not come in the way of the applicant for



promotion to the post of Sr.TOA. But, it was an earlier penalty imposed on the applicant vide letter dated 27.3.1993 which is as follows :-

"5. मैं स्त0 स्त0 राठौर उप मंडल अधिकारी तार मंडसौर सी.सी.स्त. सी.सी.कन्डक्ट रूल्स 1965 के द्वारा पदोन्नति अधिकारी का उपयोग करते हुए श्री विष्णु प्रसाद व्यास दूर संचार कार्यालय सहायक मंडसौर की अगली वेतन बृद्धि जब भी देय तीन वर्ष के लिए भविष्य की वेतन बृद्धियों पर प्रभाव डाले के आदेश देता हूँ।

Because of this reason the applicant was not considered and promoted earlier to the post of Sr.TOA. After this punishment the penalty of Censure was ~~afforded~~ <sup>imposed</sup> on the applicant. The applicant was considered for promotion ~~when he was cleared from all angles of cloud~~ <sup>with</sup> and promoted as Sr. TOA (Annexure-A-3). The learned counsel for the respondents further stated that as the applicant has not made any appeal against the order of the Censure within the prescribed time limit, hence his appeal was rejected.

8. We have given careful consideration to the rival contentions made by the parties and we find that the applicant was working as TOA in the Telecom Department and a charge sheet under Rule 16 of CCS(CCA) Rules, 1965 was issued on him. The applicant has submitted his representation which has been considered by the disciplinary authority and while imposing the penalty has observed that "Prima-facie the charges are not established in the absence of relevant supporting documents and evidences of each charge. Legally there is no ground to punish the official without establishing and confirming charges. In legal point of view the benefit of doubt may liable to be extended to delinquent official. While dealing with disciplinary cases one should not ignore the facts that he is dealing with human being, who has a sense and sensitive to all environments. In this case a charge sheet was remained

pending without decision since 10.10.93 i.e. nearly five years have been elapsed without any action and put the official in constant mental strain which can not be irreversible because the degeneration and disgrace visited on him by the said charge sheet is seldom wiped out by his being subsequently exonerated from all blams". It is seen from the penalty order that the disciplinary authority has observed himself that the charges are not proved and the applicant cannot be punished legally. However, the disciplinary authority has imposed the penalty of Censure which according to us is not sustainable in the eye of law, therefore, the same deserves to be quashed and set aside. Accordingly, we set aside the penalty imposed on the applicant by the disciplinary authority vide order dated 1.5.1998 and as regard the promotion of the applicant to the post of Sr. TOA, the respondents are directed to consider the case of the applicant as per Rules without taking into consideration the penalty of Censure imposed on the applicant.

9. With the above directions, the OA is disposed of.  
No costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

SKM

पृष्ठान्कन सं ओ/न्या.....जबलपुर, दि.....

पत्तिलिपि अर्पण दिनांक:-

- (1) सचिव, उच्च न्यायालय जबलपुर, जबलपुर
- (2) आवेदक कोर्ट के कार्यालय
- (3) प्रत्यक्षी कोर्ट के कार्यालय
- (4) न्यायालय, जबलपुर, जबलपुर

सूचना एवं आवश्यक कार्यवाही हेतु

S. Paul  
P. Shankar

Bajundar  
उप सचिव  
19.5.04

Recd  
20.5.04