

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 901 of 2000

Jabalpur, this the 4th day of February, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. G. Shanthappa, Judicial Member

Yogendra Singh,
S/o Shri B Prajapati,
Aged about 38 years,
Working as TOA in the Office
of DET A/T. Trans 46 Zone-II
M.P. Nagar, Bhopal,
R/o Bhopal (M.P.)

APPLICANT

(By Advocate - Shri Manoj Sanghi)

VERSUS

1. Union of India,
Through its Secretary,
Department Telecommunication,
Sanchar Bhawan,
New Delhi.
2. The Telecom District Engineer,
Vidisha (M.P.)
3. Director, Telecommunication,
Bhopal area, Bhopal (M.P.)
4. The Telecom District Engineer,
Shajapur (M.P.)

RESPONDENTS

(By Advocate - None)

ORDER (ORAL)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has sought a direction to quash the orders dated 15.02.1999 (Annexure-A-6) and 13.8.1999 (Annexure-A-9) and to give him all consequential benefits.

2. The applicant while working as Store Keeper of item Socket 'B' at Circle Telecom Store Depot, Bhopal during 1984-85 committed gross misconduct inasmuch as he misappropriated 4570 Nos. of Socket 'B' by way of falsifying store records and by way of misleading independent stock verifying officer Shri R.K. Jain by furnishing wrong stock position of Socket 'B' to him. Therefore, a charge-sheet was issued to him vide memo dated 17.12.1990, under Rule 14 of CCS (CCA) Rules, 1965. An

enquiry officer was appointed to enquire into the charges. Thereafter, a number of enquiry officers were changed and the enquiry could not be completed in time. The applicant had, therefore, filed OA No.717/95 which was disposed of vide order dated 10.3.1997 with an observation that the department will proceed in a business like manner in completing the enquiry. Thereafter, the applicant again filed OA 605/1997 stating that the respondents had not completed the enquiry in spite of the extension of time sought by them. The Tribunal vide order dated 21.7.1998 in OA 605/1997 directed that "if the department is not able to complete the enquiry within four months, then the disciplinary enquiry shall automatically be dropped and the applicant shall get all benefits". Thereafter, the enquiry against the applicant has been completed and a copy of the enquiry report was sent to the applicant along with memo dated 24.11.1998 (Annexure-A-5). After considering the representation of the applicant and the enquiry report, the disciplinary authority vide order dated 15.2.1999 (Annexure-A-6) held the applicant guilty of the charges and imposed the penalty of withholding of his next increment for three years with cumulative effect. The applicant filed an appeal against the punishment order and the same was dismissed by the appellate authority vide its order dated 11.8.1999 which was communicated to the applicant vide impugned order dated 13.8.1999 (Annexure-A-9). Aggrieved by the aforesaid orders passed by the disciplinary and appellate authorities, the applicant has filed the present OA.

3. Heard the learned counsel for the applicant and perused the records carefully. As none is present on behalf of the respondents, we have decided to dispose of this OA, in the absence of counsel for respondents, by invoking the provisions of Rule 16 of Central Administrative Tribunal



(Procedure) Rules, 1987.

4. The learned counsel for the applicant has submitted that the order passed by the appellate authority is not a speaking order as the appellate authority has not considered all the issues raised by the applicant in his appeal. According to the learned counsel, the applicant has raised three main grounds in his appeal which are as follows:-

- "(i) Telecom District Engineer Vidisha is not his disciplinary authority;
- (ii) Inquiry was not completed within prescribed schedule of Hon'ble CAT, Jabalpur; and
- (iii) Inquiry and penal order are prejudice"

The learned counsel for the applicant has further submitted that since the charges relate to the misconduct committed by him during 1984-85 and the applicant has already suffered for such a long time, the penalty imposed by the disciplinary authority is very harsh.

5. We find that the applicant was charge-sheeted for the misconduct committed by him and an enquiry has been held as per rules. Charges were found proved. The applicant was given an opportunity of hearing by way of forwarding a copy of the enquiry report. The applicant submitted his representation which has been considered by the disciplinary authority. Thus, the applicant has been given an opportunity of hearing and the principles of natural justice have been followed by the respondents. Now it is the very settled legal position that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction (see Union of India Vs. Parma Nanda, AIR 1989 SC 1185). If there has been an enquiry consistent with the rules and in accordance with the principles of natural justice the Tribunal cannot reappraise the evidence. The Tribunal has also no jurisdiction to go into the correctness of truth of the charge. The Tribunal cannot take over the functions of the disciplinary authority. The function of the Tribunal is one of the judicial review and the judicial

B. J. M.

