

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application 115 of 2000

Jabalpur, this the 23rd day of March, 2004

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

Poonaram Banshkar Watchman,
Telecom, Factory, Richhai,
Distt : & P.O. Jabalpur

APPLICANT

(By Advocate - Shri M.R. Chandra)

VERSUS

1. The Union of India, Through the Secretarial Deptt : of Tel. Communication, Sanchar Bhawan, New Delhi.
2. General Manager, Telecom, Factory, Richhai, Distt; & P.O. Jabalpur.
3. Asstt: Manager, (Admin).
Telecom Factory, Richhai
Distt: & P.O. Jabalpur, M.P.

RESPONDENTS

(By Advocate - Shri P. Shankaran)

O R D E R

By G. Shanthappa, Judicial Member -

By filing this original Application, the applicant has claimed the following main reliefs:-

"(i) To quash the Charge Sheet (Annexure-A-5).
Punishment Order (Annexure-A-1), Appellate Order
(Annexure-A-2) as they are invalid, illegal,
arbitrary, false, fabricated, etc.

(iii) Other relief of ordering payment of pay and
allowance for entire suspension period from 4.10.94
to 1.7.95 after treating the same as duty."

2. The brief facts of the case as stated by the applicant are that the applicant is working as a Chowkidar under respondent No. 3. While working as such, the applicant has been issued a charge sheet. An enquiry has been conducted against the applicant. The charge No. 1 was not proved but the charge No. 2 was proved. The disciplinary authority had sent the findings of the enquiry officer to the applicant to make his representation. The applicant has made his representation and the disciplinary authority vide its order dated 27th July, 1999 has imposed the penalty of stoppage.

[Signature]

of one increment for one year without cumulative effect. He has filed an appeal against the order of the disciplinary authority. The appellate authority vide its order dated 24.12.1999 rejected the appeal of the applicant. Aggrieved by this the applicant has filed this Original Application claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties and perused the records carefully.

4. The learned counsel for the applicant has raised a number of issues regarding irregularities committed by the respondents while conducting the enquiry and imposing the punishment. The main points regarding irregularity, stated by him, are that the enquiry officer has come to the conclusion that charge No. 2 is proved. The enquiry officer has not revealed the reason and also has not discussed the matter as to how he has arrived at the conclusion that the charge No. 2 is proved. The learned counsel for the applicant has also raised the issue that the disciplinary authority while forwarding the copy of the findings of the enquiry officer has already formed his opinion in advance that he proposes to impose penalty of stoppage of one increment without cumulative effect, on the applicant. As per law the disciplinary authority should not form any opinion while forwarding the findings of the enquiry officer. The learned counsel for the applicant further raised the issue regarding the charge sheet that the charge sheet issued by the respondents is not in order. The respondents have not made any allegation against the applicant for violation of any specific service rules. Therefore the charge sheet issued to the applicant is not in accordance with the rules. The learned counsel for the applicant has also submitted that the applicant has raised a number of issues

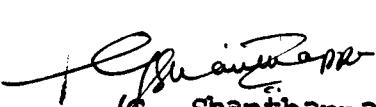
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in his appeal and in his representation sent to the disciplinary authority and the appellate authority. The disciplinary authority and the appellate authority had not considered the issues raised by the applicant and the same were also not discussed.

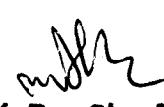
5. On the other hand the learned counsel for the respondents has stated that the enquiry has been held in accordance with rules, no procedure has been violated, principles of natural justice have been followed and opportunity of hearing was given to the applicant.

6. We have very carefully considered the rival contentions made on behalf of both the parties and we find that the enquiry officer has come to the conclusion that the charge No. 2 is proved. There is no discussion about the material on which the enquiry officer has passed his finding. Apart from it, while forwarding the finding of the enquiry officer to the applicant by the disciplinary authority, the disciplinary authority has already formed his opinion that he proposes to impose the penalty of stoppage of one increment for one year without cumulative effect. This is not sustainable in the eye of law. Only on these two grounds, we are of the considered opinion that the order passed by the disciplinary authority and the appellate authority are not ^{sustainable} in accordance with rules and law and, therefore, liable to be set aside.

7. Accordingly, the order dated 27th July, 1999 passed by the disciplinary authority and the order dated 24th December, 1999 passed by the appellate authority are quashed and set aside. Hence the Original Application is allowed. No costs.


(G. Shanthappa)
Judicial Member

"SA"


(M.P. Singh)
Vice Chairman