

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
Original Application No. 360 of 2000

Jabalpur, this the 10th day of February, 2004

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

G.P. Hedao son of Late Shri
Pudlik Hedao, aged about 47 years
by occupation Junior Telecom
Officer Office of Sub Divisional
Officer Optical Fiber Cabel, Rural
CTO compound Jabalpur, r/o 870,
Sanjeevni Nagar, Jabalpur(M.P)

APPLICANT

(By Advocate - None)

VERSUS

1. The Union of India,
through the Secretary Ministry
of Telecommunication, Sanchar
Bhawan, New Delhi.

2. The General Manager Telecom
District, CTO Compound,
Jabalpur(MP)

3. The Chief General Manager,
Telecom, Bhopal (MP)

RESPONDENTS

(By Advocate - Shri Harshit Patel on behalf of
Shri S.C. Sharma)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

None for the applicant. As this is an old matter of the year 2000, we are disposing of the same in the absence of the learned counsel for the applicant, by invoking the provision of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987, after perusing the available pleadings and hearing the learned counsel for the respondents.

2. The applicant has filed this OA claiming the following relief :-

(i) To quash the charge sheet dated 16.5.1997 delivered to the petitioner on 11.6.1997 issued by Dy. General Manager Telecom, district Jabalpur and for issuance of suitable direction to the respondents for compliance of the judgment of this Tribunal passed on 19.11.1996 in Original Application No. 770/92 regarding passing of the order under FR-54 for treating the period from the date of removal from service and till date of reinstatement for grant of other consequential benefits.

3. The brief facts of the case are that the applicant is working as Junior Telecom Officer(JTO). earlier the applicant/proceeded against departmentally for certain irregularities. An enquiry was held and agreeing with the findings of the enquiry officer, the Director, Telecom,

: 2 :

Jabalpur, imposed the penalty of removal from service on the applicant vide order dated 5.9.1990. The appeal filed by the applicant against the punishment was rejected by the chief General Manager, M.P. Telecom Circle, Bhopal vide his order dated 19.2.1991. The applicant's further representation to the reviewing authority was also rejected by the Adviser (Human Resources Development) vide his order dated 24.1.1992. The applicant ^{which was disposed of by} has earlier filed OA No. 770/92/ the Tribunal vide its order dated 19.11.96, ~~xxx~~ Para 4 of the said order is ~~xxx~~ extracted under :-

4. According to the learned counsel for the applicant, the applicant was appointed as ASTT by the General Manager, Telecommunication, M.P. Circle, Bhopal and, therefore, the Director, Telecom, Jabalpur who is equivalent in rank to the Deputy General Manager is not empowered to impose any of the major penalties like dismissal or removal. This contention was vehemently resisted by the learned counsel for the respondents who stated that the applicant had been appointed only by the Deputy General Manager, Telecom M.P. Circle, Bhopal and not General Manager as alleged. He further contended that according to the schedule filed as Annexure-R-II with the reply the Deputy General Manager (equivalent to Deputy General Manager Telephones) was the appointing authority as well as the competent authority to impose all the major penalties and the Senior Superintendent of Telegraph Traffic (Divisional Officer belonging to Class-I) is the disciplinary authority for imposition of minor penalties.


The earlier order of penalty was quashed on the ground that charges were not issued by the competent authority.

Para 7 of the Tribunal's order observed that ~~though~~ the Deputy General Manager could have exercised the power conferred on him by the Schedule to appoint the applicant. In pursuance to this direction, the department had issued a charge sheet on 16.5.1997. This charge sheet has also been issued by the competent authority i.e. Dy. General Manager Telecom. An enquiry officer has been appointed. The enquiry officer has started/conducted the enquiry. During the course of the arguments, the

mt

learned counsel for the respondents has stated that the applicant has not cooperated in the enquiry and has also not participated in the enquiry proceedings. He has also drawn our attention to the orders dated 28.4.2000, 25.5.2000 and 28.6.2000. These dates have been notified by the enquiry officer who held the enquiry but the applicant did not participate in the enquiry and sent medical certificate stating that he cannot participate in the enquiry as he is not keeping well. He has, therefore, submitted that it is because of non-cooperation of the applicant, further progress has not been made in holding the enquiry and the same has not been concluded.

4. We have very carefully considered the rival contentions and we find that the applicant had ^{been} earlier removed from the service on the ground of committing some irregularities. He has approached this Tribunal against the order of the disciplinary authority. The Tribunal vide order dated 19.11.96 set aside the order of the disciplinary authority and the appellate authority on the ground that the charge sheet was issued by the incompetent authority and respondents were directed to hold the enquiry. and the respondents will be at liberty to institute fresh disciplinary proceedings from the point of issuing a charge-sheet. In pursuance of the direction of the Tribunal, the respondents have issued charge-sheet dated 16.5.1997. They have also pointed out that the enquiry officer has started the proceedings of the enquiry and has notified different dates to hold the same. We find that the applicant is not participating in the enquiry deliberately and remaining absent on flimsy grounds. The delay in holding the enquiry is wholly attributable to the applicant.



5. We find that the applicant instead of participating in the enquiry, has rushed to this Tribunal by filing the present OA.

6. We are of the considered view that the respondents are holding the enquiry in pursuance to the direction of the Tribunal in accordance with the Rules. It is the applicant, who is not co-operating with the respondents to hold the enquiry. Therefore, we do not find any merit in the OA, and the same is liable to be dismissed. We do so accordingly. The respondents are directed to continue with the enquiry. In case the applicant does not participate in the enquiry on one ground or the other, they are at liberty to conduct the ex-parte enquiry and take a decision in accordance with relevant rules. No costs.

(G. Shanthappa)
Judicial Member

(M.P. Singh)
Vice Chairman

SEM

पृष्ठांकन सं ओ/व्या.....जबलपुर, दि.....

(1) रजिस्ट्रार, जयपुर

(2) उपनिवेशी, जयपुर

(2) संशोधन विभाग

(4) वर्गिकृत - ...

(4) सत्यमेव जयते

सूचना एवं आ. *Chander*
२५/११/२०१४

BK Rawls

82. *Worms*