

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 610 of 1998

Jabalpur, this the 1st day of July, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman (Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

D.P. Sharma son of Late Sunder Lal
Sharma aged about 39 years,
Resident of Qtr. No. 221, Type II
Attarmuda Telecom Colony, Raigarh
Madhya Pradesh at present working as
Telegraphist, Telegraph office,
Raigarh M.P.

APPLICANT

(By Advocate - Shri Manoj Sharma)

VERSUS

1. Union of India through the Secretary
Ministry of Telecommunication,
Sanchar Bhawan, New Delhi.
- 2, Chief General Manager,
Telecommunication M.P. Circle
Hoshangabad Road, Bhopal M.P.
3. General Manager, Telecommunication,
Raipur Area, Auto Exchange
Building G.E. Road, Raipur (M.P.)
4. Telecom District Engineer,
Beladula Road Chakradhar Nagar,
Raigarh, M.P.

RESPONDENTS

(Ay Advocate - Shri S. Akhtar holding brief of
Shri B. da.Silva)

O R D E R (ORAL)

By D.C. Verma, Vice Chairman (Judicial) -

By this O.A the applicant has prayed for quashing
of the penalty orders passed against the applicant.

2. The brief facts of the case is that the applicant
was served with a charge memo on the allegation that while
functioning as Telegraphist, D.T.O. Bilaspur during the
period from December, 1989 to January 1990, he along with
other Telegraphists/Telegraph Assistants of Telecom, Bereau,
Bus Stand, Bilaspur did not deposit revenue as per meter
reading which resulted in loss to the tune of Rs. 57,710.50
to the Department. After the enquiry proceeding, penalty
of reduction of pay to the stage of Rs. 1360/- plus
admissible allowance in the pay scale of Rs. 975-1660 from
the stage of Rs. 1510/- plus admissible allowance, was

Contd....2/-

imposed vide order dated 1.7.1997 (Annexure-A-1). The appeal filed by the applicant was also dismissed on 27.5.1998 (Annexure-A-2), however, with some modification.


3. The penalty orders have been challenged on various grounds including that various other Telegraphists, namely, H.S. Prasad, P.R. Nirala, V.S. Selukar, R.K. Rathore etc. who were similarly charge-sheeted by the department were awarded penalty of 'censure' only whereas the applicant has been discriminated by award of higher penalty. Further submission is that even the penalty of 'censure' awarded to others was quashed by the appellate authority in the cases of D. Raidas, R.K. Rathore, V.S. Selukar etc.

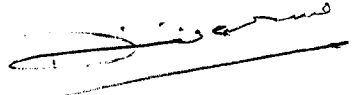
4. The submission of the learned counsel of the applicant is that after the enquiry officer found that the charge against the applicant was not proved, the disciplinary authority without furnishing a copy of the enquiry officer's report passed the order of penalty. The submission is that no penalty order could have been passed against the applicant without furnishing a copy of the enquiry report. Further submission is that if the disciplinary authority was not in agreement with the findings of the enquiry officer, a dissent note and show cause with tentative reason should have been given to the applicant before awarding the punishment order, but no such show cause was given to the applicant.

5. In reply to the rejoinder, the respondents have submitted that a copy of the enquiry report was supplied along with the penalty order served upon the applicant. We are of the view that, even if that be so, it will not serve the purpose for which the copy of the enquiry report is supplied to the applicant. Besides that, if the disciplinary authority was not in agreement with the findings of the enquiry officer, it was incumbent on the disciplinary authority to issue a show cause giving tentative reasons therefor, so that the applicant may have an opportunity to

explain his stand as has been held by the Apex Court in the case of Yoginath D. Bagde Vs. State of Maharashtra and anr. 2000(1)SLJ 174 (SC).

6. In view of the discussion made above, without expressing any opinion with regard to the quantum of punishment and discrimination as has been alleged, we allow this O.A. and quash the penalty orders passed by the disciplinary authority and the appellate authority; and remand the matter back to the disciplinary authority to proceed in accordance with law from the stage of supply of the copy of the enquiry officer's report along with his dissent note, **Costs easy.**


(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
Vice Chairman (Judicial)

rkv.

पृष्ठांकन सं ओ/ला..... जलकाय, दि.....

पंक्ति - ४

(1) सचिव, न्यायिक विभाग, न्यायिक भवन, न्यायिक भवन, न्यायिक भवन


(2) अध्यक्ष, न्यायिक विभाग, न्यायिक भवन, न्यायिक भवन, न्यायिक भवन

(3) प्रमुख, न्यायिक विभाग, न्यायिक भवन, न्यायिक भवन, न्यायिक भवन

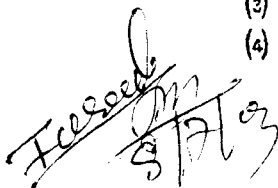
(4) अध्यक्ष, न्यायिक विभाग, न्यायिक भवन, न्यायिक भवन, न्यायिक भवन

सूचना एवं आवश्यक कार्यवाही हेतु

अथ रजिस्ट्रार


8.7.23

M. Sharma
B. Chakraborty


H. K. Sharma