

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 07th day of October, 2010

ORIGINAL APPLICATION NO. 440/2009

CORAM

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

Dinesh Babu Dubey son of Late Shri Ram Das Dubey aged about 58 years, resident of B-105, Nand Puri Colony, Hawa Sarak, 22 Godown, Jaipur. At present employed on the post of Senior Sub Divisional Engineer in the office of Divisional Engineer Telecom Project, Bharat Sanchar Nigam Limited, Jaipur, Rajasthan...

.....Applicant

(Applicant present in person)

VERSUS

1. Chairman cum Managing Director, Bharat Sanchar Nigam Ltd. (A Government of India Enterprises), B-408, B Wing, Statesman House, Barakhamba Road, New Delhi.
2. General Manager Telecom Project, Bharat Sanchar Nigam Limited (A Government of India Enterprises), New Delhi-55.
3. Chief General Manager, Northern Telecom Project Circle, Bharat Sanchar Nigam Limited (A Government of India Enterprises), Janpath, New Delhi.

.....Respondents

(By Advocate: Mr. N.S. Yadav)

ORDER (ORAL)

Heard learned counsel for the parties.

2. In this case, the charge sheet was issued to the applicant for taking action under Rule 35 of the BSNL CDA Rules, 2006 which stipulates the procedure for imposing minor penalty as specified in clause (a) to (d) of Rule 33. In the instant case, the penalty, which has been imposed to the applicant, was under Rule 33(e) i.e. reduction to the lower stage in the time scale of pay which penalty could have been imposed if the charge sheet for major penalty was issued and

inquiry in terms of Rule 36 of the BSNL CDA Rules, 2006 were followed. When the matter was listed on 13.09.2010, this Tribunal has passed the following order:

"From perusal of the impugned order dated 16.7.2007 (Annexure A/1), it is evident that the applicant has been imposed a penalty of reduction to the lower stage in the time scale of pay for a period of three years without cumulative effect and not adversely affecting his pension/terminal benefits, in terms of Rule 33(e) of the BSNL CDA Rules, 2006, which is a minor penalty. The said penalty order dated 16.7.2007 (Annexure A/1) has also been upheld by the appellate authority vide order dated 9.9.2009 (Annexure A/3).

As can be seen from the provisions contained in Rule 36 of the BSNL CDA Rules, 2006, no order for imposing any of the penalties specified in clause (e) (minor penalty) and (f) to (j) of Rule 33 shall be made except after an inquiry is held in accordance with this rule.

Admittedly, the respondents have not followed the procedure for imposing major penalty in the first instance. The respondents have followed the procedure which is for the purpose of imposing minor penalty.

The applicant, who is present in person, submits that he is not contesting this OA on merit and restricts his arguments to the extent that the respondents should impose any of the penalties specified in clause (a) to (d) of Rule 33 as, in the instant case, the respondents have issued the charge sheet under Rule 35 for imposing minor penalties."

3. I have heard the learned counsel for the respondents. In view of the fact that since the charge sheet was issued for imposition of penalty under clause (a) to (d) of Rule 33 of BSNL CDA Rules, 2006, it was not permissible for the disciplinary authority to impose penalty under Rule 33 (e) of BSNL CDA Rules, 2006, which order has also been affirmed by the Appellate Authority. Accordingly, the present OA is allowed to the extent that impugned order dated 16.07.2007 (Annexure A/1) passed by the Disciplinary Authority and order dated 09.09.2009 (Annexure A/3) passed by the Appellate Authority are

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quashed and set aside. The case is remitted back to the Disciplinary Authority to impose any of the penalties mentioned under clause (a) to (d) of Rule 33 of BSNL CDA Rules, 2006 within a period of three months from today. Further action on account of quashing of the impugned order shall also be taken within a period of four months from today.

4. With these observations, the OA is disposed of with no order as to costs.



(M.L. CHAUHAN)
MEMBER (J)

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