

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00769/14

Reserved on: 11.12.2018
Pronounced on: 14.12.2018

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

S.N. Pandey, Son of Sri N.N. Pandey, Ex- Chief Engineer (Electrical), BSNL, Chennai Telephones, Resident of G-8, Ashiyana Nagar, Phase-II, Post- Ashiyana Nagar, District- Patna- 800025 (Bihar).

..... Applicant.

- By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Bharat Sanchar Nigam Limited through the Board of Directors and Appellate Authority, Bharat Sanchar Nigam Limited, 302, Bharat Sanchar Bhawan, H.C. Mathur Lane, Janpath, New Delhi-110001.
2. The Chairman Cum Managing Director Bharat Sanchar Nigam Limited, Corporate Office, Bharat Sanchar Bhawan, Janpath, New Delhi-110001.
3. The Chief Vigilance Officer, Bharat Sanchar Nigam Limited, Ground Floor, Eastern Court, Janpath, New Delhi-110001.
4. The Chief General Manager, Chennai Telephones, Bharat Sanchar Nigam Limited, 78, Purnawalkam High Road, 1st Floor, Chennai-600010.

..... Respondents.

- By Advocate: - Mr. K.P. Narayan

O R D E R

Per Dinesh Sharma, A.M.:-This application is against the order dated 05.04.2013 passed by respondent no. 2 whereby a penalty of reduction to two stages in the time scale of pay with immediate effect till the date of retirement has been imposed on the applicant. According to applicant, this penalty is illegal, unconstitutional, against the principles of natural justice and without application of mind. According to him the whole enquiry

proceeding is vitiated since it is mostly done on the basis of photocopies of the documents and the repeated request of applicant for perusing original documents has not been allowed. Very few witnesses have been examined and the order of penalty has been issued within 10 months prior to his retirement which affects his pensionary benefits. Besides this, in this case though the Inquiry Officer had found charge no. 2 not proved the respondent no. 2 has disagreed with it without considering the submissions of the applicant. The applicant has also submitted that till the date of his application no order has been passed on his appeal against the order.

2. The respondents have denied the claim made by the applicant. According to them, an enquiry against the applicant was conducted as per the prevailing rules and procedures and the applicant was given ample opportunity to present and defend his case. The enquiry was unbiased and fair and the applicant was shown all the documents that were used in the enquiry. The Inquiry officer was Principal Chief Engineer, whereas the applicant was Chief Engineer. There was detailed examination and cross examination of two prosecution witnesses and two defence witnesses and taking into account all the facts a very lenient view has been taken by imposing a relatively minor punishment for charges of a grave nature.

3. After perusing the pleadings and hearing the arguments, the following becomes clear: -

(i) The charge against the applicant is that while working as Superintending Engineer a large number of tenders were

accepted and orders given to firms which were associated with his very close relatives (brother, brother's wife and other relatives). The second charge against him is that he placed a back dated letter in a confidential file which could be proved to be so because it mentioned BSNL (a name which was not in existence at that time). The third charge against the applicant is of giving orders on the basis of tenders from two persons while both of them were in effect owned by the same person.

(ii) Though the defence by the applicant was that he had earlier informed about his relationship with the owners of these firms, it is clear that at the time when he was working as Superintending Engineer in Bihar Electrical Circle he did not do so.

(iii) The enquiry officer has issued a detailed enquiry report in which he has found the charge of nepotism against the applicant substantially proved. The order of Disciplinary Authority (CMD, BSNL) is also a very detailed and reasoned order where he has given clear reasons for agreeing with the findings of the enquiry officer. In one case, in respect of charge no. 2, where he has differed with the finding of the Inquiry Officer, very cogent reasons have been given for the difference. A representation was sought from the applicant against these findings and it was also considered by the disciplinary authority before imposing the final punishment.

4. During the pendency of this OA, it was informed by the applicant that his appeal against the OA was also dismissed. He has challenged that order dated 07.07.2017 also by requesting to amend his OA. While going through the order in appeal we find that this order has been issued after proper application of mind. The Appellate Authority has

dealt with all the issues raised by the applicant in his appeal before him and recorded his findings after careful examination of the records.

5. After going through all the records and hearing the arguments, we are of the considered view that the penalty has been imposed against the applicant after following due procedure. Even if, for the sake of argument, it is to be accepted that the charge no. 2 was not proved, this does not require punishment to be changed since it is not disproportionately harsh, taking into account the other serious charges proved against him. It is nowhere expressly denied by him that while he was working as Superintending Engineer in Patna, a large number of tenders were accepted and orders given to firms which were owned by his close relatives. Even though he was not the Executive Engineer at that time, as a Superintending Engineer, he cannot claim to be ignorant of this matter. The punishment given for such apparently blatant act of nepotism; after following all due procedure, cannot be interfered with by this Tribunal. The OA is, therefore, rejected. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member

