

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No.1015/2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 7th day of July, 2000

Shri Manohar Singh  
s/o Shri Thakur Dass  
r/o A/N-65, Shalimar Bagh  
Delhi - 110 052. .... Applicant

(By Shri R.S.Rana, Advocate)

Vs.

1. Union of India through  
Secretary  
Ministry of Communications  
Sanchar Bhawan  
New Delhi - 110 001.
2. The Secretary  
Department of Telecommunications  
Sanchar Bhawan  
New Delhi - 110 001.
3. The Chief General Manager  
M.T.N.L., Khurshidlal Bhawan  
Janpath  
New Delhi - 110 050. .... Respondents

(By Shri N.C.Sikri with Shri V.K.Rao, Advocate)

O R D E R (Oral)

By Reddy. J.

The applicant has been working on deputation as JTO in the Mahanagar Telephone Nigam Limited (in short MTNL). He was promoted on officiating basis as TES Group 'B' officer vide letter dated 6.2.1996. By order dated 28.3.2000 he has been reverted to original post of JTO. Subsequently, the orders of reversion dated 28.3.2000 have been cancelled by order dated 15.5.2000. By the same order the applicant was again reverted to JTO. On reversion he was posted as JTO at Karol Bagh. This OA is filed challenging the order of reversion.



(P)

2. The applicant submits that though he has been promoted on local officiating basis, he has been continued since 1996 to work in promoted post. He was now reverted only on the ground that he was facing criminal case registered by the CBI, though the said reason has not been assigned in the order.

3. The learned counsel for the applicant, therefore, contends that as the order carries stigma he was entitled for notice before the order of reversion was passed. He relies upon several decisions on this point.

4. The learned counsel for the respondents raises a preliminary objection as to the jurisdiction of the Tribunal to entertain this case. He argues that the MTNL was not a notified institution under Section 14(2) of the Administrative Tribunals Act, 1985. Hence the Tribunal will not have jurisdiction to entertain the OA.

5. It is also averred that the OA is barred by constructive principle of resjudicata. On merits, it is stated that the applicant's promotion was on local ad hoc arrangement and that he has no legal right to continue in that post.

6. It is also averred that the CBI has registered case against the applicant. They have investigated and found prima-facie case against him and the competent authority decided to grant sanction for filing charge sheet in court of law. Hence it became necessary to revert the applicant in public

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interest and it is also found that a charge sheet has been filed after obtaining sanction and as such the action of the respondents in reverting the applicant was in accordance with law. Learned counsel argues that as no misconduct was attributed to the applicant, no notice is required before passing the order of reversion.

7. With the consent of both the parties, the OA is disposed of.

8. We have given anxious consideration to the contentions raised in this case. It is not in dispute that the applicant was promoted on local officiating basis. The respondents have raised the question of jurisdiction of the Tribunal. It is stated that Respondent No.3, i.e., MTNL where the applicant is now working and who passed the impugned orders has not been notified under Section 14 (2) of the Administrative Tribunals Act, 1985. The learned counsel for the applicant has not brought to our notice any notification showing that the MTNL was a notified institution under Section 14(2) of the said Act. We have also verified from the Office of the Tribunal and it was stated that the MTNL is not a notified institution. In the circumstances, the Tribunal has no jurisdiction to entertain the OA and the OA is therefore liable to be dismissed on the ground of jurisdiction. The order dated 6.2.1996, six persons were promoted on local officiating basis. It was made clear in the order itself that officiating promotion should not exceed 180 days. In fact, it is admitted <sup>that</sup> by the applicant's promotion was ad hoc and



for a brief period, has not been regularly promoted in accordance with the rules. The Supreme Court in the case of Director, Institute of Management Development, UP Vs. Smt. Pushpa Srivastava, AIR 1992 SC 2070 held that the contractual appointment, purely on ad hoc basis, would give no right and persons holding such posts have no right to continue in the post.

9. Though the order does not disclose any reason for reversion of the applicant, it is fairly stated in the counter that CBI has registered the case against him, a charge sheet was filed against the applicant after obtaining the sanction. Hence it was not possible to continue the applicant in the public interest. We are of the view that once it was brought to the notice of the employer that the CBI has filed a charge sheet against the applicant and as the applicant has been promoted only on officiating basis on purely administrative exigency, the action of the respondents in reverting the applicant was <sup>not</sup> illegal or discriminatory. In the absence of any right inhering in the applicant, the applicant cannot allege violation of Article-14 or 16 of the Constitution in reverting the applicant on valid considerations. It is also to be noted that the reversion did not amount to reduction in rank and he was reverted to his substantive post. The contention of violation of Article 311 is therefore unsustainable. We are also of the view that this order also does not carry any stigma as no misconduct has been alleged against the applicant except stating that the CBI has registered a case against him and a charge sheet was filed. In fact the applicant has nowhere denied the pending of

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the case registered by CBI against him. In fact, he has admitted the above fact. Hence no prior notice need be issued.

10. Counsel for the applicant relies upon the instructions issued by the Government of India under Rule 11 of the CCS (CCA) Rules. In the instructions dated 24.12.1986 it was stated that once appointment is made on ad hoc basis formally for administrative reasons, and if any disciplinary proceedings were initiated against the Government servant, he need not be reverted to the post held by him only on the ground that the disciplinary proceedings has been <sup>pending</sup> ~~against~~ against him. A close reading of the instructions makes it clear that it does not say that the Government servant cannot be reverted. It only stated that he "need not be reverted" giving discretion to the authority for reverting him in such cases. However, in the present case no such disciplinary proceedings are initiated against him.

11. The learned counsel for the applicant relies upon Shri Debesh Chandra Das Vs. Union of India & Others, AIR 1970 SC 77, where the Supreme Court held that reduction in rank accompanied by a stigma, must follow the procedure of Article 311(2) of the Constitution. This case pertains to a member of the Indian Civil Service attached to the State Cadre. Where the appellant therein was promoted to the tenure post under Government of India, he was reverted to the state service before expiry of criminal case. The Supreme Court held that reduction in rank accompanied by a stigma should follow the procedure under Article

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(11)

311 (2) of the Constitution. This case has no application to the present case. There is neither reduction in rank nor a stigma. This case does not help the applicant. The applicant also relies on the case of State of Maharashtra Vs. Veerappa R. Saboji & Anr., AIR 1980 SC 42. This case is also of no application to the present case. The aforesaid case deals with the termination of probationer who has been regularly appointed. It was held that Article 311 (2) of the Constitution would apply in the case of termination. In the case of Kewal Krishan Vs. Lalit Kala Akademi & Others, 1999(48) DRJ HC 342 - the applicant who was on ad hoc appointment in higher grade was reverted without any basis after considerable delay. The Court found that the work of the applicant therein was satisfactory and the reversion of two steps was uncalled for. It was also found that the respondents were vindictive. These facts are irregularly absent in the instant case, Shri S.N.Nagaraju Vs. The Railway Board, New Delhi & Others, 1982(2) SLJ 13. Wherein the petitioners abstained from their duties during strike subsequently reverted from their officiating posts to their substantive posts without assigning any reason. The Court found, from the facts and circumstances of the case, the reversion has been made by way of punishment from abstaining from duties. In the case in hand, as held supra, the reversion was resorted to only on the ground that a charge sheet has been filed. It cannot be said that the reversion was by way of victimisation or punishment but in the interests of the organisation.

(Con)

12. The Principal Bench of the Tribunal, in OA No.637/2000 which is a case between the applicant and the Union of India and Others, where the applicant questioned the order of reversion dated 7.4.1999 after hearing the counsel for the applicant and the respondents; dismissed the OA observing as under:

"4. .... From that order dated 24.02.2000 it is clear that a C.B.I. inquiry had been instituted against applicant in regard to misuse of certain telephones which had been installed in fake names and which were being misused for STD/ISD purposes. Respondents had stated that the C.B.I. had registered a case against applicant and after investigation had prima facie found that a charge was made out against him, and had requested for filing of a charge-sheet for which sanction had since been given.

5. Admittedly applicant has been promoted on purely ad-hoc basis. Applicant's counsel has not cited any rule or instruction which requires respondents to continue to retain applicant on the promoted post on ad hoc basis, despite the facts and circumstances noticed in paragraph 4 above."

13. This ~~observation~~<sup>Observation</sup> by the Tribunal, in our view, constitutes constructive resjudicata. The same issues have been urged in that OA and Tribunal rejected the application of the applicant. The OA is therefore liable to be dismissed on this ground also.

14. In view of the above discussion the OA fails and is accordingly dismissed.

*In answer to*

(SMT. SHANTA SHAstry)  
MEMBER(A)

*On behalf of*  
(V.RAJAGOPALA REDDY)  
VICE CHAIRMAN(J)

/RAO/