

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI.

O.A. No. 1491 of 1993  
~~T.A. No.~~

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DATE OF DECISION 06-05-94

Shri S.N. Singh Applicant(s)

Versus

U.O.I. & Another Respondent(s)

(For Instructions)

1. Whether it be referred to the Reporter or not? yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

May  
(S.K. DHAON)  
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 1491 of 1993

New Delhi this the 615 day of May, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman  
Mr. B.N. Dhoundiyal, Member

Shri S.N. Singh  
R/o B-5/33, Safdarjung Enclave,  
New Delhi.

...Applicant

By Advocate Shri J.P. Verghese

Versus

1. Union of India  
through its Secretary,  
Ministry of Telecommunications,  
Sanchar Bhawan,  
New Delhi.

2. Chairman,  
Commission for SC/STs,  
Lok Nayak Bhawan,  
New Delhi.

...Respondents

By Advocate Shri P.P. Khurana for Respondent No.1.  
By Advocate Shri Rajeev Mani for Respondent No.2

ORDER

Mr. Justice S.K. Dhaon, Vice-Chairman

The applicant, a Scheduled Caste was at the relevant time working as Superintending Engineer (Civil) under the Ministry of Telecommunications on ad hoc basis. He felt aggrieved that he was not being given the proper placement in the seniority and his right to regular promotion as Superintending Engineer and subsequent promotions had been vitally affected on account of the inaction of the Ministry of Telecommunication. He, therefore, approached the National Commission for Scheduled Castes and Scheduled Tribes. On 10.05.1993, Shri B. Sammaiah one of the members of the Commission passed an order directing the Chairman, Telecom Commission and the Secretary, Telecommunications to give him a proper placement in his seniority. It also held that the reversion of the applicant from the post of Superintending Engineer on 05.06.85 was illegal and unwarranted and the order appointing him as Superintending Engineer on ad hoc basis with effect from 15.10.90 was a mere camouflage. In fact, he should have been appointed as a regular Superintending Engineer with effect from

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September, 1982. He further held that the applicant was entitled to be promoted on regular basis as Superintending Engineer with effect from 26.11.1982. He was also entitled to be given a subsequent grade with effect from 1.1.1986 and to all consequential benefits including financial benefits retrospectively and also a right to be considered to the post of Chief Engineer with effect from 1990. Further direction was that a supernumerary post be created to meet the ends of justice. The respondents before the Commission were directed to comply with the aforesaid order by 25.06.93 and submit a compliance report by 30.06.93.

2. On 24.06.93 Shri B. Sammaiah addressed a communication to the Chairman, Telecom Commission and Secretary, Telecommunications to carry out the directions given by him on 10.05.1993.

3. The prayers in this O.A. are these:-

(i) Direct the Secretary, Ministry of Telecommunications to implement the decision dated 10.05.93 and the order dated 24.06.93 passed by the Commission forthwith.

(ii) Declare the non-implementation of the same as violative of Articles 14 and 16 of the Constitution of India.

(iii) Pass such other further order or orders as may be deemed fit and proper in the circumstances of the case.

4. A counter-affidavit had been filed on behalf of the Union of India (respondent No.1). Therein, one of the pleas taken was that, in any view of the matter, a single member of the Commission had no jurisdiction to pass the orders dated 10.05.93 and 24.06.93.

5. On 24.01.94, we passed the following order:-

" We have heard arguments in this case for some time. One of the controversies, to be resolved is as to whether Shri B. Sammaiah had

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the jurisdiction to act on behalf of the Commission, while disposing of the representation of the applicant. Shri Verghese had contended that the Commission had assigned its jurisdiction and power to Shri Sammaiah. An affidavit of service has been filed by one Mr. M.C. Tomas, stating therein that respondent No.2, Chairman of the Commission has been served with Dasti summonses. He has also annexed to the affidavit, a copy of Dasti summons. However, the Commission has not yet put in appearance. We direct the Chairman of the Commission to depute some official of the Commission to appear before us on 15.2.94 alongwith relevant file, containing the assignment/delegation of its power and jurisdiction by the Commission to B. Sammaiah in the matter of the applicant. We also find that in the counter-affidavit, reliance has been placed upon a judgment of the Delhi High Court in CWP No.1362/93, decided on 17.05.93 (Indian Overseas Bank Officers Association and Others Vs. Union of India & Others). It is stated that the High Court has categorically stated that: "the commission has now power to issue interim order. In any case a single member cannot act on behalf of the Commission". The learned counsel for the respondents shall ensure the production of the said judgment of the Delhi High Court, on the next date of hearing.

List on 15.02.94."

6. The order sheet dated 09.03.94 of this O.A. runs as follows:-

" Shri Rajeev Mani, Counsel is appearing on behalf of Chairman, Commission for SC/STs, respondent No.2 and states that neither the

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Commission delegated its power to any individual member nor was the alleged order passed by a single member circulated to other members. Shri Verghese, the learned counsel for the applicant strongly refutes this statement at the Bar. In these circumstances, we direct the learned counsel appearing for respondent No.2 to file an affidavit of some responsible officer in the Commission stating therein the facts as stated at the Bar. Learned counsel prays for and is granted a week's time to file an affidavit. List on 17.03.94."

7. We have before us an affidavit of Shri S.V. Singh, a Deputy Secretary in the National Commission for SC/ST. In the said affidavit, the material averments are these. There is no record/document in the Secretariat of the National Commission for SC/ST showing any delegation or assignment of its power to Shri B. Sammaiah, Member of the Commission as regards the complaint of Shri S.N. Singh (applicant) for forming the subject matter of this case. The order dated 10.05.93 passed by Shri B. Sammaiah, Member of the Commission was not circulated or shown to the Chairman.

8. Article 338 of the Constitution, inter alia, states that there shall be a Commission for the Scheduled Castes and Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes. It also states that subject to the provisions of any law made by the Parliament in this behalf, the Commission shall consist of a Chairperson, Vice-Chairperson and five other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine. Article 338(4) provides that the Commission shall have the power to regulate its own procedure.

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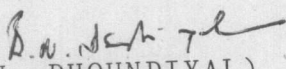
9. It is nobody's case that the Commission has formulated any rules of procedure so far. The question, therefore, to be examined is whether, in the absence of either any rules of procedure or any resolution of the Commission delegating or assigning any powers to an individual member, Mr. B. Sammaiah had any jurisdiction to pass the orders which are sought to be enforced by the applicant in this O.A. We have already referred to the affidavit filed on behalf of the Commission and we see no reason to disbelieve the version given by a responsible officer of the Commission that Shri B. Sammaiah, at no stage, was authorised by other members of the Commission to act on their behalf. We, therefore, come to the conclusion that Shri B. Sammaiah alone could not act on behalf of the Commission. It follows that the orders aforementioned passed by Shri B. Sammaiah are without jurisdiction. A similar view has been taken by a Division Bench of the Delhi High Court in C.W.P. No. 1362 of 1993 decided on 17.05. 93. It is observed: " ....in any case, a single member cannot act on behalf of the Commission".


10. The applicant has produced before us a number of documents. Most of them are copies of the letters written by the Members of the Parliament to the Chairman of the Commission making recommendations in favour of the applicant. It appears that the Chairman of the Commission in his reply to the said letters merely stated that he will get the matter examined. Nothing will turn upon the admission of the Chairman of the Commission that he will get the matter examined because by no stretch of imagination it can be said that the Chairman had shown his intention to delegate the power of the Commission to an individual member. Moreover, the Chairman could not act on behalf of all the members himself as this was required to be done by all the members of the Commission either collectively or individually.

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11. In view of the foregoing discussion, we are unable to grant any relief to the applicant. This application is dismissed but without any order as to costs.

  
(B.N. DHOUNDIYAL)  
MEMBER (A)

  
(S.K. DHAON)  
VICE CHAIRMAN

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