

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXXXXXXXXXXXXXX~~
NEW DELHI

(3)

O.A. No. 147
~~P.A. No.~~

1989

DATE OF DECISION 12.09.1989.

Shri. B.K.Bauva. Petitioner

Mr. A.S.Yamani. Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. J.D.Ajmera. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. M. Joshi .. Judicial Member.

The Hon'ble Mr. M. M. Singh .. Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Yes*

(4)

Shri. B.K.Bauva,
S.D.T.O.,
Krishnakunj,
13, Junction Plots,
Rajkot.

... Petitioner.

(Advocate : Mr.A.S.Yamani)

V/s

1. Union of India,
Through Secretary,
Communication Department
Government of India,
New Delhi.
2. P.A. (E)
O/o TDM, Race Course Road,
Rajkot.
3. The A.E.Trunks,
C.T.O.Compound, Rajkot.
4. The D.E.T. ranks
O/o TDM / Rajkot-
5. The TDM,
Race Course Road,
Rajkot.

... Respondents.

(Advocate: Mr. J.D.Ajmera)

CORAM : HON'BLE MR. P. M. JOSHI .. JUDICIAL MEMBER.
HON'BLE MR. M. M. SINGH .. ADMINISTRATIVE MEMBER.

O. A. 147/89

: O R A L O R D E R :

Dt. 12.09.1989.

Per ; Hon'ble Mr. P. M. Joshi .. Judicial Member.

In this application the petitioner Shri. B.K. Bauva of Rajkot has filed this application under Section 19 of the Central Administrative Tribunals Act, 1985. He has

challenged the validity of the order dt. 28/12-11-86 (Annexure A-4), whereby his name has been removed from the selection list. The impugned order Annexure-A -4 reads as under :

" Owing to mis-conduct of Shri. B.K.Bauva Short Duty Telephone Operator, under TMX, Rajkot his name from selection list has been removed. "

2. According to the case set up by the petitioner his name was approved for the post of Telephone Operator under office letter dt. 25/28-10-83 and his name was placed on the selection list dt. 22.6.84 and in terms of the conditions stipulated in memorandum dt. 22.6.84, the petitioner and other candidates were directed for training. It is alleged that the said order is illegal, as it is founded on misconduct and the same is not passed by the Competent Authority. He has therefore prayed inter-alia that the impugned order be quashed and set aside.

3. The respondents have opposed the admission of the application vide their affidavit in reply filed by Mr. J.I. Vasawada (D.E.Phones (Admn)). According to the respondents, the petitioner while discharging his duties as S.D.T.O. before he could be regularly appointed as T.O.; he was detected, to have passed a free call between Bombay and Kalyan No. 4522 and Rajkot No. 20804 for 10.5 minutes. The decision of the competent authority to remove the name of the petitioner, from R.T.P. list was conveyed to the petitioner by the impugned order. According to them, there are no valid grounds to admit the application.

4. When the matter came up for admission, we have heard Mr. A.S.Yamani and Mr. J.S.Yadav for Mr. J.D.Ajmera

the learned counsel for the petitioner and respondents respectively. During the course of his arguments Mr. A.S. Yamani submitted that even though time was allowed to him to file rejoinder, he has not been able to obtain the signature of the petitioner, and therefore he sought permission to place the rejoinder without signature of the petitioner and treat the same as his arguments. Accordingly, he has been permitted to place the rejoinder on record.

5. It is significant to note that the petitioner has not been regularly appointed as Telephone Operator. His name was merely placed on the selection list. But he was discharging his duties as S.D.T.O. During the training period on 1.9.86 at 21.45 hours, he was detected to have passed a free call between Bombay and Rajkot for 10.5 minutes. The petitioner has also admitted his guilt, in the present application. Even otherwise this fact has not been denied by Mr. Yamani, appearing for the petitioner.

6. It should be borne in mind that the impugned order (Annexure-A-4) is in substance a communication conveyed to the petitioner, regarding the decision which was taken by D.E. Rajkot as indicated in his letter dt. 5.9.86. Thus, it cannot be said ~~regarding the competent~~ that the decision in removing the name of the petitioner from the select list is not taken by the competent authority. It is now well-established that the incursion of name in the select list ^{give a} does not ~~vested~~ right to the candidate concerned. It does not confer a right for appointment. It simply indicates that he is considered eligible for selection. Events

subsequent to the formation of the selection list may render him unfit for appointment. (See M.M.Siddique V/s Union of India A.I.R. 1978, S.C. 386) In the instant case when the petitioner himself admitted his guilt, the question of the application of rule of natural justice, "audi alteram partem", does not arise.

7. The application does not disclose any valid grounds to interfere with the impugned order. Accordingly, the application is rejected at the stage of admission.

M. M. Singh

(M. M. Singh)
Administrative Member.



(P. M. Joshi)
Judicial Member.

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