

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 441/97

MONDAY, THIS THE NINTH DAY OF JUNE, 1997.

C O R A M:

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K. Jayachandran
Regular Mazdoor Telecom,
E 10 B Exchange
Medical College,
Thiruvananthapuram.

..Applicant

By Advocate Mr. Sasidharan Chempazhanthiyil

Vs.

1. Sub Divisional Engineer
North Sub Division, Telecom,
Thiruvananthapuram.
2. Divisional Engineer(External) Telecom,
Kawdiyar, Thiruvananthapuram.
3. General Manager,
Telecom District,
Thiruvananthapuram.
3. Chief General Manager,
Telecom, Kerala Circle,
Thiruvananthapuram.

..Respondents

By Advocate Mr. MHJ David J, ACGSC

The application having been heard on 9.6.97, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

-Applicant who commenced service as a Mazdoor was promoted as Motor Vehicle Driver on 16.8.83. Pursuant to an accident which took place on 16.6.83, disciplinary proceedings were initiated against the applicant. As a result of the disciplinary proceedings, applicant having been found guilty, by order dated 28.12.90 of the Divisional Engineer, a penalty of reduction to the post of regular Mazdor until he is found fit by the competent authority to be restored to the higher post of Driver, was imposed on him. Aggrieved by the penalty, applicant filed an appeal which was rejected by the impugned order Annexure A7. It is aggrieved by the order of the disciplinary authority as also the Appellate authority that the applicant has filed this application praying for the following reliefs:

- "i) to call for the records and quash Annexure A7.
- ii. Direct the respondents to treat the period of Dies Non from 4.10.88 to 3.9.89 and non-duty from 4.9.89 to 2.1.91 as duty for all purposes with consequential benefits.
- iii). Direct the respondents to restore the applicant to the post of Driver forthwith.
- iv). Any other further relief or order as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
- v). Award the costs of these proceedings."

2. Respondents resist the application on the ground that the applicant did not possess the Heavy Vehicle Driving licence as required for appointment as a Driver and that the penalty was imposed on the applicant as his guilt was established in an enquiry held in accordance with the rules. The impugned orders were sought to be justified on the ground that they are passed on proper application of mind.

3. When the application came up for hearing, the learned counsel for applicant states that the challenge against the orders at Annexure A7 and A3 are not pressed and that the applicant would be satisfied if the respondents are directed to consider applicant's restoration to the post of Driver if he is found fit and suitable by the competent authority.

4. The learned counsel for respondents stated that even in the penalty order Annexure A7 the reduction of the applicant to the post of regular Mazdoor was until he is determined by the competent authority to be fit to be restored to the post of Driver and that the competent authority would consider this in accordance with the rules and restore his position as Driver as and when found fit.

5. In the light of the above statement by the learned counsel for respondents, we dispose of the application directing the

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respondents to consider restoration of the applicant to the post of Driver which he had earlier held if he is qualified and eligible under the Recruitment Rules and fit according to the decision of the competent authority in the department.


6. Application is disposed of as above. No costs.

Dated the 9th June, 1997.



P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

kmn



A.V. HARIDASAN
VICE CHAIRMAN

LIST OF ANNEXURES

Annexure A3: True copy of the Punishment Order of the disciplinary authority No.X-16/KJ/Disc/32 dated 28.12.1990 issued by 2nd respondent.

Annexure A7: True copy of the Order No.STA/P-142/96 dated 20.11.96 issued by 4th respondent.

