

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 266/87 199
T.A. NO:

DATE OF DECISION 24.7.1992

MADAN GORAL SAHU Petitioner

SHRI C. NATHAN Advocate for the Petitioners

Versus

DIRECTOR GENERAL, TELECOMMUNICATION
AND ORS. Respondent

Shri A. I. Bhatkar Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. JUSTICE S.K.DHAON, Vice-Chairman

The Hon'ble Mr. M.Y.PRIOLKAR, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(S.K.DHAON)
V/C

mbm*

(W)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

ORIGINAL APPLICATION NO: 266/87

Shri Madan Gopal Sahu
Bombay

.... Applicant

V/s

Director General, Telecommunication
Sanchar Bhawan, 20, Ashoka road,
New Delhi-110001
and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE S.K.DHAON, Vice-Chairman
HON'BLE SHRI M.Y.PRIOLKAR, MEMBER (A)

Appearance:

Shri C.Nathan, Adv.
for the applicant.

Shri A.I.Bhatkar, Adv.
for the respondents.

ORAL JUDGEMENT

24th JUL 1992

(PER : JUSTICE S.K.DHAON, Vice-Chairman)

On 31st May 1982 the applicant, a Junior Engineer, was given a local promotion and posted as Asstt.Engineer Stores. On 1st September 1986 a telex message was received by the Asst.Gen.Manager, MTNL concerned

affecting ~~number of persons~~ including the applicant.

§ The message conveyed that has been decided to revert the applicant to substantive post on account of pendency of vigilence case. On the basis of the said message an order was passed on 5th September 1986 by the Assitt.General Manager (Administration). The said order as relevant to the present application, ~~Reads~~ "Sri M.C.Sahu, Offg. Asstt. Engineer, attached to A.M.(East) hereby stands reverted to his substantive post with effect from 1.9.1986 F/N due to the pendency of Vigilance case".

(12)

In substance, the order of reversion is being challenged in the present application.

2. A counter has been filed. The learned counsel for the respondents has been heard in opposing this application.

3. It is an admitted position that no opportunity was afforded to the applicant before the order of reversion was passed on 1.9.1986. It is true that the applicant was promoted on an officiating basis in a purely local arrangement. Nonetheless, it appears to us, the order of reversion was not an order of merely reverting the applicant to his substantive post but the same had been passed as a measure of punishment. The reason being the pendency of a vigilence case. On the face of it, the order attaches a stigma upon the applicant. He was, therefore, entitled to an opportunity of hearing. That not having been done, the defect was fatal.

4. It is contended by the learned counsel for the respondents that on 23rd December 1985, a chargesheet had been given to the petitioner. The learned counsel has very fairly stated at the Bar that on the basis of said chargesheet, the order of punishment was passed on 9th December 1987. It is thus clear that the impugned order of reversion was passed prior to the passing of order of punishment. It follows that the order of reversion was passed without considering and giving a decision upon the explanation given by the applicant pursuant to the chargesheet dated 23rd December 1985.

° .3..

8

13

We ^{are} also informed that the order of punishment was set aside on 15th June 1990 by the President. The net result is that there cannot be any getting away from the fact ^{is} that the order of reversion was passed without affording an opportunity of hearing to the applicant. The application ~~succeds~~ and ^{is} allowed. The order dated 1st September 1986 as contents in the said telex is quashed, ^{and} so far as it relates to the applicant. The order dated 5.9.1986 which is consequential with ^{to} the said telex ^{is} also quashed in so far as it pertains to the applicant alone. It ^{goes} without saying that as a result of the quashing of ^{the order of} reversion, the applicant will be entitled to all consequential benefits as are admissible to him under the law.

5. With the above directions this application is disposed of finally. There shall be no order as to costs.

My
(M.Y.PRIOLKAR)
M/A

Stay
(S.K.DHAON)
V/C

srl