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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.324/87

Shri Amanulla Khan,
Telephone Operator,
At Post:Karanja,
Dist:Akola,
Maharashtra State.

... Applicant

v/s.

1. Union of India,
through
The Secretary,
Ministry of Communications,
Parliament St.,
New Delhi. 110 001.

2. The Member(Admn.),
Telecom Board,
Bak Tar Bhavan,
Parliament St.,
New Delhi - 110 001.

3. The Divisional Engineer
Telegraphs,
Fault Control,
Western Telecom Region,
Fountain Telecom Building,
Bombay - 400 023.

4. The Divisional Engineer
Telegraphs,
Dhulia.

... Respondents.

Coram: Hon'ble Member(A)L.H.A.REGO
Hon'ble Member(J)M.B.MUJUMDAR

Appearance:

1. Shri M.P. Phanse,
Advocate for the
applicant.

ORAL JUDGMENT

Date: 19-5-1987

(Per M.B. Mujumdar, Member(A))

We have heard Mr. Phanse, the learned Advocate for the applicant on the point of admission and interim relief. As the applicant has pressed for interim relief on the ground that it was urgent we have heard this matter during the vacation.

2. The applicant was appointed as Telephone Operator in Dhule Division on 17-3-1970. In due course he was confirmed on 10-3-1972. According to him he fell sick from 19-10-1980. He has produced medical certificates

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from time to time. He did not resume his duties till he was removed from service by an order dtd. 23-3-82 after holding a departmental enquiry against him for desertion ^{of} ~~in~~ duties.

3. The impugned order by which the applicant is removed from service is attached as Ex.1 to the application. It shows that inspite of repeated intimations the applicant did not remain present. At one stage he had requested for time on the ground of his sickness but then he was asked to produce medical certificates which he did not. Thereafter after holding the enquiry ex-parte he was removed from service w.e.f. 14-2-1981 on the charge of deserting duties from that date.

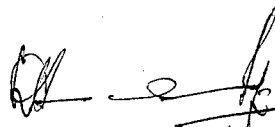
4. It is pertinent to note that the applicant did not prefer any appeal against that order. However he preferred a review petition dtd. 26-2-83 to the Member(Administration)P&T Board New Delhi. According to the applicant, no reply was given to that review petition. Thereafter he sent nine reminders the last one being on 16-2-1987. But no reply was sent to these reminders. On 4-5-1987 the applicant has filed this application under Section 19 of the Administrative Tribunals Act challenging the order of removal from service passed on 23-3-1982. The applicant has also requested for interim relief for reinstatement immediately.


5. Obviously the applicant has filed this application more than five years after the impugned order was passed. The Principal Bench of the Central Administrative Tribunal, Delhi has held in V.K.Mehra v/s. Secretary

ATR 1986 CAT 203 that the Act does not vest any power or authority ^{on} to the Tribunal to take cognizance of a grievance ^{arising} ~~arisen~~ out of an order made prior to 1-1-1982. The Tribunal was constituted with effect from 1-11-1985 and hence in view of the provisions of Section 21 of the Administrative Tribunals Act, the Tribunal has held in a number of cases that it has no ~~jurisdiction~~ jurisdiction to take cognizance of the cases arising out of orders passed beyond 3 years prior to the constitution of the Tribunal. As the applicant approached this Tribunal on 4-5-1987 challenging an order passed on 23-3-1982 we are of the view that the application is hopelessly barred by limitation.

6. It was argued by Mr. Phanse for the applicant that he had preferred a Review Petition on 26-3-1983. According to him that review petition is not decided so far. He submitted that the applicant has thereafter sent 9 reminders but we are of the view that sending ~~repeated~~ repeated reminders will not save the applicant from the clutches of limitation.

7. We therefore hold that the application is liable to be rejected summarily at the stage of admission only. In view of this position the question of grant of interim relief does not arise. We, therefore, reject the application under section 19(3) read with 21 of the Administrative Tribunals Act.


(L.H.A. REGO) 9.5.87
Member(A)


(M.B. MUJUMDAR)
Member(J)