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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 434/88

199

~~To Appx NO:~~

DATE OF DECISION 22.8.1991

T.Narayanan Kuttu

Petitioner

Advocate for the Petitioners

Versus

General Manager, MTNL & Ors.

Respondent

Mr. V.S.Masurkar

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C.Srivastava, V/C

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 ? ✓

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(U.C.Srivastava)
V/C

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
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Original Application No.434/88

T.Narayanan Kutty,
A-8, Rajeshwari, Ram Nagar,
Borivali (W),
Bombay 400 092.

... Applicant

V/s

The General Manager,
Bombay Telephones, M.T.N.L.,
Telephone Bhuvan, Colaba,
Bombay 400 005 & 2 others.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Applicant in person and
Mr. V.S.Masurkar, Advocate
for the respondents.

ORAL JUDGEMENT:

Dated : 22.8.1991

(Per. U.C.Srivastava, Vice-Chairman)

The applicant while working as Assistant Engineer in Malad Exchange was placed under suspension vide order dated 19.9.1985. The suspension order was revoked vide order dated 6.6.1986. A modified order was issued on 23.6.1986. The applicant while holding the post of Assistant Engineer was posted as Junior Engineer in place of Shri S.C.Upadhyay, Junior Engineer, which according to the applicant was a reversion order. This order was subsequently quashed by the Tribunal vide its order dated 11.2.1988 in Tr.A. No.462/86. The posting order of the applicant was issued after a lapse of 17 days after revoking the suspension. This order was not served upon the applicant even after various enquiries. However, a certified copy was obtained by the applicant through a friend working in Telephone Bhuvan on 10.8.86. On the strength of the certified copy the applicant joined his duties on 11.8.1986. As the salary was not

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paid for this period as well as subsequent period of six months the applicant made a submission before the Tribunal in T.A. No.462/86 and as per the directions of the Tribunal the salary for the subsequent period of six months was paid to him. Later on the applicant made an appeal to the department for regularisation of the period from 23.6.86 to 10.8.86 but the authorities issued orders to treat this period of absence as Dies-non. The applicant has contended that as a matter of fact he has been contacting the respondents for his posting order and after a few attempts he was told that the order will be despatched by post. Since he did not receive the order by post he contacted the New Controlling Officer but the posting order was not received in that office also and the office where he had to join also refused to take him on duty as they also did not receive a copy of the order. The entire defence of the applicant is based on the plea that a copy of the order was not served on the applicant by the respondents. But in his appeal dated 16.7.86, which is on record, against the transfer order dated 23.6.86 he did state that the copy of the order was received under protest, which appeal was received by the respondents also on 16.7.1986. On this the applicant states that the appeal was prepared in advance with the space for order number kept blank. If he was aware of the order number he would have typed the order number without leaving the space blank. It is difficult to accept this contention. The applicant would have been aware of the order and that is why he filed the departmental appeal. It was incumbent upon the applicant to join his duties when he had known about his transfer order.

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Since he has failed to resume his duties as directed, there is mistake on the part of the applicant and he is not entitled to the reliefs claimed. Accordingly we see no merit in this application which has got to be dismissed. We accordingly dismiss this application with no order as to costs. It is for the respondents to consider this period for the purpose of leave of any kind, if applied by the applicant and in case it is admissible. We cannot give any direction in this behalf.



(M.Y. Priolkar)
Member(A)



(U.C. Srivastava)
Vice-Chairman

v/-

