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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI
NEW BOMBAY BENCH

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T.A. No. 500/86.

DATE OF DECISION 27.1.1988

Shri J.B.Upadhyaya,

Petitioner

Shri M.P.Phanse

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Shri S.R.Atre

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.Srinivasan, Member (A)

The Hon'ble Mr. M.B.Mujumdar, Member (J).

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
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? *No*

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No. 500/86.

Shri J.B.Upadhyaya,
Khamgaon,
Tq.Khamgaon,
Dist. Buldana.

... Applicant

V/s.

1. Union of India, through
Secretary, Ministry of
Communication, Parliament
House, New Delhi.
2. Shri D.K.Kukade,
Divisional Engineer,
Telegraphs, Akola,
3. The General Manager,
Telecommunications,
Maha. Circle,
G.P.O. Building, Bombay.
4. The Sub-Divisional Officer,
Telephones, M.R.Wadekar,
Tq. Khamgaon, Dist.Buldana. ... Respondents.

Coram: Hon'ble Member(A), Shri P.Srinivasan,
Hon'ble Member(J), Shri M.B.Mujumdar.

Oral Judgment:

(Per Shri P.Srinivasan, Member(A)) Dt. 27.1.1988.

The applicant who was working as a line-man in Telephone Exchange, Tq. Khamgaon, Dist. Buldana was charged with failure to attend to duty for 4 hours on 26.1.1983 and thereby failing in carrying out his duties. The applicant submitted a reply and sought for an inquiry. Since the notice was issued under Rule.16 of the CCS (CCA) Rules the disciplinary authority declined to hold a regular inquiry and passed an order of punishment withholding one increment for a period of two years. By a separate order dt. 16.7.1983 the Deputy Divisional Engineer, Telegraphs, Akola intimated the applicant that his absence from duty would be treated as dies-non with break in service. The applicant

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has challenged the decision of the Disciplinary Authority not to hold an inquiry as also the penalty levied on a number of grounds. However, at the time of hearing Shri Phanse, Learned Counsel for the applicant pleaded that the authorities were not justified in imposing one penalty of stoppage of increment and a second penalty of treating the absence as dies non with break in service.

2. Shri S.R.Atre, Learned Counsel for the Respondents strongly opposed the contentions of Shri Phanse and explained that under the instructions issued by the department of Telecommunication when persons act in concert in remaining absent, the period of absence was to be treated as dies non with break in service. The penalty of stoppage of increment was also justified in the circumstances of the case.

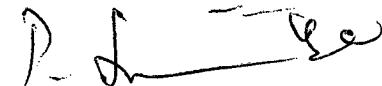
3. At this point Shri Phanse filed a memo of apology on behalf of the applicant for his absence on 26.1.1983 with an assurance that this kind of incident will not happen again.

4. Having heard rival counsel and considered the memo submitted by Shri Phanse. We feel that it would meet the ends of justice if the order dt.16.7.1983 treating the applicant's absence on 26.1.1983 as dies non with break in service be modified by deleting the words "with break in service". The penalty of stoppage of increment will however, remain undisturbed. In the result, we modify the order of the Divisional Engineer, Telecommunication, Akola dt. 16.7.1983

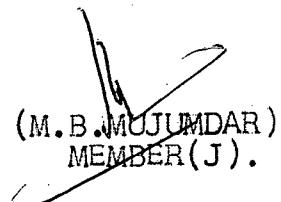
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...3.

deleting the words "with break of service". The applicant's absence from duty on 26.1.1983 will be treated ^{as} dies non but without break in service. It will not be treated as break in service, but he will not be paid salary for that day. The penalty of stoppage of increment will however, remain. The application is allowed in part. Parties to bear their own costs.



(P. SRINIVASAN)
MEMBER(A).


(M.B. MUJUMDAR)
MEMBER(J).