


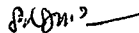
CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A. NO.: 128 of 2000.

Hon'ble Member (J) may kindly seen the
above order for approval/signature.


(B.N. BAHADUR)
MEMBER (A).

Hon'ble Member (J)

I agree 

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 128 of 2000.

Dated this Tuesday the 13th day of March, 2001.

Mrs. Mary John, Applicant.

Shri G. K. Masand, Advocate for the
applicant.

VERSUS

Union of India & Others, Respondents.

Shri V. S. Masurkar, Advocate for
Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Hon'ble Shri S. L. Jain, Member (J).

- (i) To be referred to the Reporter or not ? Yes
- (ii) Whether it needs to be circulated to other Benches
of the Tribunal ? X
- (iii) Library. Yes.


(B. N. BAHADUR).
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 128 of 2000.

Dated this Tuesday the 13th day of March, 2001.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A)

Hon'ble Shri S. L. Jain, Member (J).

Mrs. Mary John,
Sub-Divisional Engineer (Telecom),
Tarapur.
Residing at Type-III/D-7, TAPS
Colony, T.A.P.P.O. District,
Thane - 401 504.

... Applicant

(By Advocate Shri G. K. Masand)

VERSUS

1. Union of India through
The Secretary to the
Government of India,
Department of Telecom
Sanchar Bhavan,
Sansad Marg,
New Delhi - 110 001.

2. The Chief General Manager,
Maharashtra Telecom Circle,
Bombay - 400 001.

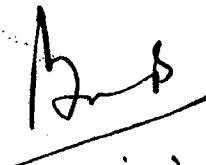
3. The General Manager - Telecom,
Kalyan Telecom District,
Kalyan.

4. Assistant General Manager (A),
O/o. the General Manager (Telecom),
Kalyan.

... Respondents.

(By Advocate Shri V.S. Masurkar)

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The Applicant in this case, states that she was a Junior Telecom Officer and was promoted vide order dated 15.01.1999 as Sub-Divisional Engineer (Telecom) to the cadre of Telephone Engineering Services, Group 'B' (T.E.S.-B) and posted as Sub-Divisional Engineer (S.D.E.) at Tarapur, in Respondents' Organisation. She avers further that six others, all junior to her, were also promoted as Sub-Divisional Engineers (Exhibit 'C'). After the expiry of 180 days mentioned in this order dated 15.01.1999, Applicant's promotion was continued by order dated 02.07.1999 and 11.02.2000. Applicant further contends that all these posting orders have emanated from the office of the General Manager, Telecom Division, Kalyan and all her thirteen juniors are still working as S.D.E. The Applicant further states that she proceeded on leave, for confinement, from 15.01.2000 and that certain investigations were commenced during the period of her leave, and on account of such investigations, she was placed under suspension. Her grievance is that prior to such suspension, Respondents made the impugned order dated 21.04.2000, reverting her to her basic cadre post of Junior Telecom Officer w.e.f. 24.01.2000 and posting her as J.T.O. Tarapur. It is her contention that reversion was made due to disciplinary proceedings contemplated against her, and that such a her reversion is illegal in terms of Article 311 (2) of the Constitution of India.



2. The Applicant thus comes up to the Tribunal, seeking the relief to declare her reversion as illegal, and direct that she be deemed to be working as S.D.E. Tarapur, and entitled to all benefits.

3. The Respondents have filed a Written Statement in reply, denying all allegations and claims made by the Applicant and narrating the facts and background of the case. It is stated that there was a big Telecom scam in Tarapur area, reported in various newspapers, and that the Applicant is involved in that scam. The Respondents further take the stand that the Applicant was reverted to her basic cadre of J.T.O. with effect from 24.01.2000 and, as such, she was not S.D.E. when she filed the O.A. on 14.02.2000, as claimed by her. Respondents make the point that procedure of law under C.C.S.(CCA) Rules have been followed before reverting the Applicant. They then describe the instructions of G.O.I. No. 4(I) under aforesaid rules, and take the contention that a person who has been appointed on adhoc basis against short term vacancy, and has held the appointment for less than one year, shall be reverted, as per rules, if Disciplinary Proceedings are initiated against the said person.

4. We have heard Learned Counsels on both sides, viz. - Shri G. K. Masand for the Applicant and Shri V.S. Masurkar for the

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Respondents and have perused the papers in the case. Both Learned Counsels strenuously argued the case, elaborating the points taken by them, in their respective pleadings, bascially. Learned Counsel for Respondents cited the case of Children's Film Society of India reported in 1993 (24) ATC 386, and this has also been considered.

5. The issue involved in this case is no longer res integra. It is covered by a recent judgement of the Full Bench of this Tribunal in the case of L. M. Medar V/s. Union of India & others, reported at 2001 (1) ATJ 5. The Headnote reads as follows :

"A) Ad hoc Promotion - Reversion - Departmental Enquiry - Held promotion on ad hoc basis on local seniority for 180 days in the Department of Telecommunication and continued from time to time in spells of 180 days with breaks of one or two days for more than a year cannot be denied on issue of chargesheet or pendency of disciplinary proceedings on expiry of 180 days period or earlier.

B) Ad hoc Promotion - Reversion - Applicant a Sub Divisional Engineer in Telecom Department promoted on local officiating basis to the post of Divisional Engineer for a period of 180 days in 1996 - Appointment continued with break of one or two days after a spell of 180 days - Continued in the post for more than 4 years - Whether can be reverted on the ground that Disciplinary proceedings have been initiated against him or a charge sheet for minor penalty has been issued - No."

6. In view of the clear ratio of this case, which in our view, is applicable to the issue relating to reversion in the case

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of Mrs. Mary John before us, we come to the conclusion that the reversion of the Applicant, which was made by the impugned order, was wrong in terms of the ratio of Medar's judgement. However, it is to be noted here that in view of the seriousness of the charges against her, as judged by the Respondents, and as described by them, the Applicant has been suspended vide order dated 25.01.2000 made by the Department of Telecommunications (Exhibit 'E'). From the preamble in the same order, it is clear that the suspension has been resorted to in contemplation of disciplinary proceedings against her. While following the ratio regarding reversion, needless to say, we are not interfering with the progress of the departmental enquiry, or of the suspension order, which has been found to be necessary in view of the seriousness of the charges made against Applicant.

7. In view of the discussions above, this O.A. is allowed to the limited extent, in terms of the following orders :

- (i) The impugned order of reversion in respect of Applicant, made by Respondents on 24.01.2000, is hereby quashed and set aside. The Applicant will be deemed to continue as S.D.E. from this date and S.D.E. under suspension with effect from 25.01.2000, which is the date of suspension. Dues eligible to her in terms of subsistence allowance, etc. will be paid to her accordingly.

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(ii) The order of suspension is not being interfered with and Applicant shall continue to remain under suspension. The Departmental Enquiry which is stated to be contemplated against her, shall be completed and further action taken on merits and in accordance with rules.

(iii) There will be no order as to costs.

S.L. Jain
(S.L. JAIN)
MEMBER (J).

OS*

B. N. Bahadur

(B. N. BAHADUR)
MEMBER (A).