

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:84/2000

DATE OF DECISION: 22.1.2001.

Shri Ashok Shridhar Ingale. Applicant.

Shri S.P. Inamdar Advocate for
Applicant.

Versus

Union of India and others. Respondents.

Shri V.S. Masurkar Advocate for
Respondents


CORAM

Hon'ble Ms. Shanta Shastry, Member (A)

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to
other Benches of the Tribunal?

(3) Library. ✓


(Shanta Shastry)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 84/2000

MONDAY the 22nd day of JANUARY 2001.

CORAM: Hon'ble Ms. Shanta Shastri, Member (A)

Ashok Shridhar Ingale
Residing at
Shivkripa Darbar Galli
Near Shankar Rathi Chakki
At & Post - Naaaandora
Bulddhana.

...Applicant.

By Advocate Shri S.P. Inamdar.

V/s

1. Union of India
Secretary/ Director General
Department of Telecom
Ministry of Communication
Sanchar Bhavan, New Delhi.
2. The Chief General Manager
Telecom, Maharashtra Circle
Fountain Telecom Building No.2
8th floor, Fort, Mumbai.
3. Shri G.Prasad
General Manager
Telecom Nashik
Canara Corner, Nashik.
4. Shri Dipak B Padegaonkar
Deputy General Manager Urban
O/o The General Manager Telecom,
Canara Corner, Nashik.

...Respondents

By Advocate Shri V.S. Masurkar.

ORDER (ORAL)

{Per Ms. Shanta Shastri, Member (A)}

Heard both counsel in the matter. The learned counsel for the applicant submits that adverse entries in his confidential report for the period from 23.7.1996 to 31.3.1997 were communicated to him vide letter dated 13.10.1997 by the General Manager Telecom, Nashik. He was also given 30 days time to

represent^{against} the same. It is the contention of the counsel for the applicant that the General Manager, Telecom. being reviewing officer was not competent to entertain his representation against the adverse entries. Yet the General Manager Telecom examined the representation and rejected the same in January 1998. In view of this the applicant has sought to quash letter dated Nil January 1998, at the outset without going into the merits of the case. The learned counsel for the applicant relied on the following judgements.

1. Dr. Hari Dev Goyal V/s Union of India and others . OA 57/87 decided on 24.9.1987. ATR 1988(1) CAT 145.

It has been held that representation against adverse remarks must be disposed of by a speaking order and such a representation against adverse remarks be examined by a person Superior to the Reviewing officer. If the remarks are communicated in delayed manner the adverse remarks to be wiped out.

2. Shri Tilak Raj V/s Union of India and others OA 822/87 decided on 7.12.1987 ATR 1988(1) CAT 379.

It was held that the principles of natural justice and equity require that a representation against the adverse remarks should be disposed of by an authority higher and other than the Reviewing Authority.

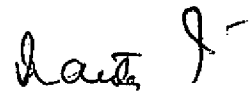
2. The applicant has made further representation against the order of the General Manager to the Director General, Telecom, New Delhi on 24.5.1999. The reply is still awaited.

3. It is seen from the relevant record that the Reviewing Authority himself decided the representation against the adverse entries communicated by him and has passed the orders on the representation. This is not proper as has been rightly relied

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upon by the learned counsel for the applicant in the judgement cited. Natural justice demands that the General Manager who is Reviewing Authority should not have taken upon himself to decide the representation. It should have been passed on to higher authority above himself i.e. Chief General Manager, Telecom, Maharashtra Circle. The applicant himself should have addressed to the Chief General Manager, but he has simply forwarded the representation to the General Manager. I am satisfied that the representation has not been dealt with as per procedure. I therefore direct the respondents to consider the representation of the applicant against the order of the General Manager, Telecom, Nashik dated January 1998 as well as the representation already made by him to the Director General, New Delhi through the Competent Authority i.e. Chief General Manager, Telecom Maharashtra. The representation be disposed of within a period of three months from the date of receipt of copy of this order. The applicant's counsel states that the General Manager and the Chief General Manager have both been delegated powers on par and therefore the representation is made to the Director General. In my considered view hierarchically the Chief General Manager is Superior to the General Manager and is his senior. Therefore the representation needs to be considered by the Chief General Manager, Telecom. Maharashtra first. The OA is disposed of accordingly. No order as to costs.



(Ms. Shanta Shastry)
Member(A)