

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.No.86/2001

Dated this Monday the 21st Day of January, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman
Hon'ble Shri B.N. Bahadur, Member (A).

Shri Surajmani M. Kumbhar,
residing at Kumbharwada,
Saheb Chawl, Dharavi, Room No.7,
Mumbai - 400 017.

.. Applicant.

(By Advocate Shri G.K. Masand)

Versus

1. Union of India, through
General Manager,
Mahanagar Telephone Nigam Limited,
Telephone House, 13th Floor,
Veer Savarkar Marg, Dadar,
Mumbai - 400 028.

2. The General Manager,
Mahanagar Telephone Nigam Limited,
Telephone House, 13th Floor,
Veer Savarkar Marg, Dadar,
Mumbai - 400 028.

.. Respondents.

(By Advocate Shri V.S. Masurkar)

ORDER (Oral)
{ Per : Justice Birendra Dikshit, Vice Chairman }

A preliminary objection has been raised by Shri V.S.Masurkar, Counsel for respondents that this Tribunal lacks jurisdiction to try this OA and grant relief prayed for. As preliminary objection in respect of lack of jurisdiction has been raised, we would like to dispose of preliminary objection before examining the case on merit.

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2. The facts, essential for determining said objection, are that applicant claims that he has been working as casual labourer under the Department of Telecommunication since June, 1979. He claimed that suddenly the respondents ^{did} not allow him to work on a criminal complaint being lodged against him on 10.10.1989; that criminal complaint gave rise to case No.1349/P/89, which was tried by Court No.26 namely, Metropolitan Magistrate's Court at Borivali, Mumbai. According to averments made, the applicant was tried under Section 379, 427 and 511 I.P.C. in which he was acquitted on 8.4.1999 by said Metropolitan Magistrate; ^{not} on acquittal, the applicant moved three similar applications, one being before General Manager, Mahanagar Telephone Nigam Limited, Telephone Bhavan, Colaba, Mumbai-5, second before General Manager (Administration), Mahanagar Telephone Nigam Limited, Mumbai, Telephone House, 13th Floor, Veer Savarkar Marg, Dadar, Mumbai-28 and the third before Divisional Engineer, Mahanagar Telephones Nigam Limited House, Near Bus Stop, Borivali (W), Mumbai-92, respectively, but none of them replied. With said averments, the applicant has approached this Tribunal on 21.12.2000 seeking relief of reinstatement with continuity of service and payment of arrears of salary from 1.10.1989 till the year 2000, when he was reinstated.

2. The applicant, to support his claim, relies upon a ^{P.O. No. 1349/P/89} ...3.

list of casual labourers of respondents showing casual labourers who completed 7 years of service beside 240 days in each year. The last 2 consecutive years on which his name appears, as on 31.3.1987, show it at Sl.No.205. He has further claimed that all the casual labourers mentioned in said list have been regularised but he has not been regularised due to criminal case contemplated against him at relevant time. With said allegations ~~that~~ he claims that he was also entitled for regularisation with those who have been regularised but for said contemplated criminal prosecution against him. Thus, he is entitled for relief.

3. Learned Counsel for respondents, Shri V.S.Masurkar, argument ~~in~~ respect of inherent lack of jurisdiction is that as relief sought for is against the Mahanagar Telephone Nigam Limited (in short, 'MTNL'), which is not notified under section 14(2) of Administrative Tribunals Act, 1985. He contended that as absorption process of employees/casual labourers has been completed by MTNL by October, 1998 the applicant cannot be granted any relief in absence of notification under section 14(2). The argument has been opposed by learned counsel for applicant, Shri G.K.Masand, that the applicant was not allowed to work soon after the criminal complaint, which was lodged against him and since he has been acquitted, he is entitled for relief which is based on his stoppage of work as casual labourer with reference

N. V. Masurkar

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to the date of 1.10.1989 when he was a casual labourer working under Central Government Department. To support his contention on merit, he argued that all those casual labourers who were working at the relevant time have been regularised and it is with reference to that date that this Tribunal has to determine the jurisdiction to try this O.A. His argument is that it is to be determined with reference to the date when the cause of action arose and not with reference to date when OA was filed. The contention is that relief claimed is to be determined with reference to what happened when he was not allowed to work and that the jurisdiction to try applicant's claim with reference to that date has not been taken away merely because O.A. has been filed subsequent to formation of MTNL, which is a Company registered under Companies Act, 1956.

4. Undisputedly, every person has a right to seek remedy against any wrong being done to his legal right. It is somewhat different as to what forum the person can take recourse to get his right enforced under law. Counsel for applicant tried to persuade us that forum for seeking remedy will be that Court or Tribunal where it could be sought at the time when cause of action arose. We are not inclined to agree with the contention that the forum is to be determined with reference to time when and where remedy could be sought and cause of action arose. It is not necessary for us to express our opinion as to when

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Undoubtedly, every person has a right to seek remedy against any wrong done to his legal right. It is somewhat different as to what forum the person can take recourse to get his right enforced under law. Counsel for applicant tried to persuade us that forum for seeking remedy will be that court or Tribunal where it could be sought at the time when cause of action arose. We are not inclined to agree with the contention that the forum is to be determined with reference to time when and where remedy could be sought and cause of action arose. It is not necessary for us to express our opinion as to when

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cause of action arose for applicant, which is being disputed, as it is well settled that which Court or Tribunal an aggrieved person can seek remedy is a procedural matter. No litigant has right in respect of a particular forum for enforcing his legal right. As the procedural law is prospective, any person who wants to enforce his legal right, has to go before the Court or Tribunal which stands conferred jurisdiction to set right the wrong done to him. This he has to see on the date on which he invokes the jurisdiction of a Court or Tribunal. It is not the date which cause of action arose which is relevant but the time relevant to determine forum will be the time when jurisdiction is invoked. Thus, when Central Administrative Tribunal stands constituted to determine and adjudicate upon rights and grant relief in respect of employees of Central Government or the Company or Corporation notified under section 14(2) of Administrative Tribunals Act in respect of service conditions of its employees for which the jurisdiction to try cases has been conferred by the Act, therefore, the Tribunal can neither entertain an application nor grant relief to applicant for wrong alleged to have been done by the Management of MTNL, a Government Company. Thus, we hold that original application of those Government Company or Corporations can be tried by Central Administrative Tribunals which ^{alone} are notified under section 14 (2) of the ACT.

5. Admittedly, MTNL is not notified under section 14(2) of the Act and as the case has been instituted subsequent to the formation of MTNL as a government company, which is a juristic person having a separate legal entity from that of Central Government, this Tribunal lacks inherent jurisdiction to entertain and try this OA.

6. For aforesaid reasons, the OA fails and is dismissed for inherent want of jurisdiction. No order as to costs.

B. N. Bahadur

(B.N. BAHADUR)
MEMBER(A)

B. Dikshit

(BIRENDRA DIKSHIT)
VICE-CHAIRMAN

H/B.

dt 21.1.2002
~~order~~, judgement despatched
to Applicant/Respondent (s)
on 18.2.2002.

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