

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCHAPPLICATION No. 1761/86(F)

(WP.NO.)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED: 9-6-87

APPLICANT

Vs

RESPONDENTS

Shri G.R. Madhava

The Secy, Dept of Communications & 2 Ors

TO

1. Shri G.R. Madhava
Lineman
Telegraphs Department
Office of the Telephone Exchange
Gangolli
Dakshina Kannada
2. Shri S.P. Kulkarni
Advocate
4306, High Point IV
45, Palace Road
Bangalore - 560 001
3. The Secretary
Department of Telecommunications
Parliament Street
New Delhi - 110 001

4. The Sub-Divisional Officer
Telegraphs
Kundapura
Dakshina Kannada
5. The Divisional Engineer
Telegraphs
Mangalore - 575 001
6. Shri M.S. Padmarajaiah
Senior Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 1761/86(F)

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Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on
27-5-87.ENCL: As above.for DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS THE TWENTY SEVENTH MAY, 1987

Present:

Hon'ble Mr Justice K.S. Puttaswamy

Vice Chairman

Hon'ble Mr P. Srinivasan

Member (A)

APPLICATION NO. 1761/86(F)

G.R. Madhava
Lineman
Telegraphs Department
Office of the Telephone
Exchange
Gangolli
Dakshina Kannada.

... Applicant

(Shri S.P. Kulkarni .. Advocate)

a. Union of India
represented by its Secretary
Department of Telecommunication
Parliament
New Delhi.

b. Sub-Divisional Officer
Telegraphs
Kundapura, Dakshina Kannada.

c. The Divisional Engineer
Telegraphs
Mangalore - 575 001

... Respondents

(Shri M.S. Padmarajaiah .. Advocate)

This application came for hearing today.

Member (A) made the following:-

O R D E R

In this application made under section 19
of the Administrative Tribunal Act 1985 the
applicant wants us to quash the order dated
25.10.1985 passed by the Divisional Engineer (DE),
Department of Telegraphs, Mangalore, dismissing

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dismissing him from service. On a criminal complaint the applicant was convicted by the Judicial Magistrate First Class (JMFC), Kundapura and sentenced to imprisonment ^{and} fine, by an order dated 28.7.1985. Thereupon the respondent (c) (DE, Mangalore) issued a notice to the applicant to show cause why he should not be dismissed from service. The applicant represented against the proposed penalty. But the DE passed the impugned order dated 25.10.1985 dismissing the applicant. Meanwhile the applicant filed an appeal against the sentence of the JMFC to the Sessions Judge, Mangalore, who upheld the conviction but reduced the sentence to imprisonment for a period of one month and a fine of Rs 100/-. The applicant has filed a criminal revision petition before the High Court of Karnataka which is still pending. The High Court stayed the sentence till the disposal of the criminal revision petition. The applicant's contention is that since the sentence has been stayed by the High Court and the criminal revision petition is pending final disposal by the High Court, the authorities should not have dismissed him from service; more so without giving him an opportunity of being heard.

Shri S.P. Kulkarni, appearing for the applicant, strongly contends that till the criminal revision petition is disposed of by the High Court the respondents had no right to impose the penalty

P. S. Kulkarni

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on the applicant on the basis of his conviction in the trial and appellate courts. When the dismissal order was passed, the appeal before the Sessions Judge was pending but now the matter is pending before the High Court.

Shri M.S. Padmarajaiah, Senior C.G.S.C., for the respondents contends that as long as the order of the Sessions Judge upholding the conviction holds the field and the High Court does not decide the criminal revision petition the order of dismissal of the applicant is fully justified. Where a person is convicted of a criminal offence the authorities are not required to give any opportunity to him of being heard before imposing any penalty on him as in this case. Therefore, Shri Padmarajaiah contends that the application deserves to be dismissed.

Having considered the rival contentions, we are satisfied that this application cannot be allowed. As of today the applicant stands convicted of a criminal offence. Till the High Court disposes of criminal revision petition the conviction holds the field. Once we hold that the applicant stands convicted of a criminal offence as of now, his challenge to his dismissal as a result of such conviction falls to the ground. This application, therefore, deserves to be dismissed. No doubt if the criminal revision petition is decided in his

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favour by the High Court he will have ^H ~~every~~ the
right to move the authorities to reconsider
the position, but till ^{then,} the order of penalty
has to stand.

In the result, the application is
dismissed. Parties to bear their own costs.

[Signature]
VICE CHAIRMAN
25/5/87

[Signature]
MEMBER (A)
27/5/87

mr.