

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

APPLICATION No. 1237/86 (T)

(WP.NO. 17491/83)

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

DATED: 6 MAY 1987

APPLICANT

Vs

RESPONDENTS

S. L. Krishnamurthy
TO

K. Suryanarayana Rao

1. Sri S. L. Krishnamurthy
Section Supervisor
Central Telegraph Office
Bangalore.

2. Sri K. Suryanarayana Rao.
Advocate.
No. 618, Rajeshwari Market,
Avenue Road.
Bangalore - 2.

3. The Secretary
Ministry of Communications
Sanchar Bhavan, Parliament St.

4. The Director
Telecom,
Mangalore Area,
Mangalore - 1

5. The Superintendent
Telegraph Traffic
Division,
Mangalore - 3.

6. Sri H. S. Padmarajiah
C. G. S. C.
Bangalore - 1

NEW DELHI 110 001. SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 1237/86 (T)

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Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on

I - 5 - 87.

ENCL: As above.

DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 1st DAY OF MARCH 1987

Present : Hon'ble Shri Ch.RAMAKRISHNA RAO MEMBER(J)

Hon'ble Shri L.H.A.REGO MEMBER(A)

APPLICATION No.1237/86

S.L.Krishnamurthy,
Section Supervisor,
Central Telegraph Office,
Bangalore -

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APPLICANT

(Shri K.Suryanarayana Rao ... Advocate)

V.

The Union of India by
its Secretary to the
Ministry of Communications,
Sanchar Bhavan,
Parliament Street,
New Delhi - 1.

The Director Telegom,
Mangalore Area,
Mangalore - 1.

The Superintendent,
Telegraph Traffic Division,
Mangalore - 3.

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RESPONDENTS

(Shri M.S.Padmarajaiah ... Advocate)

This application has come up before the court
today. Hon'ble Shri Ch.Ramakrishna Rao, Member(J) made the
following :

ORDER

This application was initially filed in the High
Court of Karnataka as a writ petition and subsequently transferred
to this Tribunal. The facts giving rise to this application are,
briefly, as follows:

2. A memorandum dated 30.2.79(memo, for short) was
issued by the Superintendent Telephone & Telegraphic Division,
Mangalore(R3), wherein the charge levelled against the applicant
was that he, while functioning as Selection Grade Clerk in
Central Telegraph Office,(CTO), Bangalore(BG), has claimed

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Leave Travel Concession Travelling Allowance(LTCTA) by stating that he and his family members had travelled from BG to Srinagar and back during the period 18.5.79 to 13.6.79 by bus No.MED 4629, whereas, investigation revealed that the applicant and his family members had not performed the journey and thereby he contravened Rule 3(1) and 3(1)(iii) of CCS(Conduct) Rules, 1964. The Inquiry Officer(IO) in his report held that the charge was not established. R3, however, after due consideration of the report of the IO and the material on record, held that the charge was established and imposed the following penalty:

"(a) the next increment of the official, Sri S.L Krishnamurthy, will be withheld for a period of ONE YEAR from the date on which it falls due. This will not have any cumulative effect on his future increments.

(b) An amount of Rs.1,920/- only drawn as LTC advance by the official under CTO Bangalore, Voucher No.55 dated 4.5.79 will be recovered in TEN equal instalments from his salary starting from the month of October, 1982."

Then the applicant preferred an appeal to the appellate authority (R2) who confirmed the order passed R3. Aggrieved by aforesaid orders the applicant has filed this application.

3. The IO, in his report, held that the three witnesses, on whose statements the Department relied had not spoken in one voice and, therefore, the statements were not acceptable. The IO also accepted the version of the applicant that a post card was posted on 7.6.79 at Srinagar addressed to the Chief Superintendent, CTO, Bangalore requesting that his leave may be extended for one more week despite the fact that no postal seal was found on the post card. The disciplinary authority R3 on a re-appreciation of the evidence held that though all the three witnesses produced by the department had not spoken in one voice, the statement of one of them left no doubt that the applicant had

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not performed the journey, in respect of which he preferred the LTC Claim. Regarding the probative value of the post card, R3 in his order observed:

"it is evident that the episode of the post card ie exhibit 9 purported to have been posted by the DGS at Srinagar on 7.6.79 addressed to the CS; CTO has been treated with facile lightness and levity."

R3 then proceeded to deal with the procedure in vogue in the office of CS, CTO, BG and came to the conclusion that it is clear beyond any shadow of doubt that it (ie the post card) has not arrived by post through the agency of the Postal Department. In the view R1 took about the evidence he came to the conclusion that the charges were established and imposed the penalty mentioned in paragraph 2 supra which he considered fit and proper. R2 in appeal confirmed the same. Aggrieved, the applicant has filed this application.

4. The question for consideration is whether this Tribunal has the competence to interfere with the orders passed by R2 & R3. In our view, the scope of judicial review in proceedings under Arts, 226 & 227 of the Constitution is equally applicable to the proceedings before this Tribunal, which has been created by an Act of Parliament and to which the writ petitions filed before the High Courts by Central Government servants have been transferred. The Supreme Court has held in S.R.V.S. V. Chandrasekharan A.I.R. 1965 S.C. 197:

"The High Court does not act as a court of appeal when questions of fact have been left by the statute to be determined by a quasi-judicial tribunal. It cannot, therefore, consider the question of adequacy of the evidence to sustain the charge in a departmental enquiry. It can, however, consider whether the findings are based on no evidence.

The Supreme Court has also observed in State of A.P. V. Sree Rama Rao A.I.R. 1963 S.C. 1723 that the departmental authorities are the sole judges of fact. Some evidence accepted by them,

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