

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 9TH DAY OF MARCH, 1987.

Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
Present : Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NO. 1435/86

Shri Ethirajulu,
S/o Yellappa Naidu,
major,
Sub-Inspector of
Telegraphs,
Robertsonpet,
K.G.F. Kolar Dist.

.... Applicant.

(Shri M. Raghavendra Achar, Advocate)

v.

1. The Divisional Engineer,
(Tele Communication),
Tumkur.

2. General Manager,
(Tele Communications),
Karnataka Circle,
Bangalore.

3. The Sub-Divisional Officer,
(Tele communications),
Tumkur.


.... Respondents.

(Shri D.V. Shylendra Kumar, Advocate)

This application having come up for hearing
to-day Vice-Chairman, made the following.

O R D E R

In this transferred application received from
the High Court of Karnataka under Section 29 of the
Administrative Tribunals Act, 1985 (Act), the
applicant has sought for a direction to the respon-
dents to take him to duty and pay him the emoluments




as if he was in service.

2. Among others, the applicant has asserted that the respondents for no reason whatsoever, are not permitting him to attend office, where he was working and are not making payment of the emoluments attached to that post. In answer to this, in their reply filed on 17.2.87, the respondents have asserted that in a regular disciplinary proceeding instituted against the applicant under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the Sub-Divisional Officer, Telegraphs, Tumkur (SDO), by his order No.Q-521/Vig/22 dated 31.12.83 had removed him from service.

3. Shri M. Raghavendra Achar, learned counsel for the applicant contends that in the absence of service of the order of removal on his client notwithstanding a demand made thereto as late as on 29.10.84 (Annexure-D), there was no severance of the relationship of employer and employee between the applicant and the respondents and therefore the applicant, was bound to be taken to duty, continued in service and paid all the salary and allowances to which he was entitled to in law.

4. Shri D.V. Shailendra Kumar, learned counsel for the respondents contends that on the passing of the order dated 31.12.83 by the SDO and its



communication thereto to the applicant the relationship of employee and employer had been snapped and the applicant was not entitled to the reliefs sought by him.

5. We have earlier noticed that the respondents had asserted that as early as on 31.12.83, the SDO had removed the applicant from service and had communicated the same to him also. We have no reason to disbelieve that assertion. Even otherwise, the records produced by the respondents show that as early as on 31.12.83, the SDO had made an order of removal against the applicant and had communicated the same. Whether the applicant has received the same or not is a matter on which we do not propose to express any opinion. In the face of the said order made by the SDO, the claim of the applicant for a direction to take him to duty and pay him the salary attached to the post cannot be granted. On this short ground this application is liable to be dismissed. We therefore dismiss this application with no order to costs. But this should not be understood as this Tribunal expressing any opinion on the validity of the order made by the SDO.

A.S. Prasad
Vice-Chairman 9/3/1987

[Signature]
Member (A) 9.3.87