

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE.

DATED THIS THE 9TH DAY OF FEBRUARY, 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy, .. Vice-Chairman.
And:

Hon'ble Mr. L.H.A. Rego, .. Member(A).

APPLICATION NUMBER 1541 OF 1986.

K. Bhaskaran,
Son of M.K. Gopalan,
Hindu, Aged 46 years,
Sub-Inspector of Phones
Phones Division, Mangalore. .. Applicant.

v.

Union of India represented
by Chief Secretary,
Government of India, NEW DELHI. .. Respondent.

(By Sri M. Vasudeva Rao, Standing Counsel)

--
This application coming on for hearing this day, Vice-Chairman made the following:

O R D E R

This is a transferred application and is received from the Court of the Munsiff, Mangalore under Section 29 of the Administrative Tribunals act, 1985 ('the Act').

2. At the material time, the applicant was working as a Sub-Inspector of Phones, Mangalore ('SI'). For the periods from 1-2-1977 to 15-2-1977, from 24-8-1977 to 9-9-1977 and from 11-9-1977 to 17-9-1977 the applicant was stated to be unauthorisedly absent from duty and by separate orders made the Sub-Divisional Officer (Telephones), Mangalore (SDO) had treated the said periods as dies non.

3. In exercise of the powers conferred on him by the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('the Rules') the SDO commenced disciplinary proceedings against the applicant for imposition of a minor penalty and by his Memorandum No.Q-17/96 dated 15-12-1977 served the necessary articles of charge and statement of imputations on him, to which he did not file any statement. On an examination of the charge memo and the records, the SDO by an order made on 17-4-1978 inter alia holding that the applicant had not filed his written statement, was guilty of the charge levelled against him, inflicted the following penalty:

I, V.S.Parthasarathy, Sub-Divisional Officer, Telephones, Mangalore, order that Rs.75/- (Rupees seventy five) may be recovered from his salary (2) Withhold of one increment for two years without affecting future increments".

Aggrieved by this order, the applicant filed an appeal before the Divisional Engineer (Telephones) Mangalore-1 ('DET') who by his order dated 26-6-1978 dismissed the same.

4. On 26-5-1980, the applicant instituted O.S.No.276 of 1980 in the Court of Munsiff, Mangalore for the following reliefs which on transfer has been registered as Application No.1541 of 1986:

1. Declaring that the orders passed by the Assistant Engineer and Sub-Divisional Officer, Telephones and confirmed by Divisional Engineer Telephones, both of Mangalore affecting his salary and increment are null and void and for consequential relief directing defendant to pay to plaintiff a sum of Rs.850-00 which has been wrongfully deducted and also direct defendant to grant increments which has been ordered to be withheld.	Rs.850-00
2. Grant cost of Notice.	Rs. 20-00
3. Grant cost of suit and grant such other and further reliefs.	<u>Rs.870=00</u> "

5. In its written statement, the respondent resisted this claim made by the applicant.

6. Sri K.Baskaran, who is the applicant in the case appeared in person and argued his case. Sri M.Vasudeva Rao, learned Central Government Additional Standing Counsel has appeared for the respondent.

7. Sri Baskaran contends that he had attended to his duties for the periods 1-2-1977 to 15-2-1977; 24-8-1977 to 9-9-1977 and 11-9-1977 to 17-9-1977 and that the SDO in treating these periods as dies non without issuing him show cause notices and affording him an opportunity of hearing had acted illegally.

8. Sri Rao in refuting the contention of Sri Baskaran, contends that the separate and distinct orders made by the SDO treating the periods as dies non had not even been challenged by the applicant and, therefore, this Tribunal cannot examine their validity.

9. We have ~~also~~ earlier set out the entire relief sought by the applicant in his application. In his plaint, which has to be treated as his application, the applicant had not sought for striking down the different and distinct orders made by the SDO treating the periods as dies non. When the applicant had not challenged the orders made against him, this Tribunal that too at this distance of time cannot examine their validity. We, therefore, reject this challenge of the applicant.

10. Sri Baskaran next contends that the order made by the SDO imposing the penalty of recovery of a sum of Rs.75/- and stoppage of increment for a period of 2 years was in contravention of the Rules and the principles of natural justice, was otherwise very excessive.

II. Sri Rao has sought to support the orders made by the SDO and DET.

12. In his order, the SDO had stated that the applicant had not filed his written statement denying the charges. Sri Baskaran claims that he had filed his statement before the SDO and the same had not been considered by him. But, we do not find the same in the records produced by the respondent. Even otherwise, we have no reason to disbelieve the statement made by the SDO to that effect.

13. When the applicant had not filed his written statement to the charge memo, that too in a proceeding for a minor penalty, it follows from the same, that he had not denied the charge levelled against him. Even otherwise the duly constituted authorities under the Rules have found that the applicant was guilty of the charge levelled against him. We find no grounds to disturb that finding of the authorities.

14. We have carefully examined the quantum of punishment imposed against the applicant.

15. We find no ground to hold that the punishment of recovery of Rs.75/- being the loss occasioned to Government is too severe and unjustified. We, therefore, uphold the same.

16. We are of the view that the stoppage of increments for a period of two years without cumulative effect is somewhat excessive and disproportionate to the gravity of the offence, if any, committed by the applicant. On an examination of all the facts and circumstances we are of the view that the ends of justice would be met by imposing the punishment of stoppage of increment for a period of three months without cumulative effect.

17. In the light of our above discussion, we make the following orders and directions:

- (1) We reject the challenge of the applicant to the orders made by the SDO against him treating the periods from 1-2-1977 to 15-2-1977, from 24-8-1977 to 9-9-1977 and from 11-9-1977 to 17-9-1977 as dies non.
- (2) We uphold the orders of the DTE and SDO in so far as they hold that the applicant was guilty of the charge levelled against him and the recovery of a sum of Rs.75/- as loss occasioned to Government.
- (3) We allow this application in part and modify the orders of the DTE and SDO in so far as they impose the stoppage of increment for a period of two years to one of stoppage of increment for a period of 3 months without cumulative effect.
- (4) We direct the authorities to regulate the recoveries from the applicant on the basis of this order.

18. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.


Mr. Purushottam 9/2/1987
VICE-CHAIRMAN


Member (A.M.) 9-2-87

np/130287

RECEIVED
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA),
Indiranagar,
Bangalore-560 038.

Dated: 3-3-87

Application No. 1541/86()
~~W.P. No.~~ OS. NO. 276/80

Applicant

~~K. Bhaskaran~~

VS

The Secretary,
M/o Communications,
N. Delhi.

TO

1. K. Bhaskaran

Sub. Inspector of Phones
Phones Division
Mangalore.

3. Shri. M. Vasudeva Rao,
C. C. S. C
Bangalore - 560001

2. The Secretary,
M/o. Communications,
Sanchar Bhawan
N. Delhi - 110001

Jan 1
4/3/87

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH
IN APPLICATION NO. 1541/86()

Please find enclosed herewith the copy of the Order/

~~Interim Order~~ passed by this Tribunal in the above said

Application on 27-2-87 regarding Restoration
of application.

B. V. Venkatesh
Deputy Registrar
(Judicial)

Encl: As above.

*Recd
Rao
2/3/87
3/3/87*

Orders of Tribunal

A. No. 1541/86(7)
OS. No. 276/80E

K. Bhaskara
Applicant

VS
The Secretary,
M/o. Communication
Av. Delhi
... Respondent



KSPVC/LHARM(A)

27.2.1987.

Perused the Office Note, and heard Shri M. Vasudeva Rao, learned Addl. CGSC, appearing for the respondents. On 9.2.1987, the applicant did not seek an adjournment to engage the services of a counsel. He appeared in person and argued his own case. We are of the view that the belated request made by the applicant in his application on erroneous statement of facts cannot now be granted. We, therefore, reject the application made by the applicant.

M. D. Naik
VICE CHAIRMAN 27/2/87
dms

Deepti
MEMBER (AM)

— True Copy —

B. V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
373

— True Copy —