

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 4TH SEPTEMBER, 1986

Present : Hon'ble Justice K.S. Puttaswamy,

Vice-Chairman

Hon'ble Shri P. Srinivasan

Member

Transferred Application No.194/86

S.G. Kulkarni, Major,
S/o G.A. Kulkarni,
Naganur, Via Mudligi,
Gokak Taluk,
Belgaum District

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Applicant

(Shri M. Raghavendrachar . Advocate)

Vs.

1. The Director of Telecommunication,
Office of General Manager,
Telecommunication,
Karnataka Circle,
Bangalore.

2. The General Manager,
Telecommunication,
Karnataka Circle,
Bangalore-560 009.

3. The Chairman,
Posts & Telegraph Board,
New Delhi.

...

Respondents

(Shri M. Vasudeva Rao . Advocate)

The application has come up for hearing before Court
today, Member (A) made the following:

ORDER

The applicant filed a writ petition No.13177/79 before the
High Court of Karnataka which on transfer to this Tribunal, has
been taken on file as application No.194/86.

The applicant was a Telegraphist in the Posts and Telegraph
Department, till he was compulsorily retired from service with
effect from 7.6.1976.

P. Srinivasan

On 1.10.1973 charges were framed against him (Annexure A) for unauthorised absence from duty from 25.7.1973 and for having submitted application for extension of leave belatedly. However, the charges were dropped by a letter of the Senior Superintendent, Telegraph Traffic Division dated 10.6.1975. However, a fresh Memorandum was handed to him dated 22.7.1975 in respect of the same charges. Inquiry was conducted in pursuance of this Memo and an order of penalty was imposed on 7.6.1976 by which he was compulsorily retired from service. Against this order, the applicant filed an appeal to the General Manager, Telephones, Karnataka Circle, Bangalore on 22.7.1976. But this appeal was rejected as belated. The applicant being aggrieved by the order imposing penalty and the appellate order, filed the writ petition referred to above on 3.8.1979 before the High Court of Karnataka.

The contention of the learned counsel for the applicant Shri M.Raghavendrachar is that the charges against the applicant having once been dropped, no inquiry could have been conducted and penalty imposed on the same charges again.

Shri M. Vasudeva Rao learned counsel for the respondents contends, on the other hand, that this point not having been raised in the applicant's appeal filed before the General Manager, Telephones, should not be allowed to be urged before us. He also contends that in the second charge sheet issued to the applicant, absence without leave for some more dates have been added to those that are mentioned in the first charge sheet.

We have considered the matter carefully and have perused the papers filed on behalf of the applicant. We fully agree that a person cannot be proceeded again in respect of a charge which has been dropped earlier. As for the contention of Shri Vasudeva Rao that this point was not raised in the appeal, we do not consider it relevant and

P. S. Rao

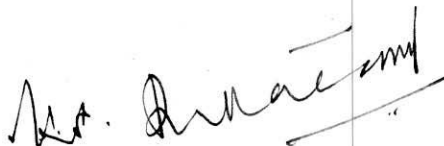
and we accept the applicants plea in this behalf. We have gone through both the charge sheets and we find that the dates mentioned are exactly the same in both the charge sheets except for slight difference in language used. We are satisfied that the second charge sheet was issued in respect of the same charges framed earlier and we, therefore, hold that the order imposing the penalty is illegal and liable to be quashed. We, therefore, quash this order.

However, we find that the applicant was not diligent in taking up the matter to the Court. The order rejecting the appeal was passed on 17.9.1976. The applicant filed the writ petition before the High Court of Karnataka on 3.8.1979 i.e., about 3 years later.

We are, therefore, of the view that we should deny all the financial benefits due to the applicant for the period from 7.6.1976 to 3.8.1979.

In the result we allow this application, quash the orders challenged and direct the respondents to reinstate the applicant in service from 7.6.1976 when he was compulsorily retired and to give him all financial benefits flowing therefrom except for the period from 7.6.1976 to 3.8.1979 as indicated above.

The application is allowed as indicated above. Parties to bear their own costs.



VICE-CHAIRMAN



MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Application No. 194/86 (T)
(W.P 13177/79)

Dated the 3rd ^{Oct} Sep, 86.

To

1. Sri. M. Raghavendrachar, Advocate for applicant,
1074/1075, Banashankari ~~2nd~~ ^{1st} stage, Shrinivasanagar
Bangalore - 50.
2. Director of Telecommunication, office of Gen. Manager,
Telecommunication Karnataka Circle, Bangalore.
3. The Gen Manager, Telecommunication, Karnataka
Circle, Bangalore - 560009.
4. The Chairman Posts & Telegraph Board, New Delhi.
5. Sri. M. Venkudevarao, Central Govt Standing Counsel, High
Court Building
Bangalore.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH
IN APPLICATION NO. 194/86

Please find enclosed herewith the copy of the Order/Interim Order
passed by this Tribunal in the above said Application on 4-9-86.

Encl: As above.

SECTION OFFICER
(Judicial)

incl
13/10

Smt. S.
Pl. 13/10/86
N.