

Prakash M
M RAGHAVENDRA CHAR
Advocate at Law B.L.B.
No 1074-1980 1st Floor R.S.K.
Mysore District
Opp: Raghavendra Nagar, Main
Main Cross Sub-cross 4
BANGALORE-560009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH: BANGALORE

REGISTRATION No.

Between:

V.K.Joshi .. Applicant

And:

**General Manager
Telecom & another .. Respondents**

I N D E X

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Prakash M
Bangalore,

Date:

Counsel for Applicant.

DETAILS OF APPLICATION

1. Particulars of the applicant ,

V.K.JOSHI

(i) Name of the Applicant:

(ii) Name of Father :

(iii) Designation and Office in which employed. :

By Telecom Dist. Engineer,
Deputy Telecom
Dist. Engineer,
at Karwar.

(iv) Office Address :

-do-

(v) Address for Service of all notices :

C/o M. Raghavendra Chakr.
Advocate,
No. 1074 & 1075,
Banashankari 1st Stage,
Sreenivasa Nagar II Phase,
Bangalore.

2. Particulars of the respondent:

(i) Name and/or designation of the respondent:

1. General Manager Telecom,
Karnataka Circle,
Bangalore. -9

2. Director General Telecom,
New Delhi. -2

(ii) Office address of respondents:

-do-

(iii) Address for service of all notices :

-do-

3. Particulars of the order against which application is made:

The application is against the following order:

(i) Order No: (1) Staff/11-253 passed by respondent-1

(ii) Date : 3-9-1983.

(iii) Passed by: (2) Vig. II dated 29-4-85 passed by respondent-2.

(iv) Subject in brief: Order of Censure is passed by respondent-1 and the same has been pass confirmed by the second respondent.

4. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation:

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the Case:

(i) Applicant joined the services of the Posta and Telegraphs Department in the year '60. Having regard to his integrity and meritorious service, he was considered for promotion to various higher posts. He was promoted to the cadre of 'Group-B' in the year '76. Even today he is holding the same post as Deputy Telecom District Engineer at Karwar. The General Manager Telecom, Gujrat Circle, appreciated the services and hard work of the applicant and his sincere work in getting five Exchanges opened, expanded six more and opened seven Combined offices at several places during the year '76-77. When

(ii) But, all of a sudden, he was made to face unjustified, pre-decided and pre-occupied departmental disciplinary enquiry initiated by the respondents and to satisfy one Dr. C.C. Shivappagoudar, who is in close association with the first respondent.

(iii) The applicant states that when he was working at Dharwar District in Gadag as a Sub-Divisional Officer Telegraph, the said Dr. C.C. Shivappagoudar made an application for a telephone connection as per Indian Telegraphs Rules for his profession, in the year '82. The said application was registered immediately at Serial No. 117 in the General Category Waiting List with address S.F. building, Gadag. This was required to be transferred to Special Category as per departmental rules, after verification. During this course, the applicant Shivappagoudar himself informed that though he

practising as a Doctor by profession in Government service, after return from Iran, he is not interested in that professions and has left the service. On the other hand, he is interested in carrying on business in bore-well digging. So, the above waiting list was continued in General Category as he was not a Medical Practitioner. When he failed to get a telephone connection immediately, he submitted yet another application for telephone connection under OVI Scheme on 16-3-83 for his medical profession. That application was submitted in the capacity of an individual and for as a Medical practitioner, with address as Lakkundi Fakirgouda building. S.F.Patil building and Lakkundi Fakirgouda building are the two different names of the same building. The applicant Dr. C.C.Shivappagoudar, however, did not submit any document for the purpose of business and accordingly, the applicant asked the said Dr. C.C.Shivappagoudar to produce documents as per instructions contained in G.M.T. Bangalore No. CCM/1.9/IV dated 29-7-81 (~~unexamined~~) as the telephone connection was required for and in business premises. It is submitted that in accordance with the Circulars, the applicant was given all guidance and was requested to produce the minimum relevant documents. Instead of complying with the requirements of the Department, the said Dr. C.C.Shivappagoudar rushed to Bangalore and made a false and frivolous complaint with the first respondent. On such complaint, the first respondent directed the D.E.T.Hubli to enquire and arrange for telephone connection.

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(iv) The D.E.T., Hubli, came to Gadag for the so-called investigation and provided the telephone connection ignoring all the Departmental Rules and Procedures. Demand note was handed over by hand; arranged its payment even after closing of money transaction of Post Office, gave

a false certificate that no business concern existed in the premises though he saw the sign board hanging on the premises and Mr. C.C. Shivappa Gowder also stated of it.

(v) Based on such false and one sided investigation report of D.R.T., Hubli, the applicant was unlawfully placed under suspension by the first respondent by his letter dated 4-5-'83. It was widely circulated in Newspaper just to malign the applicant. However, suspension was revoked by urgent telegram letter of the first respondent issued by D.R.T., Hubli, from Bangalore and the applicant was asked to join as S.D.C. Telegraphs Gadag on P/N of 8-6-'83. Accordingly, the applicant joined the duty.

(vi) Courts have held to keep an Officer under suspension is very serious than several of punishment. It can be seen from the above facts that the applicant was well within the law in discharge of his duties. On the other hand, a departmental proceedings were initiated under Rule 16 of C.C.S. (CCA) Rules, and a charge-sheet was served on the applicant. After receipt of the charge-sheet the applicant submitted his detailed reply with proof of documentary evidences. But, unfortunately, the first respondent, without considering the said reply imposed the penalty of 'Censure'. The applicant was further put to hardship by way of transferring him to Karwar by the first respondent even before the completion of tenure.

(vii) Against the said order of Censure and in regard to regularisation of suspension period, the applicant submitted statutory appeal to the second respondent and when the appeal was still pending before the second respondent, one more documentary evidence was submitted by the applicant, i.e., Newspaper advertisement appearing in

daily 'Navodaya'. However, the second respondent, by his order dated 29-4-85, rejected the appeal on untenable grounds. Hence, this application.

7. Reliefs sought:

In view of the facts mentioned in para 6 above, the applicant prays for the following reliefs:

"(i) Set aside the impugned order of the first respondent dated 3-9-83 made in Case No. Staff/11.253 and also the impugned order dated 29-4-85 passed by the second respondent in Case No. Vig.11,

(ii) issue necessary directions to the respondents to treat the period of suspension as on duty and to grant all consequential benefits." and also transfer to Gurgaon and also award cost

Grounds:

- (a) The impugned order of the first respondent and affirmed by the second respondent are contrary to law, facts and probabilities of the case.
- (b) The impugned orders of both the respondents are not speaking orders. They are the cryptic orders and hence liable to be set aside.
- (c) The respondents have not applied their mind to the detailed representation made by the applicant. Hence, the impugned orders are one sided and liable to be set aside.
- (d) The impugned orders are made by the respondents without application of judicious mind and without considering all the contentions of the applicant and hence liable to be set aside.

(e) The way in which the applicant is made to suffer even without committing any sort of offence, clearly shows the motivated, pre-occupied and pre-decided intention of the respondents.

(f) There is no justifiable situation which warrants the first respondent to form an opinion to keep the applicant under suspension, that too, without hearing him. None of the ingredients were in existence which call for applicant's suspension in accordance with the Circulars and guidelines issued by the Union of India.

(g) The respondents are also not justified in treating the suspension as such. When the authority ^{is} not justified in giving telephone connection without following the departmental circulars, that itself shows their giving go-bye to the departmental norms and circulars to be followed before giving telephone connection. The authorities have ignored and cleverly showed disrespect to the principles of natural justice.

8. No interim order is prayed for by the applicant.

9. The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc, inasmuch as the representation given to the respondents have not been considered effectively.

10. The applicant further declares that the matter regarding which this application has been made is not pending before any Court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Postal Order respecting the application fee:

1. No. of the Postal Order : DBB/4- 694374 for Rs 30/-
2) AA/9- 375109 for Rs 20/-
2. Name of the Issuing Post Office : High Court P.O.
3. Date of Issue of P.Order : 10-12-85
4. Post Office at which Payable : any post office.

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12. An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures:

1. Order of the first respondent.
2. Order of the second respondent.
3. Representation of the applicant.
4. Postal Order.

In verification:

I, V.K. Joshi s/o *s/o K. C. Joshi*, aged 48 years, working as Deputy Telecom District Engineer, Karwar, do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Bangalore,

Date:



Signature of Applicant.

To

The Registrar,
Central Administrative
Tribunal,
Addl. Bench: Bangalore.

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Annexure- A

INDIAN POSTS & TELEGRAPHS DEPARTMENT
Office of the General Manager-Telecom, Karnataka Circle,
Bangalore-9

No.Staff/11-253

dated: 3-9-83.

ORDER

Shri V.K.Joshi, the then SDOT, Gadag, was issued with a charge sheet under Rule 16 of CCS (SGA) Rules, 1965 vide No.Staff/11-253 dated 16th June 1983 for not registering the application of Dr.C.C.Shivappa Goudar for a telephone connection under OYT in his residence at Gadag. Shri V.K.Joshi in reply to the charge sheet vide his letter dated 25.6.83 wanted to examine the concerned file for verification of dates and other documents and he was given permission to examine the concerned documents by the Disciplinary authority. After examining the concerned documents he submitted on 30-7-83 his explanations to the charge sheet. I have gone through the connected papers and reply given by Shri V.K.Joshi to the charge sheet and I have come to the conclusion that Shri Joshi failed in his duty by not registering the OYT application submitted by Dr.C.C.Shivappa Goudar for a new connection in his residence at Gadag. Since this is the first instance of an offence of this nature committed by Shri V.K.Joshi, I take a lenient view and impose a penalty of "CENSURE" on him for this lapse.

Sd/-

(K.P.LUKE VYDHIAN)
General Manager-Telecom,
Karnataka Circle,
Bangalore-9.

To

Shri V.K.Joshi,
Dy.D.E.Telegraphs,
Karwar - through D.E.Telegraphs, Karwar.

/ True Copy /

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No.2/5/84. VIG-II
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
(DEPTT. OF TELECOMMUNICATIONS)

New Delhi-11001
Dated: the 29-4-85.

ORDER

Shri V.K.Joshi, the then SDOT, Gadag, was suspended by the General Manager Telecom, Karnataka Circle, Bangalore, under sub-rule (1) of Rule 10 of the CCS (CCA) Rules, 1964, vide his order No.Staff/11.253 dated 4th May, 1983. His suspension was revoked by the General Manager Telecom, Bangalore under Clause (c) of sub-rule (5) of Rule 10 of the CCS (CCA) Rules, 1965 vide order No. Staff/11-253 dated 4th June 1983. The suspension period was treated as non duty and his pay and allowances during the period of suspension were fixed at 90 per cent of what he would have drawn, had he not been kept under suspension vide Order No.Staff/11-253 dated 15th Nov. '83.

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Shri V.K.Joshi, SDOT, Gadag, was charge-sheeted under Rule 16 of the CCS (CCA) Rules, 1965 by the General Manager Telecom., Karnataka Circle, Bangalore, vide his order No.Staff/11-253 dated 16th June '83, for not registering the application of Dr.C.C.Shivappa Goudar for a telephone connection under OYT in his residence at Gadag. Shri V.K.Joshi in reply to the charge-sheet vide his letter dated 25.6.83 wanted to examine the concerned file for verification of dates

and other documents and he was given permission to examine the concerned documents by the disciplinary authority. After examining the concerned documents Shri V.K.Joshi submitted his reply to the charge-sheet on 30-7-83. The General Manager Telecom, Karnataka Circle, Bangalore, had gone through the connected papers and the reply given by Shri V.K.Joshi to the charge-sheet and came to the conclusion that Shri V.K.Joshi failed in his duty by not registering the OYT application submitted by Dr.C.C.Shivappa Goudar for a new connection in his residence at Gadag. Since this was the first instance of an offence of this nature committed by Shri V.K.Joshi, the disciplinary authority took a lenient view and imposed a penalty of Censure on Shri V.K.Joshi for this lapse.

Shri V.K.Joshi has submitted two appeals (i) dated 30th Oct. '83 and (ii) 20th January '84 with a further letter dated 8-12-'83 against the penalty of censure and also against the treatment of his period of suspension as non-duty. In his appeal against the penalty of censure he has not made out any new points for consideration. He has only mentioned that the order issued by the General Manager Telecom, is not a speaking order and his arguments in his defence statement have not been properly rebutted. In his application against the treatment of the period of suspension as non-duty, he has stated that there was no justification for placing him under suspension.

Shri
I, K.Thomas Mora, Director General, Telecommunications, have carefully considered both the appeals of Shri V.K.Joshi with reference to facts and circumstances

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of the case. After an objective assessment of the case, I find that the officer was totally wrong in refusing the registration. It is difficult to believe that the Officer who has a long service in the Department, does not know the actual requirement of the Rules. The party sought the telephone connection at his residence under OYT category and not under the special category. There was no waiting list under this category. As such there should have been no difficulty to register the application and to take further action to give a new connection to the party. Although the allegation of trying to extract money from the party could not be substantiated, the Officer has definitely committed the lapse in not giving the telephone connection soon after the application was submitted by the party. The fact that the General Manager Telecom has not issued a speaking order does not take away the merits of the case. The appeal submitted by Shri V.K.Joshi against the penalty of censure has no substance. As regards his appeal regarding treatment of the period of suspension as non duty, there is no scope to treat the period as duty for the purpose of grant of full pay allowance as Shri V.K.Joshi was not exonerated of the charges by the disciplinary authority. In view of these circumstances, I hereby reject both the appeals.

Receipt of this order shall be acknowledged by Shri V.K.Joshi and sent to DDG Vigilance Telecommunications of this Department.

Sd/-
(KOTHOMAS KORA),
Director General, Telecom.

/ True Copy /

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Annexure- C

From:

Shri V.K.Joshi,
Dy. Divisional Engineer,
Telegraphs, Karwar-581 301.

To

The Chairman,
P & T Board,
New Delhi.

Respected Sir,

Sub:- Appeal against the punishment of
"Censure" awarded by G.M.Telecom,
Karnataka Circle, Bangalore, vide
his Memo No.Staff/11-253, dated
3.9.83 (Received by me on 19.9.83).

...

Respectfully I beg to lay before your honour the
full facts and circumstances of the above case and
request to deliver justice.

I was kept under suspension by Shri B.S.G.K.
Setty the then G.M.Telecom., Bangalore vide his Memo
No.Staff/11-253 dated 4.5.83 (Copy enclosed) and I was
relieved of the charge of SDO Telegraphs, Gadag on the
A/N of 9.5.83 vide Director Telecom., Hubli Area No.
STA/2-75 dated 9.5.83, served through Shri S.Raghu,
DET, Hubli at Gadag.

The suspension was revoked and I was asked to take
over charge of SDO Telegraphs, Gadag on 8.6.83 vide GMT,
BG Memo No. Staff/11-253 dated 4.6.83 conveyed vide
XT/1530/7 by the DET, Hubli at Bangalore (copy of tele-
gram is enclosed). Copy of GMT, BG No.Staff/11-253 dated
4.6.83 suspension revocation order received by me on
28.6.83 through the DET, Hubli is enclosed for ready
reference.

Then I was served with charge Sheet under Rule 16

...2

CCS (CCA) Rules, 1965 vide GMT, BG under No.Staff/11-253 dated 16.6.83. Copy of charges of imputative of misconduct and misbehaviour is enclosed for your honour's ready reference.

Brief of charges imputed are Shri Dr.C.C.Shivappa Goudar applied for new telephone connection under OYT in his individual capacity at his residence on 16.3.83. Then SDOT Gadag wrote to the party on 7.4.83 to submit business documents as LEO Borewell business is conducted from that premises and also to produce documents of premises such as rent deed, rent receipt etc. Dr.C.C.Shivappagoudar vide his letter dated 22.4.83 complained that one S.G. Narendra, Junior Engineer O/D demanded Rs.1000/- for giving new phone connection.

D.E.T.Hubli Shri Raghu visited Gadag and inspected the premises as per the directions of the Director Telecom., Hubli and certified that no business enterprises were functioning at that place as SDOT was totally wrong in refusing Registration and giving new connection. Hence, SDOT, Gadag - V.K.Joshi violated sub rule 1(ii) and (iii) of Rule 3 of CCS Conduct Rules 1964.

To this charge sheet I submitted my defence representation vide my letter dated 8.7.83 giving full details of the case. I earnestly request your honour to go through the representation to have complete facts of the case. However, the brief of the representation is as below:

Dr. C.C.Shivappagoudar had applied for telephone connection in his individual name under OYT quoting in the relevant columns of the application form that connection is required for his medical practice etc.

This very party has earlier applied for a new telephone connection and the same was registered at Sl.No.117 of the waiting list (General). Being a Doctor, he is entitled to be brought on special category provided he carries medical practice. When he was asked whether he is practising, he told that he has not found accommodation even for his residence and he was residing in a place hired by Leo Borewells, Gadag. Hence, this application was not transferred to special category.

When he again applied for an OYT connection urgently in the same premises (which he earlier confessed) was rented by Leo Borewells, Gadag. He was asked to give documents to prove his connection with the premises. As he has not responded to the oral request, he was informed in writing, to give the documents on 7.4.83 and also reminded on 29.4.83. Hence, there was no delay or deliberate action on my part in the case as alleged in the imputation of misconduct.

On party's complaint and reportedly on the instructions of G.M., Shri S.Raghu - DET, Hubli visited the premises of the above party and inspected the premises. He was also satisfied about the fact that the party is not a practising doctor. However, ~~he~~ has ordered the release of OYT connection applied for, after discussion with the party.

After this connection was released, his earlier case was referred to DET, Hubli for decision whether it should be brought under special category. The DET, Hubli has not given any decision till my relief. Perhaps still it is not decided.

~~Through the~~ DET, Hubli Shri S.Raghu visited the

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premises of Dr.C.C.Shivappagoudar on the instructions from G.M.Telecom., Bangalore-Shri B.S.G.K.Setty and not as per instructions of the Director, Telecom.,Hubli.

Though the DET, Hubli Shri S.Raghu made thorough inspection of the premises and also after knowing full facts of the case, gave false report to G.M.Telecom., Bangalore. He did not enquire about the complaint made against the J.E.

I established with the documents that the telephone is used by Leo Borewell Enterprises alone. So documents of Leo Borewells were absolutely necessary for registration and there was no delay on my part for the same. The premises given with different names are one and the same. I also requested the G.M.Telecom., Bangalore to drop the case as it is ill-motivated.

After despatching my representation dated 8.7.83 I received permission from G.M.Telecom., Bangalore to inspect the documents. Accordingly after inspection of the documents and in continuation of my earlier representation dated 8.7.83 I submitted another representation vide my letter dated 30.7.83. I enclose herewith the copy of the same for your honour's ready reference.

I have stated in my representation that the premises where the telephone is installed is a rented premises of Leo Borewells, Gadag. Here, I would like to bring to your kind notice that the landlord is keeping printed, machine numbered receipt book and issues monthly receipts towards rent of the buildings, fans, cots, tables, chairs etc. I also requested the GMT, Bangalore to keep me at Gadag since the arrangement was quite possible.

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The G.M. Telecom., Bangalore stating that defences submitted by me are unsatisfactory and awarded punishment of "Censure" (Copy of punishment Order is enclosed for ready reference of your honour).

On going through the punishment Order, it seems that my detailed defence dated 8.7.83 submitted earlier has been left out unseen. The punishment order is not a speaking order bringing out the findings of the disciplinary authority or the arguments advanced by me in my defence statement. I failed to understand how the defence submitted by me has not satisfied the disciplinary authority in the absence of its findings on my arguments.

From the facts submitted above and also documents attached with this appeal, it can be seen that I have been suspended, made to undergo mental torture and punished for no faults & whatsoever on my part. Further, though I had come to Gadag XX at my own request and cost on 17.6.81 (and not completed my tenure), I was shifted from there on this very case. On receipt of transfer order, I have requested for its cancel giving elaborate reasons vide my representation dated 27.6.83 addressed to G.M (Copy enclosed for kind perusal) for which nothing is heard. As though these are not sufficient, I have further been humiliated by giving wide publicity through press about my suspension, transfer, etc.

In view of this, I request your kind honour to review the case in detail and give me justice including transferring back to Gadag.

Expecting justice from the hands of deliverer of justice.

Thanking you,

Yours faithfully,

sd/-
(V.K.Joshi).

V.K.Joshi

67. W.P. 13812 to 13814/80 Sri Shivaraj Patil for petr.
Reg: The adv. for petr. has not furnished FPF and Tom-tom Charges for issuing of sub-service notices to Recdts. 3 to 6.
68. W.P. 14770/80 " S.R. Ramanathan for petr.
Reg: Necessary steps in respect of R-7 who was unserved with notice thrice
69. W.P. 14864/80 " N.Y. Hanumathappa for petr.
Reg: Necessary steps not taken in respect of R-3 who was unsd. with notice thrice vide court orders dt. 10-10-85
70. W.P. 16521/80 " V.V. Upadyaya for petr.
Reg: Furnishing of FPF CA to R-4 to 11
71. W.P. 16614/80 " M.M. Jagirdhar for petr.
Reg: Necessary steps not taken in respect of decessed R-3 post for orders before division bench
72. W.P. 18141/80 " B.S. Raikote for petr.
Reg: The Adv. for the petr. has not filed the sub-service application in respect of R-2(a) vide court orders dated 15-10-85
73. W.P. 18634/80 " S.R. Rammathan for petr.
Reg: The Adv. for petr. has not filed the sub-service application in respect of R-4 vide court orders dated 11-10-85
74. W.P. 1926/80 Sri S.R. Hegde Hudlemani for petr.
Reg: Necessary steps not taken in respect of LR No. 3a who was un-sd with notice thrice.
75. W.P. 20201/80 " K.J. Hegde for petr.
Reg: Necessary steps not taken in respect of R-1 & 3 who were un-sd. with sub-service notices vide court orders dt. 11-10-85.

76. W.P. 20520/80

Reg: Necessary steps to be taken in respect of R-2 who was unserved with notice more than thrice.

Sri. U.L. Narayana Rao for petr.

77. W.P. 21424/80

Reg: Necessary steps to be taken in respect of R-3 who unserved with notice thrice

Smt. Allien Nimmy swamy for petr.

78. W.P. 21708/80

Reg: necessary steps to be taken in respect of deceased R4a and also steps to R-5 who was unserved with notice thrice.

" Shivaraj Patil for petr.

79. W.P. 22086/80

Reg: Necessary steps not taken in respect of R-4 who was unserved with notice thrice

" B.S. Raikote for petr.

80. W.P. 22259/80

Reg: Necessary steps to be taken in respect of -deceased LR No. 4(b) & 4(c) & FPF with CA to LR No.3a

Govt. Adv. for petr.

81. W.P. 22380/80

Reg: furnishing of FPF with CA to LR No. 2(d) & steps to be taken in respect of deceased LR NO.2(a)

" Mohandas N. Hegde for petr.

82. W.P. 22496/80

Reg: FPF with CA & Tom-tom charges deposited for issuing of sub-service notice to R4

Govt. Adv. for petr.

83. W.P. 22501/80

Reg: furnishing of FPF with CA to LR No. 3a

- do -

84. W.P. 30953/81

Reg: FPF & CA for R-3

" S.R. Bannurmatah for petr.

presented
M RAGHAVENDRA CHAR
Advocate B.Sc. L.L.B.
No 1074-1973, 1st Floor B.S.K.
Mysore Bank Bldg
Opp. Raghavendra Nursing Home
Main Cross, Sub-cross 4
BANGALORE-560050

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH: BANGALORE

REGISTRATION No.

Between:

V.K. Joshi .. Applicant

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General Manager
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Bangalore,

Date:

Counsel for Applicant.

FORM 2

(See Rule 4)

**APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT, 1985.**

For Use in Tribunal's Office

Date of Filing

Registration No.

REGISTRATOR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH: BANGALORE

BETWEEN:

V.K.Joshi

..

Applicant

And:

**1. General Manager
Telecom, Bangalore.**

**2. Director General
Telecom, New Delhi.**

..

Respondents

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DETAILS OF APPLICATION

I. Particulars of the applicant

(i) Name of the Applicant:

V.K. JOSHI

(ii) Name of Father

Sh. K. C. Joshi

(iii) Designation and Office in which employed.

By Telecom Dist. Engineer,
Deputy Telecom
Dist. Engineer,
at Karwar.

(iv) Office Address

-do-

(v) Address for Service of all notices

C/o M. Raghavendra Char,
Advocate,
No. 1074 & 1075,
Banashankari 1st Stage,
Greenivasa Nagar II Phase,
Bangalore.

II. Particulars of the respondent:

(i) Name and/or Designation of the respondent:

1. General Manager Telecom,
Karnataka Circle,
Bangalore. - 9

2. Director General Telecom,
New Delhi. - 1

(ii) Office address of respondents:

-do-

(iii) Address for service of all notices

-do-

3. Particulars of the order against which application is made:

The application is against the following order:

(i) Order No: (1) Staff/11-253 passed by respondent-1

(ii) Date : 3-2-1963.

(iii) Passed by: (2) Vg. II dated 25-1-65 passed by respondent-2.

(iv) Subject in brief: Order of Censure is passed by respondent-1 and the same has been passed confirmed by the second respondent.

4. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitations:

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the Cases:

(i) Applicant joined the services of the Posts and Telegraphs Department in the year '60. Having regard to his integrity and meritorious service, he was considered for promotion to various higher posts. He was promoted to the cadre of 'Group-B' in the year '76. Even today he is holding the same post as Deputy Telecom District Engineer at Karwar. The General Manager Telecom, Gujrat Circle, appreciated the services and hard work of the applicant and his sincere work in getting five Exchanges opened, expanded six more and opened seven Combined offices at several places during the year '76-77. When

(ii) But, all of a sudden, he was made to face unjustified, pre-decided and pre-occupied departmental disciplinary enquiry initiated by the respondents and to satisfy one Dr. C.C. Shivappagoudar, who is in close association with the first respondent.

(iii) The applicant states that when he was working at Dharwar District in Gadag as a Sub-Divisional Officer Telegraph, the said Dr. C.C. Shivappagoudar made an application for a telephone connection as per Indian Telegraphs Rules for his profession, in the year '82. The said application was registered immediately at Serial No. 117 in the General Category Waiting List with address S.F. Patil building, Gadag. This was required to be transferred to Special Category as per departmental rules, after due verification. During this course, the applicant, Dr. C.C. Shivappagoudar himself informed that though he was

practising as a Doctor by profession in Government service, after return from Iran, he is not interested in that professions and has left the service. On the other hand, he is interested in carrying on business in bore-well digging. So, the above waiting list was continued in General Category as he was not a Medical Practitioner. When he failed to get a telephone connection immediately, he submitted yet another application for telephone connection under OYT Scheme on 16-3-83 for his medical profession. That application was submitted in the capacity of an individual and for as a Medical practitioner, with address as Lakkundi Fakirgouda building. S.F.Fatil building and Lakkundi Fakirgouda building are the two different names of the same building. The applicant Dr. C.C.Shivappagoudar, however, did not submit any document for the purpose of business and accordingly, the applicant asked the said Dr. C.C.Shivappagoudar to produce documents as per instructions contained in G.M.T. Bangalore No. CCM/1.2/IV dated 29-7-81 (unmarked) as the telephone connection was required for and in business premises. It is submitted that in accordance with the Circulars, the applicant was given all guidance and was requested to produce the minimum relevant documents. Instead of complying with the requirements of the Department, the said Dr. C.C.Shivappagoudar rushed to Bangalore and made a false and frivolous complaint with the first respondent. On such complaint, the first respondent directed the D.E.T.Hubli to enquire and arrange for telephone connection.

(iv) The D.E.T., Hubli, came to Gadag for the so-called investigation and provided the telephone connection ignoring all the Departmental Rules and Procedures. Demand note was handedover by hand; arranged its payment even after closing of money transaction of Post Office, gave

a false certificate that no business concern existed in the premises though he saw the sign board hanging on the premises and Mr. C.C. Shivappa Gowdar also stated of it.

(v) Based on such false and one sided investigation report of D.S.P., Hubli, the applicant was unlawfully placed under suspension by the first respondent by his letter dated 4-5-'83. It was widely circulated in Newspaper just to malign the applicant. However, suspension was revoked by urgent telegram letter of the first respondent issued by D.S.P., Hubli, from Bangalore and the applicant was asked to join as S.D.C. Telegraphs Cadey on P/W of 8-6-'83. Accordingly, the applicant joined the duty.

(vi) Courts have held to keep an Officer under suspension is very serious than several of punishment. It can be seen from the above facts that the applicant was well within the law in discharge of his duties. On the other hand, a departmental proceedings were initiated under Rule 16 of C.C.S. (CCA) Rules, and a charge-sheet was served on the applicant. After receipt of the charge-sheet the applicant submitted his detailed reply with proof of documentary evidences. But, unfortunately, the first respondent, without considering the said reply imposed the penalty of 'Censure'. The applicant was further put to hardship by way of transferring him to Karwar by the first respondent even before the completion of tenure.

(vii) Against the said order of Censure and in regard to regularisation of suspension period, the applicant submitted statutory appeal to the second respondent and when the appeal was still pending before the second respondent, one more documentary evidence was submitted by the applicant, i.e., Newspaper advertisement appearing in

daily 'Novodnya'. However, the second respondent, by his order dated 29-4-85, rejected the appeal on untenable grounds. Hence, this application.

7. Reliefs sought:

In view of the facts mentioned in para 6 above, the applicant prays for the following reliefs:

"(i) Set aside the impugned order of the first respondent dated 3-9-83 made in Case No. Staff/11.253 and also the impugned order dated 29-4-85 passed by the second respondent in Case No. Vig.11;

(ii) issue necessary directions to the respondents to treat the period of suspension as on duty and to grant all consequential benefits," and transfer back to grade and draw salary cash

Grounds:

(a) The impugned order of the first respondent and affirmed by the second respondent are contrary to law, facts and probabilities of the case.

(b) The impugned orders of both the respondents are not speaking orders. They are the cryptic orders and hence liable to be set aside.

(c) The respondents have not applied their mind to the detailed representation made by the applicant. Hence, the impugned orders are one sided and liable to be set aside.

(d) The impugned orders are made by the respondents without application of judicious mind and without considering all the contentions of the applicant and hence liable to be set aside.

(e) The way in which the applicant is made to suffer even without committing any sort of offence, clearly shows the motivated, pre-occupied and pre-decided intention of the respondents.

(f) There is no justifiable situation which warrants the first respondent to form an opinion to keep the applicant under suspension, that too, without hearing him. None of the ingredients were in existence which call for applicant's suspension in accordance with the Circulars and guidelines issued by the Union of India.

(g) The respondents are also not justified in treating the suspension as such. When the authority ^{is} not justified in giving telephone connection without following the departmental circulars, that itself shows their giving go-bye to the departmental norms and circulars to be followed before giving telephone connection. The authorities have ignored and cleverly showed disrespect to the principles of natural justice.

8. No interim order is prayed for by the applicant.

9. The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc, inasmuch as the representation given to the respondents have not been considered effectively.

10. The applicant further declares that the matter regarding which this application has been made is not pending before any Court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Postal Order respecting the application fee:

- Final*
1. No. of the Postal Order : DBB/4-694374 Jan Rs 30/-
 2. Name of the Issuing Post Office : AA/9-375109 Jan Rs 20/-
High Court P.O.
 3. Date of Issue of P.Order : 10-12-85
 4. Post Office at which Payable : at any post office.

12. An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures:

1. Order of the first respondent.
2. Order of the second respondent.
3. Representation of the applicant.
4. Postal Order.

In verification:

I, V.K.Joshi S/o *Shri K.C. Joshi*, aged 48 years
working as Deputy Telecom District Engineer, Karwar,
do hereby verify that the contents from 1 to 13 are
true to my personal knowledge and belief and that I
have not suppressed any material facts.

Bangalore,

Date:


Signature of Applicant.

To

The Registrar,
Central Administrative
Tribunal,
Addl. Bench: Bangalore.

9
Annexure- A

INDIAN POSTS & TELEGRAPHS DEPARTMENT
Office of the General Manager-Telecom, Karnataka Circle,
Bangalore-9

No.Staff/11-253

dated: 3-9-83.

ORDER

Shri V.K.Joshi, the then SDOT, Gadag, was issued with a charge sheet under Rule 16 of CCS (CCA) Rules, 1965 vide No.Staff/11-253 dated 16th June 1983 for not registering the application of Dr.C.C.Shivappa Goudar for a telephone connection under OYT in his residence at Gadag. Shri V.K.Joshi in reply to the charge sheet vide his letter dated 25.6.83 wanted to examine the concerned file for verification of dates and other documents and he was given permission to examine the concerned documents by the Disciplinary authority. After examining the concerned documents he submitted on 30-7-83 his explanations to the charge sheet. I have gone through the connected papers and reply given by Shri V.K.Joshi to the charge sheet and I have come to the conclusion that Shri Joshi failed in his duty by not registering the OYT application submitted by Dr.C.C.Shivappa Goudar for a new connection in his residence at Gadag. Since this is the first instance of an offence of this nature committed by Shri V.K.Joshi, I take a lenient view and impose a penalty of "CENSURE" on him for this lapse.

Sd/-

(K.P.LUXE VYDHIAN)
General Manager-Telecom,
Karnataka Circle,
Bangalore-9.

To

Shri V.K.Joshi,
Dy.D.E.Telegraphs,
Karwar - through D.E.Telegraphs, Karwar.

/ True Copy /

Shri

10

No.2/5/84. VIG-II
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
(DEPTT. OF TELECOMMUNICATIONS)

New Delhi-11001
Dated: the 29-4-85.

ORDER

Shri V.K.Joshi, the then SDOT, Gadag, was suspended by the General Manager Telecom, Karnataka Circle, Bangalore, under sub-rule (1) of Rule 10 of the CCS (CCA) Rules, 1964, vide his order No.Staff/11-253 dated 8th May, 1983. His suspension was revoked by the General Manager Telecom, Bangalore under Clause (c) of sub-rule (5) of Rule 10 of the CCS (CCA) Rules, 1965 vide order No. Staff/11-253 dated 4th June 1983. The suspension period was treated as non duty and his pay and allowances during the period of suspension were fixed at 90 per cent of what he would have drawn, had he not been kept under suspension vide Order No.Staff/11-253 dated 15th Nov. '83.

Shri V.K.Joshi, SDOT, Gadag, was charge-sheeted under Rule 16 of the CCS (CCA) Rules, 1965 by the General Manager Telecom., Karnataka Circle, Bangalore, vide his order No.Staff/11-253 dated 16th June '83, for not registering the application of Dr.C.C.Shivappa Goudar for a telephone connection under GYT in his residence at Gadag. Shri V.K.Joshi in reply to the charge-sheet vide his letter dated 25.6.83 wanted to examine the concerned file for verification of dates

Shri

and other documents and he was given permission to examine the concerned documents by the disciplinary authority. After examining the concerned documents Shri V.K.Joshi submitted his reply to the charge-sheet on 30-7-83. The General Manager Telecom, Karnataka Circle, Bangalore, had gone through the connected papers and the reply given by Shri V.K.Joshi to the charge-sheet and came to the conclusion that Shri V.K.Joshi failed in his duty by not registering the GYT application submitted by Dr.C.C.Shivappa Goudar for a new connection in his residence at Gadag. Since this was the first instance of an offence of this nature committed by Shri V.K.Joshi, the disciplinary authority took a lenient view and imposed a penalty of Censure on Shri V.K.Joshi for this lapse.

Shri V.K.Joshi has submitted two appeals (i) dated 30th Oct. '83 and (ii) 20th January '84 with a further letter dated 8-12-'83 against the penalty of censure and also against the treatment of his period of suspension as non-duty. In his appeal against the penalty of censure he has not made out any new points for consideration. He has only mentioned that the order issued by the General Manager Telecom, is not a speaking order and his arguments in his defence statement have not been properly rebutted. In his application against the treatment of the period of suspension as non-duty, he has stated that there was no justification for placing him under suspension.

I, K.Thomas Kora, Director General, Telecommunications, have carefully considered both the appeals of Shri V.K.Joshi with reference to facts and circumstances

of the case. After an objective assessment of the case, I find that the officer was totally wrong in refusing the registration. It is difficult to believe that the Officer who has a long service in the Department, does not know the actual requirement of the Rules. The party sought the telephone connection at his residence under OYT category and not under the special category. There was no waiting list under this category. As such there should have been no difficulty to register the application and to take further action to give a new connection to the party. Although the allegation of trying to extract money from the party could not be substantiated, the Officer has definitely committed the lapse in not giving the telephone connection soon after the application was submitted by the party. The fact that the General Manager Telecom has not issued a speaking order does not take away the merits of the case. The appeal submitted by Shri V.K.Joshi against the penalty of censure has no substance. As regards his appeal regarding treatment of the period of suspension as non duty, there is no scope to treat the period as duty for the purpose of grant of full pay allowance as Shri V.K.Joshi was not exonerated of the charges by the disciplinary authority. In view of these circumstances, I hereby reject both the appeals.

Receipt of this order shall be acknowledged by Shri V.K.Joshi and sent to DDG Vigilance Telecommunications of this Department.

Sd/-
(KOTHOMAS KORA),
Director General, Telecom.

/ True Copy /

Handwritten signature

From:

Shri V.K.Joshi,
Dy. Divisional Engineer,
Telegraphs, Karwar-581 301.

To

The Chairman,
P & T Board,
New Delhi.

Respected Sir,

Sub:- Appeal against the punishment of
"Censure" awarded by G.M.Telecom,
Karnataka Circle, Bangalore, vide
his Memo No.Staff/11-253, dated
3.9.83 (Received by me on 19.9.83).

...

Respectfully I beg to lay before your honour the
full facts and circumstances of the above case and
request to deliver justice.

I was kept under suspension by Shri B.S.G.K.
Setty the then G.M.Telecom., Bangalore vide his Memo
No.Staff/11-253 dated 4.5.83 (Copy enclosed) and I was
relieved of the charge of SDO Telegraphs, Gadag on the
A/N of 9.5.83 vide Director Telecom., Hubli Area No.
STA/2-75 dated 9.5.83, served through Shri S.Raghu,
DET, Hubli at Gadag.

The suspension was revoked and I was asked to take
over charge of SDO Telegraphs, Gadag on 8.6.83 vide GMT,
BG Memo No. Staff/11-253 dated 4.6.83 conveyed vide
XT/1530/7 by the DET, Hubli at Bangalore (copy of tele-
gram is enclosed). Copy of GMT, BG No.Staff/11-253 dated
4.6.83 suspension revocation order received by me on
26.6.83 through the DET, Hubli is enclosed for ready
reference.

Then I was served with charge Sheet under Rule 16

CCS (CCA) Rules, 1965 vide GNT, BG under No.Staff/11-253 dated 16.6.83. Copy of charges of imputative of misconduct and misbehaviour is enclosed for your honour's ready reference.

Brief of charges imputed are Shri Dr.C.C.Shivappa Goudar applied for new telephone connection under OYT in his individual capacity at his residence on 16.3.83. Then SDOT Gadag wrote to the party on 7.4.83 to submit business documents as LEO Borewell business is conducted from that premises and also to produce documents of premises such as rent deed, rent receipt etc. Dr.C.C.Shivappagoudar vide his letter dated 22.4.83 complained that one S.G. Narendra, Junior Engineer O/D demanded Rs.1000/- for giving new phone connection.

D.B.T.Hubli Shri Raghu visited Gadag and inspected the premises as per the directions of the Director Telecom., Hubli and certified that no business enterprises were functioning at that place as SDOT was totally wrong in refusing Registration and giving new connection. Hence, SDOT, Gadag - V.K.Joshi violated sub rule 1(ii) and (iii) of Rule 3 of CCS Conduct Rules 1964.

To this charge sheet I submitted my defence representation vide my letter dated 8.7.83 giving full details of the case. I earnestly request your honour to go through the representation to have complete facts of the case. However, the brief of the representation is as below:

Dr. C.C.Shivappagoudar had applied for telephone connection in his individual name under OYT quoting in the relevant columns of the application form that connection is required for his medical practice etc.

Shivappa

This very party has earlier applied for a new telephone connection and the same was registered at Sl.No.117 of the waiting list (General). Being a Doctor, he is entitled to be brought on special category provided he carries medical practice. When he was asked whether he is practising, he told that he has not found accommodation even for his residence and he was residing in a place hired by Leo Borewells, Gadag. Hence, this application was not transferred to special category.

When he again applied for an OYT connection urgently in the same premises (which he earlier confessed) was rented by Leo Borewells, Gadag. He was asked to give documents to prove his connection with the premises. As he has not responded to the oral request, he was informed in writing, to give the documents on 7.4.83 and also reminded on 29.4.83. Hence, there was no delay or deliberate action on my part in the case as alleged in the imputation of misconduct.

On party's complaint and reportedly on the instructions of G.M., Shri S.Raghu - DET, Hubli visited the premises of the above party and inspected the premises. He was also satisfied about the fact that the party is not a practising doctor. However, he has ordered the release of OYT connection applied for, after discussion with the party.

After this connection was released, his earlier case was referred to DET, Hubli for decision whether it should be brought under special category. The DET, Hubli has not given any decision till my relief. Perhaps still it is not decided.

Dr. ...
~~Thereafter~~ DET, Hubli Shri S.Raghu visited the

premises of Dr.C.C.Shivappagoudar on the instructions from G.M.Telecom., Bangalore-Shri B.S.G.K.Setty and not as per instructions of the Director, Telecom.,Hubli.

Though the DET, Hubli Shri S.Raghu made thorough inspection of the premises and also after knowing full facts of the case, gave false report to G.M.Telecom., Bangalore. He did not enquire about the complaint made against the J.E.

I established with the documents that the telephone is used by Leo Borewell Enterprises alone. So documents of Leo Borewells were absolutely necessary for registration and there was no delay on my part for the same. The premises given with different names are one and the same. I also requested the G.M.Telecom., Bangalore to drop the case as it is ill-motivated.

After despatching my representation dated 8.7.83 I received permission from G.M.Telecom., Bangalore to inspect the documents. Accordingly after inspection of the documents and in continuation of my earlier representation dated 8.7.83 I submitted another representation vide my letter dated 30.7.83. I enclose herewith the copy of the same for your honour's ready reference.

I have stated in my representation that the premises where the telephone is installed is a rented premises of Leo Borewells, Gadag. Here, I would like to bring to your kind notice that the landlord is keeping printed, machine numbered receipt book and issues monthly receipts towards rent of the buildings, fans, cots, tables, chairs etc. I also requested the GMT, Bangalore to keep me at Gadag since the arrangement was quite possible.

The G.M.Telecom., Bangalore stating that defences submitted by me are unsatisfactory and awarded punishment of "Censure" (Copy of punishment Order is enclosed for ready reference of your honour).

On going through the punishment Order, it seems that my detailed defence dated 8.7.83 submitted earlier has been left out unseen. The punishment order is not a speaking order bringing out the findings of the disciplinary authority on the arguments advanced by me in my defence statement. I failed to understand how the defence submitted by me has not satisfied the disciplinary authority in the absence of its findings on my arguments.

From the facts submitted above and also documents attached with this appeal, it can be seen that I have been suspended, made to undergo mental torture and punished for no faults & whatsoever on my part. Further, though I had come to gadag ~~at~~ at my own request and cost on 17.6.81 (and not completed my tenure), I was shifted from there on this very case. On receipt of transfer order, I have requested for its cancel giving elaborate reasons vide my representation dated 27.6.83 addressed to G.M (Copy enclosed for kind perusal) for which nothing is heard. As though these are not sufficient, I have further been humiliated by giving wide publicity through Press about my suspension, transfer, etc.

In view of this, I request your kind honour to review the case in detail and give me justice including transferring back to Gadag.

Expecting justice from the hands of deliverer of justice.

Thanking you,

Yours faithfully,

Sd/-
(V.K.Joshi).

- | | |
|--|--|
| 180. WP. 1398/82
Reg: FPF CA to issue
fresh notice to R1 for
the II time. | Sri. K.S. Vyasa Rao Advocate
for petitioner., |
| 181. WP. 1399/82
-do- R-3 -do- | Sri.T.S. Ramachandra
-do- |
| 182. WP. 1416/82
-do- R3 -do- | Sri. H.K. Basavaraj
-do- |
| 183. WP. 1470/82
-do- proposed rest -do- | Sri. H. Thipperudrappa
-do- |
| 184. WP. 1502/82 (LR)
FPF CA & 2 WP copies
for R1 & R2., | Sri. Sona Vakkund
-do- |
| 185. WP. 1595/82 (HRC)
FPF CA for R1., | Sri.G.B. Manjunath
-do- |
| 186. WP. 1672/82 (LR)
FPF CA for R3., | Sri.S.V. Shama Rao
-do- |
| 187. WP. 1616/82 (LR)
FPF CA for R6., | Sri. I.G. Cachchinamath
-do- |
| 188. WP. 1621/82 (LR)
FPF CA for R3., | Sri. K.S. Gowrishankar
-do- |
| 189. WP. 1647/82 (LR)
FPF CA for R3., | Sri. P.S. Mali Patil
-do- |
| 190. WP. 1689/82 (LR)
FPF CA for R3., | Sri.B.N. Dayanan
-do- |
| 191. WP. 1703/82 (LR)
FPF CA for R3 to 5., | Sri. Shantesh Gureddy
-do- |
| 192. WP. 1801/82 (LR)
FPF CA for R2., | Sri. N.A.Mandgi
-do- |
| 193. WP. 1900 & 1/82 (LR)
FPF CA & WP copy for R1., | Sri.B.S. Raikote
-do- |
| 194. WP. 2178 & 73/82 (LR)
FPF CA & WP copies for
-R1. | Sri.S.V. Shastri
-do- |
| 195. WP. 2362/82 (LR)
FPF CA & 2 WP copies
for R3 & R4., | Sri. Jayaram & Jayaram
-do- |

Post W.Ps. before Court for orders Regarding
Furnishing of FPF and CA to issue fresh notices
to Respondents for the II time.

- | | |
|---|---|
| 196. WP. 2475/82
Reg: FPF and CA to issue
fresh notices to R4 for
the II time. | Sri. S.K. Kulkarni Advocate
for petitioner., |
| 197. WP. 2540/82
-do- -do- R3., | Sri. G.G. Shastri
-do- |
| 198. WP. 2604/82
-do- R3 -do- | Smt. Hemalatha Mahishi
-do- |
| 199. WP. 2609/82
-do- R3 -do- | Sri. S.N. Hatti
-do- |
| 200. WP. 2628/82
-do- R-1 -do- | Sri. Shantesh Gureddi
-do- |
| 201. WP. 2633/82
-do- R4 -do- | M/s. Raghupathy and
Keerthi -do- |
| 202. WP. 2664/82
-do- R3 -do- | Sri. U.N. Raghupathy
-do- |
| 203. WP. 2680/82
-do- R3 -do- | Sri. Jayakumar S. Patil
-do- |
| 204. WP. 2793/82
-do- R3 -do- | Sri. F.V. Patil
-do- |
| 205. WP. 2855/82
-do- R8 and 9 -do- | Sri. A.V. Albal
-do- |

.....

Presented by

M RAGHAVENDRA CHAR
Advocate B.Sc L.L.B.
No 10/4 10th 1st Stage B.S.K.
Mysore Cantt. KV
Opp. Raghavendra Nursing Home
Main Cross Sub-cross 4
BANGALORE-560050

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH: BANGALORE

REGISTRATION No.

Between:

V.K.Joshi .. Applicant

And:

General Manager
Telecom & another .. Respondents

I N D E X

Sl.No.	Particulars	Page Nos.
1.	Memorandum of Application	1 to 8
2.	Order No.Staff./11.253 dt: 3-9-'83 of the General Manager Telecom,Karnataka Circle Bangalore. An A'	9
3.	Order No.Vig.II dated 29-4-'85 passed by the Director General Telecom, New Delhi. An B	10 - 12
4.	Representation of the applicant addressed to the Chairman, P&T Board. An C	13 - 16 A
5.	Postal Order in respect of the application Fee.	

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Bangalore,

Date:

Counsel for App

DETAILS OF APPLICATION

1. Particulars of the applicant :

- (i) Name of the Applicant: V.E. JOSEPH
- (ii) Name of Father : Sh. K.L. Forli
- (iii) Designation and Office in which employed. : Dy. Telecom Dist. Engineer, Deputy Telecom Dist. Engineer, at Karwar.
- (iv) Office Address : -do-
- (v) Address for service of all notices : C/o M. Raghavendra Char, Advocate, Ho-1074 & 1075, Rameshwari 1st Stage, Greenivasa Nagar II Phase, Bangalore.

2. Particulars of the respondent:

- (i) Name and/or designation of the respondent: 1. General Manager Telecom, Karnataka Circle, Bangalore. -9
2. Director General Telecom, New Delhi. -1
- (ii) Office address of respondents: -do-
- (iii) Address for service of all notices : -do-

3. Particulars of the order against which application is made:

The application is against the following order:

- (i) Order No: (1) Staff/11-253 passed by respondent-1
- (ii) Date : 3-9-1983.
- (iii) Passed by: (2) Vtg. II dated 29-4-85 passed by respondent-2.
- (iv) Subject in brief: Order of Censure is passed by respondent-1 and the same has been confirmed by the second respondent.

4. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation:

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the Case:

(i) applicant joined the services of the Posts and Telegraphs Department in the year '60. Having regard to his integrity and meritorious service, he was considered for promotion to various higher posts. He was promoted to the cadre of 'Group-B' in the year '76. Even today he is holding the same post as Deputy Telecom District Engineer at Karwar. The General Manager Telecom, Gujrat Circle, appreciated the services and hard work of the applicant and his sincere work in getting five Exchanges opened, expanded six more and opened seven Combined offices at several places during the year '76-77. When

(ii) But, all of a sudden, he was made to face unjustified, pre-decided and pre-occupied departmental disciplinary enquiry initiated by the respondents and to satisfy one Dr. C.C. Shivappa Gowdar, who is in close association with the first respondent.

(iii) The applicant states that when he was working at Karwar District in Gadag as a Sub-Divisional Officer Telegraph, the said Dr. C.C. Shivappa Gowdar made an application for a telephone connection as per Indian Telegraphs Rules for his profession, in the year '82. The said application was registered immediately at Serial No. 117 in the General Category Waiting List with address S.F. Patil building, Gadag. This was required to be transferred to Special Category as per departmental rules, after due verification. During this course, the applicant, Dr. C.C. Shivappa Gowdar himself informed that though he was

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(d) The impugned orders are made by the respondents considering all the contentions of the applicant and without application of judicial mind and without hence liable to be set aside.

(c) The respondents have not applied their mind to the detailed representation made by the applicant. Hence, the impugned orders are one sided and liable to be set aside.

(b) The impugned orders of both the respondents are not speaking orders. They are the cryptic orders and hence liable to be set aside.

(a) The impugned order of the first respondent and affirmed by the second respondent are contrary to law, facts and probabilities of the case.

Grounds

Handwritten: N. Gopal and also respondent
all constitutional benefits and
respondents to erect the period of
(11) Issue necessary directions to the

(1) set aside the impugned order of the first respondent dated 3-8-83 made in case no. State/11-253 and also the impugned order dated 28-4-85 passed by the second respondent in case no. VIg-117

In view of the facts mentioned in para 6 above, the applicant prays for the following reliefs:

7. Reliefs sought:

grounds. Hence, this application. order dated 28-4-85, rejected the appeal on untenable grounds. However, the second respondent, by his

9

MINORITY- A

INDIAN POSTS & TELEGRAPHS DEPARTMENT
Office of the General Manager-Telecom, Karnataka Circle,
Bangalore-8

No.Staff/11-253

dated: 3-9-83.

ORDER

Shri V.K.Joshi, the then SDOT, Gadag, was issued with a charge sheet under Rule 16 of CCS (GSA) Rules, 1965 vide No.Staff/11-253 dated 16th June 1983 for not registering the application of Dr.C.C.Shivappa Goudar for a telephone connection under GFT in his residence at Gadag. Shri V.K.Joshi in reply to the charge sheet vide his letter dated 25.6.83 wanted to examine the concerned file for verification of dates and other documents and he was given permission to examine the concerned documents by the Disciplinary authority. After examining the concerned documents he submitted on 30-7-83 his explanations to the charge sheet. I have gone through the connected papers and reply given by Shri V.K.Joshi to the charge sheet and I have come to the conclusion that Shri Joshi failed in his duty by not registering the GFT application submitted by Dr.C.C.Shivappa Goudar for a new connection in his residence at Gadag. Since this is the first instance of an offence of this nature committed by Shri V.K.Joshi, I take a lenient view and impose a penalty of "CENSURE" on him for this lapse.

sd/-

(K.P. LUKE VIDHIAN)
General Manager-Telecom,
Karnataka Circle,
Bangalore-8.

To

Shri V.K.Joshi,
Dy.D.S.Telegraphs,
Karwar - through D.S.Telegraphs, Karwar.

/ True Copy /

Shri

12. An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures:

1. Order of the first respondent.
2. Order of the second respondent.
3. Representation of the applicant.
4. Postal Order.

In verification:

I, V.K. Joshi s/o *Shri K. C. Joshi*, aged *48 years*

working as Deputy Telecom District Engineer, Karwar.

do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Bangalore.

Date:


Signature of Applicant.

To

The Registrar,
Central Administrative
Tribunal,
Addl. Bench: Bangalore.

(e) The way in which the applicant is made to suffer even without committing any sort of offence, clearly shows the motivated, pre-occupied and pre-decided intention of the respondents.

(f) There is no justifiable situation which warrants the first respondent to form an opinion to keep the applicant under suspension, that too, without hearing him. None of the ingredients were in existence which call for applicant's suspension in accordance with the Circulars and guidelines issued by the Union of India.

(g) The respondents are also not justified in treating the suspension as such. ^{is} then the authority/not justified in giving telephone connection without following the departmental circulars, that itself shows their giving go-bye to the departmental norms and circulars to be followed before giving telephone connection. The authorities have ignored and cleverly showed disrespect to the principles of natural justice.

8. No interim order is prayed for by the applicant.

9. The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc., inasmuch as the representation given to the respondents have not been considered effectively.

10. The applicant further declares that the matter regarding which this application has been made is not pending before any Court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Postal Order respecting the application fee:

1. Name of the Postal Order :
2. Name of the Issuing Post Office :
3. Date of Issue of P.Order :
4. Post Office at which Payable : at any post office.

Amul

From:

Shri V.K.Joshi,
Dy. Divisional Engineer,
Telegraphs, Karwar-581 301.

To

The Chairman,
P & T Board,
New Delhi.

Respected Sir,

Sub:- Appeal against the punishment of
"Censure" awarded by G.M.Telecom,
Karnataka Circle, Bangalore, vide
his Memo No.Staff/11-253, dated
3.9.83 (Received by me on 19.9.83).

...

Respectfully I beg to lay before your honour the
full facts and circumstances of the above case and
request to deliver justice.

I was kept under suspension by Shri B.S.G.K.
Setty the then G.M.Telecom., Bangalore vide his Memo
No.Staff/11-253 dated 4.5.83 (Copy enclosed) and I was
relieved of the charge of SDO Telegraphs, Gadag on the
A/N of 9.5.83 vide Director Telecom., Hubli Area No.
STA/2-75 dated 9.5.83, served through Shri S.Raghu,
DET, Hubli at Gadag.

The suspension was revoked and I was asked to take
over charge of SDO Telegraphs, Gadag on 8.6.83 vide GMT,
BG Memo No. Staff/11-253 dated 4.6.83 conveyed vide
NE/1530/7 by the DET, Hubli at Bangalore (copy of tele-
gram is enclosed). Copy of GMT, BG No.Staff/11-253 dated
4.6.83 suspension revocation order received by me on
28.6.83 through the DET, Hubli is enclosed for ready
reference.

Shri V.K.Joshi
Then I was served with charge Sheet under Rule 16

This very party has earlier applied for a new telephone connection and the same was registered at Sl.No.117 of the waiting list (General). Being a Doctor, he is entitled to be brought on special category provided he carries medical practice. When he was asked whether he is practising, he told that he has not found accommodation even for his residence and he was residing in a place hired by Leo Borewells, Gadag. Hence, this application was not transferred to special category.

When he again applied for an OVT connection urgently in the same premises (which he earlier confessed) was rented by Leo Borewells, Gadag. He was asked to give documents to prove his connection with the premises. As he has not responded to the oral request, he was informed in writing, to give the documents on 7.4.83 and also reminded on 29.4.83. Hence, there was no delay or deliberate action on my part in the case as alleged in the imputation of misconduct.

On party's complaint and reportedly on the instructions of G.M., Shri S.Raghu - DET, Hubli visited the premises of the above party and inspected the premises. He was also satisfied about the fact that the party is not a practising doctor. However, he has ordered the release of OVT connection applied for, after discussion with the party.

After this connection was released, his earlier case was referred to DET, Hubli for decision whether it should be brought under special category. The DET, Hubli has not given any decision till my relief. Perhaps still it is not decided.

Handwritten signature ~~Throughout~~ DET, Hubli Shri S.Raghu visited the

premises of Dr.C.C.Shivappagoudar on the instructions from G.M.Telecom., Bangalore-Shri B.S.G.K.Setty and not as per instructions of the Director, Telecom., Hubli.

Though the DET, Hubli Shri S.Raghu made thorough inspection of the premises and also after knowing full facts of the case, gave false report to G.M.Telecom., Bangalore. He did not enquire about the complaint made against the J.E.

I established with the documents that the telephone is used by Leo Borewell Enterprises alone. So documents of Leo Borewells were absolutely necessary for registration and there was no delay on my part for the same. The premises given with different names are one and the same. I also requested the G.M.Telecom., Bangalore to drop the case as it is ill-motivated.

After despatching my representation dated 8.7.83 I received permission from G.M.Telecom., Bangalore to inspect the documents. Accordingly after inspection of the documents and in continuation of my earlier representation dated 8.7.83 I submitted another representation vide my letter dated 30.7.83. I enclose herewith the copy of the same for your honour's ready reference.

I have stated in my representation that the premises where the telephone is installed is a rented premises of Leo Borewells, Gadag. Here, I would like to bring to your kind notice that the landlord is keeping printed, machine numbered receipt book and issues monthly receipts towards rent of the buildings, fans, cots, tables, chairs etc. I also requested the G.M., Bangalore to keep me at Gadag since the arrangement was quite possible.

...5

16 D

The G.M.Telecom., Bangalore stating that defences submitted by me are unsatisfactory and awarded punishment of "Censure" (Copy of punishment Order is enclosed for ready reference of your honour).

On going through the punishment Order, it seems that my detailed defence dated 8.7.83 submitted earlier has been left out unseen. The punishment order is not a speaking order bringing out the findings of the disciplinary authority on the arguments advanced by me in my defence statement. I failed to understand how the defence submitted by me has not satisfied the disciplinary authority in the absence of its findings on my arguments.

From the facts submitted above and also documents attached with this appeal, it can be seen that I have been suspended, made to undergo mental torture and punished for no faults & whatsoever on my part. Further, though I had come to Gadag ~~in~~ at my own request and cost on 17.6.81 (and not completed my tenure). I was shifted from there on this very case. On receipt of transfer order, I have requested for its cancel giving elaborate reasons vide my representation dated 27.6.83 addressed to G.M (Copy enclosed for kind perusal) for which nothing is heard. As though these are not sufficient, I have further been humiliated by giving wide publicity through Press about my suspension, transfer, etc.

In view of this, I request your kind honour to review the case in detail and give me justice including transfer back to Gadag.

Expecting justice from the hands of deliverer of justice.

Thanking you,

Yours faithfully,

Sd/-
(V.K.Joshi).

133. WP. 31920-21/81
(F.P.F. & CA for R4) Sri. Jayaram & Jayaram
Advocate for petitioner.
134. WP. 31456/81
(Steps for R4)
(Expired on 11.7.84) Sri. G.H. Raghunatha Rao
-do-
135. WP. 162/82 (LR)
FPF, CA for R2., Sri. U.L.Narayana Rao
-do-
136. WP. 196/82 (IR)
FPF CA & WP copy
for R5., Sri.A.K.Bhat
-do-
- 136A. WP. 199/82
FPF CA for R5., Sri. M. Ram Bhat
-do-
137. WP. 228/82 (LRS)
FPF, CA & WP copies
for R4., Sri. M. Ram Bhat
-do-
138. WP. 240/82 (LR)
FPF, CA & WP copy for R2 Sri.S. Kamate
-do-
139. WP. 295/82 (LR)
FPF CA & WP copy for R3., Sri. P.V. Shetty
-do-
140. WP. 297/82 (LR)
FPF CA & WP copy for R2., Sri.A.R. Panchgavi
-do-
141. WP. 360/82 (LR)
FPF & CA for R3 & R4., Sri. P.S. Mali Patil
-do-
142. WP. 379/82 (LR)
FPF & CA & WP copy for
R3., Sri.B. Veerabhadrappe
-do-
143. WP. 385/82 (LR)
FPF, & CA for R4., Sri. I.G. Gachchinamath
-do-
144. WP. 386/82 (LR)
FPF, & CA for R3 to R6. Sri.I.G.Gachchinamath
-do-
145. WP. 394/82 (LR)
FPF CA & WP copies for
R1, R3, & R6., Sri.S.V. Rama Rao
-do-
146. WP. 408/82 (LR)
FPF, CA & WP copy for
R1., Sri.C.M. Desai
-do-
147. WP. 422/82 (LR)
FPF, CA & 2 WP copies
for R3 & R4., V.P. Mallaya
-do-

- | | |
|---|--|
| 117. WP. 34401/81
Reg: FPF, Cover, and
Ackt to R3., | Sri. S. Shivaram
Advocate for the petitioner. |
| 118. WP. 34187/81
Reg: FPF -do- to R3(f) | Sri. N. Krishnanandagupta
-do- |
| 119. WP. 34011/81
Reg: FPF d-o- to R1. | Govt. Advocate
-do- |
| 120. WP. 34427/81
Reg: Necessary steps
to be taken in respect
of R3., | Sri. Shivaraj Patil
-do- |
| 121. WP. 34433/81
Reg: FPF -do- to R3., | Sri. D.S. Hosmath
-do- |
| 122. WP. 34449/81
Reg: Necessary Steps to
be taken in respect of
R5., | Sri. G.N. Seshagiri Rao
-do- |
| 123. WP. 33889/81
Reg: FPF -do- for R4., | Sri. U.L. Narayana Rao
-do- |
| 124. WP. 33882/81
Reg: FPF -do- R1., | Sri. G.S. Visweswara
-do- |
| 125. WP. 31004 to 7/81
FPF & etc for R3(b) | Sri. D.S. Lingappa
-do- |
| 126. WP. 31420/81
(Steps to be taken for
decd R3)
(Expired on 24-9-85) | Sri. H. Kumar Swamy
-do- |
| 127. WP. 31983/81
(FPF & CA on IA's) | Sri. K.N. Subba Reddy
-do- |
| 128. WP. 33076/81
FPF & CA etc for
R2(c) & (f) | Sri. J. Nagaraj
-do- |
| 129. WP. 33270/81
(PF to be paid to issue
or notices on IA's.) | Sri. A.B. Patil
-do- |
| 130. WP. 33772/81
(Do on IA's) | Sri. B. Rudre Gowda
-do- |
| 131. WP. 33809/81
(Do on IA's) | Sri. Suresh S. Joshi
-do- |
| 132. WP. 34192/81
(Do on IA's) | Sri. K.N. Vijaya Raghavan
-do- |

DETAILS OF APPLICATION

- I. Particulars of the applicant ; V.K.JOSHI
- (i) Name of the Applicant:
- (ii) Name of Father : *V.K.A. Joshi*
- (iii) Designation and Office in which employed. : Dy. Telecom Dist. Engineer, Deputy Telecom Dist. Engineer, at Karwar.
- (iv) Office Address : -do-
- (v) Address for Service of all notices : C/o M.Raghavendra Achar, Advocate, No.1074 & 1075, Banashankari 1st Stage, Sreenivasa Nagar II Phase, Bangalore.

II. Particulars of the respondent:

- (i) Name and/or designation of the respondent: 1. General Manager Telecom, Karnataka Circle, Bangalore.
2. Director General Telecom, New Delhi.
- (ii) Office address of respondents: -do-
- (iii) Address for service of all notices : -do-

3. Particulars of the order against which application is made:

The application is against the following order:

- (i) Order No: (1) Staff/11-253 passed by respondent-1
- (ii) Date : 3-9-1983.
- (iii) Passed by: (2) Vig.II dated 29-4-85 passed by respondent-2.
- (iv) Subject in brief: Order of Censure is passed by respondent-1 and the same has been ~~pass~~ confirmed by the second respondent.

4. Jurisdiction of the Tribunal:

Mudali

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation:

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the Case:

(i) Applicant joined the services of the Posta and Telegraphs Department in the year '60. Having regard to his integrity and meritorious service, he was considered for promotion to various higher posts. He was promoted to the cadre of 'Group-B' in the year '76. Even today he is holding the same post as Deputy Telecom District Engineer at Karwar. The General Manager Telecom, Gujrat Circle, appreciated the services and hard work of the applicant and his sincere work in getting five Exchanges opened, expanded six more and opened seven Combined offices at several places during the year '76-77. when

(ii) But, all of a sudden, he was made to face unjustified, pre-decided and pre-occupied departmental disciplinary enquiry initiated by the respondents and to satisfy one Dr. C.C. Shivappagoudar, who is in close association with the first respondent.

(iii) The applicant states that when he was working at Dharwar District in Gadag as a Sub-Divisional Officer Telegraph, the said Dr. C.C. Shivappagoudar made an application for a telephone connection as per Indian Telegraphs Rules for his profession, in the year '82. The said application was registered immediately at Serial No. 117 in the General Category Waiting List with address S.F. Patil building, Gadag. This was required to be transferred to Special Category as per departmental rules, after due verification. During this course, the applicant, Dr. C.C. Shivappagoudar himself informed that though he was

practising as a Doctor by profession in Government service, after return from Iran, he is not interested in that professions and has left the service. On the other hand, he is interested in carrying on business in bore-well digging. So, the above waiting list was continued in General Category as he was not a Medical Practitioner. When he failed to get a telephone connection immediately, he submitted yet another application for telephone connection under GTF Scheme on 16-3-83 for his medical profession. That application was submitted in the capacity of an individual and for as a Medical practitioner, with address as Lakkundi Fakirgouda building. S.P. Petil building and Lakkundi Fakirgouda building are the two different names of the same building. The applicant Dr. C.C. Shivappagoudar, however, did not submit any document for the purpose of business and accordingly, the applicant asked the said Dr. C.C. Shivappagoudar to produce documents as per instructions contained in G.M.T. Bangalore no. CCY/1.3/IV dated 29-7-81 (~~referred~~) as the telephone connection was required for and in business premises. It is submitted that in accordance with the Circulars, the applicant was given all guidance and was requested to produce the minimum relevant documents. Instead of complying with the requirements of the Department, the said Dr. C.C. Shivappagoudar rushed to Bangalore and made a false and frivolous complaint with the first respondent. On such complaint, the first respondent directed the D.E.E. Hubli to enquire and arrange for telephone connection.

(iv) The D.E.E., Hubli, came to Gadag for the so-called investigation and provided the telephone connection ignoring all the Departmental Rules and Procedures. Demand note was handed over by hand; arranged its payment even after closing of money transaction of Post Office, gave

a false certificate that no business concern existed in the premises though he saw the sign board hanging on the premises and Dr. C.C. Shivappagoudar also stated of it.

(v) Based on such false and one sided investigation report of D.E.T., Hubli, the applicant was unlawfully placed under suspension by the first respondent by his letter dated 4-5-'83. It was widely circulated in Newspaper just to malign the applicant. However, suspension was revoked by urgent telegram letter of the first respondent issued by D.E.T., Hubli, from Bangalore and the applicant was asked to join as S.D.C. Telegraphs Gadag on F/N of 8-6-'83. Accordingly, the applicant joined the duty.

(vi) Courts have held to keep an Officer under suspension is very serious than several of punishment. It can be seen from the above facts that the applicant was well within the law in discharge of his duties. On the other hand, a departmental proceedings were initiated under Rule 16 of C.C.S. (CCA) Rules, and a charge-sheet was served on the applicant. After receipt of the charge-sheet the applicant submitted his detailed reply with proof of documentary evidences. But, unfortunately, the first respondent, without considering the said reply imposed the penalty of 'Censure'. The applicant was further put to hardship by way of transferring him to Karwar by the first respondent even before the completion of tenure.

(vii) Against the said order of Censure and in regard to regularisation of suspension period, the applicant submitted statutory appeal to the second respondent and when the appeal was still pending before the second respondent, one more documentary evidence was submitted by the applicant, i.e., Newspaper advertisement appearing in

daily 'Navodaya'. However, the second respondent, by his order dated 29-4-85, rejected the appeal on untenable grounds. Hence, this application.

7. Reliefs sought:

In view of the facts mentioned in para 6 above, the applicant prays for the following reliefs:

"(i) Set aside the impugned order of the first respondent dated 3-9-83 made in Case No. Staff/11.253 and also the impugned order dated 29-4-85 passed by the second respondent in Case No. Vig.II;

(ii) issue necessary directions to the respondents to treat the period of suspension as on duty and to grant all consequential benefits." *and also transfer back to grade and award cash*

Grounds:

(a) The impugned order of the first respondent and affirmed by the second respondent are contrary to law, facts and probabilities of the case.

(b) The impugned orders of both the respondents are not speaking orders. They are the cryptic orders and hence liable to be set aside.

(c) The respondents have not applied their mind to the detailed representation made by the applicant. Hence, the impugned orders are one sided and liable to be set aside.

(d) The impugned orders are made by the respondents without application of judicious mind and without considering all the contentions of the applicant and hence liable to be set aside.

(e) The way in which the applicant is made to suffer even without committing any sort of offence, clearly shows the motivated, pre-occupied and pre-decided intention of the respondents.

(f) There is no justifiable situation which warrants the first respondent to form an opinion to keep the applicant under suspension, that too, without hearing him. None of the ingredients were in existence which call for applicant's suspension in accordance with the Circulars and guidelines issued by the Union of India.

(g) The respondents are also not justified in treating the suspension as such. When the authority ^{is} not justified in giving telephone connection without following the departmental circulars, that itself shows their giving go-bye to the departmental norms and circulars to be followed before giving telephone connection. The Authorities have ignored and cleverly showed disrespect to the principles of natural justice.

8. No interim order is prayed for by the applicant.

9. The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc, inasmuch as the representation given to the respondents have not been considered effectively.

10. The applicant further declares that the matter regarding which this application has been made is not pending before any Court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Postal Order respecting the application Fees:

1. Name of the Postal Order

2. Name of the Issuing Post Office

3. Date of Issue of P.Order :

4. Post Office at which Payable: At any post office.

DBB/A-694374 Jan Rs 30/-
2) AA/9-375109 Jan Rs 20/-
: High Court Po.

10-12-85

12. An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures:

1. Order of the first respondent.
2. Order of the second respondent.
3. Representation of the applicant.
4. Postal Order.

In verification:

I, V.R. Joahi S/o *Sh. K. C. Jorli* . aged 48 years

working as Deputy Telecom District Engineer, Marwar,

do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Bangalore,

Date:



Signature of Applicant.

To

The Registrar,
Central Administrative
Tribunal,
Addl. Bench: Bangalore.

No.2/5/84. VIG-II
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
(DEPTT. OF TELECOMMUNICATIONS)

New Delhi-11001

Dated: the 29-4-85.

O R D E R

Shri V.K.Joshi, the then SDOT, Gadag, was suspended by the General Manager Telecom, Karnataka Circle, Bangalore, under sub-rule (1) of Rule 10 of the CCS (CCA) Rules, 1964, vide his order No.Staff/11.253 dated 4th May, 1983. His suspension was revoked by the General Manager Telecom, Bangalore under Clause (c) of sub-rule (5) of Rule 10 of the CCS (CCA) Rules, 1965 vide order No. Staff/11-253 dated 4th June 1983. The suspension period was treated as non duty and his pay and allowances during the period of suspension were fixed at 90 per cent of what he would have drawn, had he not been kept under suspension vide Order No.Staff/11-253 dated 15th Nov. '83.

Shri V.K.Joshi, SDOT, Gadag, was charge-sheeted under Rule 16 of the CCS (CCA) Rules, 1965 by the General Manager Telecom., Karnataka Circle, Bangalore, vide his order No.Staff/11-253 dated 16th June '83, for not registering the application of Dr.C.C.Shivappa Goudar for a telephone connection under OYT in his residence at Gadag. Shri V.K.Joshi in reply to the charge-sheet vide his letter dated 25.6.83 wanted to examine the concerned file for verification of dates

and other documents and he was given permission to examine the concerned documents by the disciplinary authority. After examining the concerned documents Shri V.K.Joshi submitted his reply to the charge-sheet on 30-7-83. The General Manager Telecom, Karnataka Circle, Bangalore, had gone through the connected papers and the reply given by Shri V.K.Joshi to the charge-sheet and came to the conclusion that Shri V.K.Joshi failed in his duty by not registering the OYT application submitted by Dr.C.C.Shivappa Goudar for a new connection in his residence at Gadag. Since this was the first instance of an offence of this nature committed by Shri V.K.Joshi, the disciplinary authority took a lenient view and imposed a penalty of Censure on Shri V.K.Joshi for this lapse.

Shri V.K.Joshi has submitted two appeals (i) dated 30th Oct. '83 and (ii) 20th January '84 with a further letter dated 8-12-'83 against the penalty of censure and also against the treatment of his period of suspension as non-duty. In his appeal against the penalty of censure he has not made out any new points for consideration. He has only mentioned that the order issued by the General Manager Telecom, is not a speaking order and his arguments in his defence statement have not been properly rebutted. In his application against the treatment of the period of suspension as non-duty, he has stated that there was no justification for placing him under suspension.

I, K.Thomas Kora, Director General, Telecommunications, have carefully considered both the appeals of Shri V.K.Joshi with reference to facts and circumstances

of the case. After an objective assessment of the case, I find that the officer was totally wrong in refusing the registration. It is difficult to believe that the Officer who has a long service in the Department, does not know the actual requirement of the Rules. The party sought the telephone connection at his residence under OYT category and not under the special category. There was no waiting list under this category. As such there should have been no difficulty to register the application and to take further action to give a new connection to the party. Although the allegation of trying to extract money from the party could not be substantiated, the Officer has definitely committed the lapse in not giving the telephone connection soon after the application was submitted by the party. The fact that the General Manager Telecom has not issued a speaking order does not take away the merits of the case. The appeal submitted by Shri V.K. Joshi against the penalty of censure has no substance. As regards his appeal regarding treatment of the period of suspension as *non duty*, there is no scope to treat the period as duty for the purpose of grant of full pay allowance as Shri V.K. Joshi was not exonerated of the charges by the disciplinary authority. In view of these circumstances, I hereby reject both the appeals.

Receipt of this order shall be acknowledged by Shri V.K. Joshi and sent to DDC Vigilance Telecommunications of this Department.

Sd/-
(KOTHENAS KORA),
Director General, Telecom.

/ True Copy /

From:

Shri V.K.Joshi,
Dy. Divisional Engineer,
Telegraphs, Karwar-581 301.

To

The Chairman,
P & T Board,
New Delhi.

Respected Sir,

Sub:- Appeal against the punishment of
"Censure" awarded by G.M.Telecom,
Karnataka Circle, Bangalore, vide
his Memo No.Staff/11-253, dated
3.9.83 (Received by me on 19.9.83).

...

Respectfully I beg to lay before your honour the
full facts and circumstances of the above case and
request to deliver justice.

I was kept under suspension by Shri B.S.G.K.
Setty the then G.M.Telecom., Bangalore vide his Memo
No.Staff/11-253 dated 4.5.83 (Copy enclosed) and I was
relieved of the charge of SDO Telegraphs, Gadag on the
A/N of 9.5.83 vide Director Telecom., Hubli Area No.
STA/2-75 dated 9.5.83, served through Shri S.Raghu,
DET, Hubli at Gadag.

The suspension was revoked and I was asked to take
over charge of SDO Telegraphs, Gadag on 8.6.83 vide GMT,
BG Memo No. Staff/11-253 dated 4.6.83 conveyed vide
XT/1530/7 by the DET, Hubli at Bangalore (copy of tele-
gram is enclosed). Copy of GMT, BG No.Staff/11-253 dated
4.6.83 suspension revocation order received by me on
26.6.83 through the DET, Hubli is enclosed for ready
reference.

Then I was served with charge Sheet under Rule 16

CCS (CCA) Rules, 1965 vide GYT, DG under No.Staff/11-253 dated 16.6.83. Copy of charges of imputative of misconduct and misbehaviour is enclosed for your honour's ready reference.

Brief of charges imputed are Shri Dr.C.C.Shivappa Goudar applied for new telephone connection under GYT in his individual capacity at his residence on 16.3.83. Then SDOT Gadag wrote to the party on 7.4.83 to submit business documents as LEO Forewell business is conducted from that premises and also to produce documents of premises such as rent deed, rent receipt etc. Dr.C.C.Shivappagoudar vide his letter dated 22.4.83 complained that one S.G. Narendra, Junior Engineer O/D demanded Rs.1000/- for giving new phone connection.

D.E.T.Hubli Shri Raghu visited Gadag and inspected the premises as per the directions of the Director Telecom., Hubli and certified that no business enterprises were functioning at that place as SDOT was totally wrong in refusing Registration and giving new connection. Hence, SDOT, Gadag - V.K.Joshi violated sub rule 1(ii) and (iii) of Rule 3 of CCS Conduct Rules 1964.

To this charge sheet I submitted my defence representation vide my letter dated 8.7.83 giving full details of the case. I earnestly request your honour to go through the representation to have complete facts of the case. However, the brief of the representation is as below:

Dr. C.C.Shivappagoudar had applied for telephone connection in his individual name under GYT quoting in the relevant columns of the application form that connection is required for his medical practice etc.

Shivappa

This very party has earlier applied for a new telephone connection and the same was registered at Sl.No.117 of the waiting list (General). Being a Doctor, he is entitled to be brought on special category provided he carries medical practice. When he was asked whether he is practising, he told that he has not found accommodation even for his residence and he was residing in a place hired by Leo Borewells, Gadag. Hence, this application was not transferred to special category.

When he again applied for an OYT connection urgently in the same premises (which he earlier confessed) was rented by Leo Borewells, Gadag. He was asked to give documents to prove his connection with the premises. As he has not responded to the oral request, he was informed in writing, to give the documents on 7.4.83 and also reminded on 29.4.83. Hence, there was no delay or deliberate action on my part in the case as alleged in the imputation of misconduct.

On party's complaint and reportedly on the instructions of G.M., Shri S.Raghu - DET, Hubli visited the premises of the above party and inspected the premises. He was also satisfied about the fact that the party is not a practising doctor. However, he has ordered the release of OYT connection applied for, after discussion with the party.

After this connection was released, his earlier case was referred to DET, Hubli for decision whether it should be brought under special category. The DET, Hubli has not given any decision till my relief. Perhaps still it is not decided.

~~Subsequent to~~ DET, Hubli Shri S.Raghu visited the

Handwritten signature

premises of Dr.C.C.Shivappaoudar on the instructions from G.M.Telecom., Bangalore-Shri S.S.C.K.Setty and not as per instructions of the Director, Telecom.,Hubli.

Though the DTF, Hubli Shri S.Raghu made thorough inspection of the premises and also after knowing full facts of the case, gave false report to G.M.Telecom., Bangalore. He did not enquire about the complaint made against the J.K.

I established with the documents that the telephone is used by Leo Borewell Enterprises alone. So documents of Leo Borewells were absolutely necessary for registration and there was no delay on my part for the same. The premises given with different names are one and the same. I also requested the G.M.Telecom., Bangalore to drop the case as it is ill-motivated.

After despatching my representation dated 6.7.83 I received permission from G.M.Telecom.,Bangalore to inspect the documents. Accordingly after inspection of the documents and in continuation of my earlier representation dated 6.7.83 I submitted another representation vide my letter dated 30.7.83. I enclose herewith the copy of the same for your honour's ready reference.

I have stated in my representation that the premises where the telephone is installed is a rented premises of Leo Borewells, Gadag. Here, I would like to bring to your kind notice that the landlord is keeping printed, machine numbered receipt book and issues monthly receipts towards rent of the buildings, fans, cots, tables, chairs etc. I also requested the G.M., Bangalore to keep me at Gadag since the arrangement was quite possible.

...5

The G.M. Telecom., Bangalore stating that defences submitted by me are unsatisfactory and awarded punishment of "Censure" (Copy of punishment Order is enclosed for ready reference of your honour).

On going through the punishment Order, it seems that my detailed defence dated 9.7.83 submitted earlier has been left out unseen. The punishment order is not a speaking order bringing out the findings of the disciplinary authority or the arguments advanced by me in my defence statement. I failed to understand how the defence submitted by me has not satisfied the disciplinary authority in the absence of its findings on my arguments.

From the facts submitted above and also documents attached with this appeal, it can be seen that I have been suspended, made to undergo mental torture and punished for no faults & whatsoever on my part. Further, though I had come to Gadag in at my own request and cost on 17.6.81 (and not completed my tenure), I was shifted from there on this very case. On receipt of transfer order, I have requested for its cancel giving elaborate reasons vide my representation dated 27.6.83 addressed to G.M (Copy enclosed for kind perusal) for which nothing is heard. As though these are not sufficient, I have further been humiliated by giving wide publicity through Press about my suspension, transfer, etc.

In view of this, I request your kind honour to review the case in detail and give me justice including transferring back to Gadag.

Expecting justice from the hands of deliverer of justice.

Thanking you,

Yours faithfully,

sd/-
(V.K. Joshi).

237. W.P. 4617/82 Sri. B.V. Acharya for petr.,
Reg: FPF and CA to issue
fresh notices to R-2 to
4 for the II time.
238. W.P. 4642/82 Sri. V.B. Ganachari -do-
-do- R-2 and 3 -do-
239. W.P. 4674/82 Sri. M. Raghavendra Rao -do-
-do- R-3 -do-
240. W.P. 4695/82 Sri. B.V. Acharya -do-
-do- R-1 -do-
241. W.P. 4712/82 Sri. Shivaraj Patil -do-
-do- R-3 -do-
242. W.P. 4906/82 Sri. T. Venkanna -do-
-do- R-2 and 3 -do-
243. W.P. 4915/82 Sri. C.R. Patil -do-
-do- R-2 -do-
244. W.P. 4930/82 Sri. M.H. Sawkar -do-
-do- R-2 -do-
245. W.P. 4977/82 Sri. Y.S. Ramakrishna -do-
-do- R-1 & 2 -do-
246. W.P. 4987/82 Sri. R.B. Sadasivappa -do-
-do- R-1 and 2 -do-
247. W.P. 5068/82 Sri. V.S. Gunjal for petr.,
Reg: FPF and CA to issue
fresh notices to R-2
for the II time.
248. W.P. 5182/82 Sri. A.J. Shetty -do-
-do- R-10 -do-
and Steps in respect
of deceased R-7.,
249. W.P. 5240/82 Sri. B.G. Annaiah -do-
-do- R-2 -do-
250. W.P. 5248/82 Sri. G.B. Shastri -do-
-do- R-1 and 2
251. W.P. 5277/82 Sri. H.R. Venkataramangiah -do-
-do- R-2 -do-
252. W.P. 5360/82 Sri. M. Dasappa -do-
-do- R-3 -do-
253. W.P. 5396/82 Sri. Ravi Deshpande -do-
-do- R-1 -do-

254. W.P. 5399/82 Sri. Shivaraj Patil for petr.,
Reg: PF to issue notices
to proposed LRs
255. W.P. 5413/82 Sri. P. Ramachandra Rao -do-
Reg: FPF and CA to issue
fresh notices to R-2
for the II time.
256. W.P. 5424/82 Sri. S.V. Subbaiah -do-
-do- R-3 -do-
257. W.P. 5439/82 Sri. R. Anantharaman -do-
Reg: Furnishing of PF
to issue notices on
IA I to III.
258. W.P. 5636/82 Sri. C.N. Kamath -do-
-do- R-1 and 2 -do-
259. W.P. 5649/82 Sri. S.V. Shama Rao -do-
-do- R-3 -do-
260. W.P. 5657/82 Sri. A.B. Patil -do-
-do- R-2 -do-
261. W.P. 5824/82 Sri. S.Channarayana Reddy -do-
-do- R-2 -do-
262. W.P. 5849/82 Sri. Kadidal Manjappa -do-
-do- R-1 -do-
263. W.P. 5884/82 Sri. C.V. Guruve Gowda -do-
-do- R-5 -do-
264. W.P. 5993/82 Sri. V.V. Upadhyaya -do-
-do- R-2 -do-
265. W.P. 5998/82 Sri. G.R. Karisidda Devaru -do-
-do- R-1 -do-
266. W.P. 6050/82 (LR) Sri. M.M. Jagtialar for petr.,
FPF and CA to issue
notice to R-3.,
267. W.P. 6146/82 (LR) Sri. T.N. Nagupathy -do-
FPF and CA to issue
notice to R-2.,
268. W.P. 6169/82 (CS Act) Sri. M. Bhagavendra Rao -do-
FPF and CA to issue
notice to R-2 and R3.,
269. W.P. 6170/82 (M) Sri. K. Ramasubbaiah -do-
FPF, CA and W.P. copy
to issue notice to R-1.,

..... /-

JUDICIAL - SECTION

Accounts Officer (Cash Section) may kindly remove the following Demand Drafts/ Indian Postal Orders for necessary action:-

S.No.	Date of Receipt	Name of Applicant	Sl.No. of Filing Register	Registration No.	No. & Date of Crossed Demand Drafts/POs.	Amount	Remarks
1	2	3	4	5	6	7	8
1.	16.12.85	Sh. V.K. Joshi	The cases yet to be admitted		1. No. AA 375109 9	Rs. 20/-	
					2. No. BB 694374 4	Rs. 30/-	

Received the above Demand Drafts/Indian Postal Orders.

()
Accounts Officer (Cash)

New application

...

Presented on 10.12.85 in the High Court of Karnataka

Before CAT, AB, Bangalore.

Shri V.K. Joshi,
Dy. Telecom Distt. Engineer,
Karwar

&

1. G.M. Telecom, Karnataka Circle, Bangalore.
2. D.G. Telecom, Delhi.

Advocate - Shri M. Raghavendrachar.

Prayer to treat period of suspension as duty
and all consequential benefits and consideration ~~xxxx~~ his request
for retransfer in the interest of Justice and equity.

No interim relief sought.

- for reference only -
- Noted from Dy. R. High Court
Office (Shri. Rajanathappa)
for advance information

for the purpose of
the (see below)
for the purpose of

was applied

...

presented on 10.12.73 in the High Court of Karnataka

Before Hon. Mr. Justice

Dr. V.K. Joshi,
Jy. Justice Clerk, Engineer,
Karnataka

*

1. S.M. Jaisankar, Karnataka Clerk, Bangalore.

2. A.C. Jaisankar, Jy. Justice Clerk, Bangalore.

Advocate - Sri M. Raghavacharya.

Prayer for first period of suspension as duty

and all consequential benefits and compensation etc. request

for retirement in the interest of justice and equity.

No objection raised.

This new Application was obtained from Dy. Regs. H.C. of
Karnataka on 16.12.85. The Advocate Shri M. Raghavendrachar,
mentioned this case before V.C. on 16.12.85. V.C. pointed out
that ^{CAT} Office has said that Affn is defective in format
and the petitioner/Advocate is to be advised to rectify.

R/12/85



Sl. no. 9/85 - Jull

~~18/12/85~~
17

Petitioner ~~letter~~ advised in a letter

R
18/12

...the ...
...the ...
...the ...
...the ...
...the ...



24/10/12

...the ...

24/10/12

For Reference only
Noted from High Court Dy. R. Office

HIGH COURT OF KARNATAKA

Despatch No. 7077/WB/85

10.12.1985

From

The Registrar,
High Court of Karnataka.

To

The Registrar,
CAT (B),
Madras.

Sub:- Filing of petition.

...

Sir,

Shri M. Raghavendrachar, Advocate, has presented
a petition u/s 19 of the Act on behalf of petitioner, V.K. Joshi,
Dy. Telecom Distt. Engineer, Karwar.

The petition presented to the Registry of this Court
does not contain any interim prayer.

Yours faithfully,

Sd/-
Vaigyanathappa
IV Dy. Registrar

Handwritten notes at the top of the page, including "10.12.1992" and "10.12.1992".

HIGH COURT OF KANSAS

10.12.1992 10.12.1992

From
The Registrar,
High Court of Kansas.

To
The Registrar,
CAT

Subject: Bill of Petition.

Sir,

I am M. Registrar, High Court, Kansas, and I am presenting
a petition to you as of the 10th day of December, 1992, in
the case of the State of Kansas, Plaintiff, vs. [Name],
Defendant. The petition is presented to the Registrar of this Court
and does not contain any other matter.

Yours faithfully,
[Signature]
M. Registrar
High Court of Kansas

Presented today
at 11.30 a.m.

10/12/85

Before the Central Administrative Tribunal
IN THE HIGH COURT OF KARNATAKA, BANGALORE

PRESENTATION FORM

No. 961

Serial No. pu - No. of 1985
Kanwar District

Advocate Sri

M. Raghavendra

Between

V.K. Jash

and

G.M.S

Sl. No.	Description of papers present	Court fee affixed on the paper	
1.	Index		
2.	On the Memo of Appeal Petition/Application		
3.	On Vakalath	50	00
4.	On Certified Copies		
5.	On Process Fee		
6.	On Copy Application		
7.		1	
8.			
9.			
10.			

Number of copies furnished :

Advocate for Appellant
Petitioner
Respondent

Presented

Advocate's Clerk
Bangalore

Date..... 198

Received paper and with
Court-fee labels as above

Receiving Clerk

Forms can be had at :- The Judicial Department Multipurpose Co-operative Society Ltd., High Court Buildings, Bangalore-560 001.

Date..... 198

Receiving Clerk

Bangalore

Advocate's Clerk

Court-fee tables as above

Received paper and with

Presented

Advocate for
Respondent
Petitioner
Appellant

Number of copies furnished :

10	.....	....
9	.....	....
8	.....	....
7	.....	....
6	On Copy Application	....	
5	On Process Fee	....	
4	On Certified Copies	....	
3	On Vakalat	....	
2	On the Memo of Appeal Petition/Application	....	
1	Index	....	
No.	present	on the paper		
Sl.	Description of papers	Court fee affixed		

and

Advocate's

Between

Serial No.

District

No. of 198

No.

PRESENTATION FORM

IN THE HIGH COURT OF KARNATAKA, BANGALORE

No. 12018

In the

Court of C.A.

per CASE No. OF 1985

Plaintiff/Appellant/Petitioner

Vs

Defendant/Respondent

V.K. Joshi

G.M.

INDEX

(of Papers and Documents produced with Complaint/Appeal/Petition
Application/Counter Affidavit/Cross-Objections)

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3	Ag. A.	
4	Copy of G.M. order	
5		
6	Ag. B.	10
7	Copy of Ag. B.	
8		
9	Valuation	10 D
10	Agenda called G.M. L. Ag. B.	11-13
11	I.P.O.	
12		
13	6 copies	
14		
15		

Date: 10.12.82

Advocate

for

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT BANGALORE

APPEAL No. /85

Between:

Shri V.K.Joshi,
Dy.Telecom Dist.Engineer,
Karwar - 581 301. .. APPELLANT

And:

1. General Manager Telecom,
Karnataka Circle,
Bangalore-560 002.
2. Director General Telecom,
New Delhi-110 001. .. RESPONDENTS

MEMORANDUM OF APPEAL UNDER SECTION 13 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT.

The abovenamed appellant submits as under:

I. The address of the appellant for the purpose of issue of Court summons, etc., is that of his Counsel, Sri ~~Ravi~~ M.Raghavendra Achar, Advocate, No.1074 and 1075, Banashankari Ist Stage, Srinivasa Nagar II Phase, Bangalore-50.

II. The addresses of the respondents for the said purpose are as shown in the above cause title.

III. This appeal is directed against the order of the first respondent dated 3-5-'83 made in Case No.Staff/11.253 wherein the appellant was imposed with penalty of 'Censure' which was confirmed by the second respondent by his order dated 29.4.'85 in Case No.VIG II, on the following facts and grounds:

Facts of the case

1. The appellant joined the services of the Posts and Telegraphs Department in the year '60. Having regard to

his integrity and meritorious service, he was considered for promotion to various higher posts. He was promoted to the cadre of 'Group-B' in the year '76. Even today he is holding the same post as Deputy Telecom District Engineer at Karwar. It is pertinent to state here that the General Manager Telecom, Gujrat Circle, appreciated the services and hard work of the appellant and his sincere work in getting five Exchanges opened, expanded six more and opened seven Combined Offices at several places during the year 1976-77. When such being the case, he was made to face unjustified, pre-decided and occupied departmental disciplinary case initiated by the respondents and to satisfy one Dr.C.C.Shivappagoudar, who is in close association with the first respondent.

2. The appellant states that when he was working at Gadag in Dharwar District as a ^{Sub Divisional Officer in Telephone} ~~Second Division Clerk,~~ the said Dr.C.C.Shivappagoudar made an application for a telephone connection as per India Telegraphs Rules for his profession, in the year '82. The said application was registered immediately at the Serial No.117 in the General Category Waiting List with address S.F.Patil building, Gadag. This was required to be transferred to Special Category as per departmental rules, after due verification. During this course, the applicant, Dr.C.C. Shivappagoudar himself informed that though he was practising as a Doctor by profession in Government service, after return from Iran, he is not interested in that profession and has left the service. On the other hand, he is interested ~~and~~ in carrying on business in bore-well digging. So, the above waiting list was continued in General Category as he was not a Medical Practitioner. When he failed to get a telephone connection immediately, he submitted yet another application for Telephone connection under O.Y.T.Scheme on

16-3-83 for his medical profession. The application submitted was in the capacity of individual and for medical profession with address as Lakkundi Pakirgouda building. The S.P.Patil building and Lakkundi Fakirgouda building are the two different names of the same building. The applicant Dr.C.C.Shivappagoudar, however, did not submit any document for the purpose of business and accordingly, the appellant asked the applicant to produce documents as per instructions contained in G.M.T. Bangalore No.COM/1.7/IV dated 25-7-81 (Annexure-A) as the telephone connection was required for and in business premises. It is submitted that in accordance with the Circulars, the applicant was given all guidance and was requested to produce the minimum relevant documents. Instead of complying with the requirements of the Department, the applicant rushed to Bangalore and made a false and frivolous complaint to the first respondent. On such complaint, the first respondent directed the D.E.T., Hubli, to enquire and arrange for telephone connection.

3. The D.E.T., Hubli, came to Gadag for the so-called investigation and provided the telephone connection ignoring all the Departmental Rules and procedures. Demand Note was handed over by hand; arranged its payment even after closing of money transaction of Post Office, gave a false certificate that no business concern existed in the premises though he saw the sign board hanging on the premises and Dr.C.C.Sh vappagoudar also stated of it.

4. Based on such false and one sided investigation report of D.E.T., Hubli, the appellant was unlawfully placed under suspension by the first respondent by the letter dated 4-5-'83. It was widely circulated in Newspaper just to malign the appellant. However, suspension was revoked by urgent telegram quoting letter of first respondent

issued by D.E.T., Hubli, from Bangalore and the appellant was asked to join as S.D.C. Telegraphs Gadag on F/N of 8-6-83. Accordingly, the appellant joined the duties.

5. Courts have held to keep an Officer under suspension on very serious than several of punishments. It can be seen from the above facts that the appellant was well within the law in discharge of his duties. On the other hand, a departmental proceedings were initiated under Rule 16 of C.C.S. (C.C.&A.) Rules, on the following charges:

"While Shri V.K.Joshi was working as SDOT, Gadag, one Dr.C.C.Shivappa Goudar submitted an application for a telephone connection under OYT in the name of the individual at his residence at Gadag. His application was received in the o/o SDOT Gadag on 16-3-83, but no demand note was issued by the SDOT for the payment of deposit. However, on 7.4.83 Shri V.K.Joshi, SDOT, Gadag issued a letter to the party stating that as per the intimation of the field staff that no hospital was existing in which the party required a telephone connection and no consultation of any kind was carried out, but instead of this contract type business was undertaking i.e., digging of borewells etc. Hence the party was requested to submit legal documents of business vide SDOT letter No.NPC/GDG/14.03/2 dated 7-4-83. To this letter Dr. C.C. Shivappa Goudar sent a letter dated 22.4.83 alleging that one Junior Engineer Shri Narendra went to his residence and told him that OYT connection could be given within 24 hours, if the Doctor was prepared to pay Rs.1,000/-. The SDOT sent another letter dated 29th April '83 asking the party to submit legal documents and also rent receipt and rent deed in case of a rented building.

As per instruction of Director Telecom, Hubli, D.E.Telegraphs Hubli visited Gadag and inspected the premises where the telephone was required by Dr.C.C.Shivappa Goudar and the DET in his report mentioned that no business enterprises were functioning at that place. The DET also came to the conclusion that the SDOT was totally wrong in refusing to register the application, as no document was necessary for registration of this application. DET, Hubli, also certified that the connection requested by the party was perfectly bonafide. The DET in his ~~appli~~ report also stated that the SDO had not visited the premises at all. Thus Shri V.K.Joshi, the then SDOT Gadag deliberately did not register the application of Dr.C.C.Shivappa Goudar for a telephone connection under OYT and failed to provide a telephone connection in time, thereby causing loss to the Department. Thus, Shri V.K.Joshi, the then, SDOT Gadag violated sub-rule 1(ii) & (iii) of Rule 3 of CCS Conduct Rules, 1964."

After receipt of the charge-sheet the appellant submitted

his detailed reply with proof of documentary ~~xxxxxxxxxx~~ evidences. But, unfortunately the first respondent, without considering the said reply imposed the penalty of 'censure'. The appellant was further put to hardship by way of transferring him to Kavar by the first respondent even before the completion of tenure.

6. Against the said order of 'censure' and in regard to regularisation of suspension ~~of~~ period, ~~of~~ the appellant submitted statutory appeals to the second respondent, and when the appeals were still pending before the second respondent one more documentary evidence was submitted by appellant, ie., Newspaper advertisement appearing in 'Navodaya' paper. However, the second respondent, by his order dated 29-4-85 rejected the appeals on untenable grounds. Hence, this appeal.

7. This Hon'ble Tribunal has got jurisdiction as the cause of action arose within the jurisdiction of this Tribunal. The appellant has exhausted all the remedies.

8. G R O U N D S

The impugned order of the first respondent and affirmed by the second respondent, are contrary to law, facts and probabilities of the case.

9. The impugned orders of both the respondents are not speaking orders. They are the cryptic orders and hence liable to be set aside.

10. The respondents have not applied their mind to the detailed representation made by the appellant. Hence, the impugned orders are one sided and liable to be set aside.

11. The impugned orders are made by the respondents without application of judicious mind and without considering all the contentions of the appellant and hence liable to be set aside.

12. The way in which the appellant is made to suffer even without committing any sort of offence, clearly shows the motivated, pre-occupied and pre-decided intention of the respondents. Hence, the impugned orders are liable to be set aside.

13. It is submitted that there is no justifiable situation which warrants the first respondent to form an opinion to keep the appellant under suspension, that too, without hearing him. None of the ingredients were in existence which call for appellant's suspension in accordance with the Circulars and guidelines issued by the Union of India. Hence, the suspension of the appellant is wholly unjustified and illegal and caused much stigma to the appellant.

14. The respondents are also not justified in treating the suspension as such. When the authority is not justified in giving telephone connection without following the departmental circulars, that itself shows their giving go-bye to the departmental norms and circulars to be followed before giving telephone connection. The Authorities have ignored and cleverly showed disrespect to the principles of natural justice. Hence, the impugned order are liable to be set aside.

P R A Y E R

WHEREFORE, the appellant humbly prays that this Hon'ble Tribunal may be pleased to set aside the impugned order of the first respondent dated 3-7-'83 made in Case No Staff/11.253 and also the impugned ~~and~~ order dated 2-4-'85 passed by the second respondent in Case No. Vig. II and issue necessary directions to the respondents to treat the period of suspension as on duty and all consequential benefits, ^{And consider his request for transfer} in the interest of justice and equity.

VERIFICATION

I, V.K.Joshi, the appellant herein, do hereby solemnly affirm and state that what is stated above from paras 1 to 14 are true to the best of my knowledge and information and I believe them to be true.

[Signature]
(V.K.Joshi),
APPELLANT.

Particulars of Bank Draft T. 80

[Signature]
Adv. for Pet.

BB₄
No G 9 K 374 - Rs 31
No. DA 375109 - $\frac{20}{52}$

[Signature]

No. 2/5/84. VIG-II
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
(DEPTT. OF TELECOMMUNICATIONS)

New Delhi-110001
Dated: the 25.4.85

O R D E R

Shri V.K.Joshi, the then SDOT, Gadag, was suspended by the General Manager Telecom, Karnataka Circle, Bangalore, under sub-rule (1) of Rule 10 of the CCS (CCA) Rules, 1964 vide his order No.Staff/11.253 dated 4th May, 1983. His suspension was revoked by the General Manager Telecom, B'lore under Clause (C) of sub-rule (5) of Rule 10 of the CCS (CCA) Rules, 1965 vide order No.Staff/11-253 dated 4th June 1983. The suspension period was treated as non duty and his pay and allowances during the period of suspension were fixed at 90 per cent of what he would have drawn, had he not been kept under suspension vide Order No.Staff/11-253 dated 15th Nov.'83.

Shri V.K.Joshi, SDOT, Gadag, was charge-sheeted under Rule 16 of the CCS (CCA) Rules, 1965 by the General Manager Telecom., Karnataka Circle, Bangalore, vide his order No. Staff/11-253 dated 16th June, 1983, for not registering the application of Dr.C.C.Shivappa Gadag for a telephone connection under OYT in his residence at Gadag. Shri V.K.Joshi in reply to the charge-sheet vide his letter dated 25.6.83 wanted to examine the concerned file for verification of dates and other documents and he was given permission to examine the concerned documents by the disciplinary authority. After examining the concerned documents Shri V.K.Joshi submitted his reply to the charge-sheet on 30-7-83. The General Manager Telecom, Karnataka Circle, Bangalore, had gone through the connected papers and the reply given by Shri V.K.Joshi to the charge-sheet and came to the conclusion that Shri V.K.Joshi failed in his duty by not registering the OYT application submitted by Dr.C.C.Shivappa Gadag for a new connection in his residence at Gadag. Since this was the first instance of an offence of this nature committed by Shri V.K.Joshi, the disciplinary authority took a lenient view and imposed a penalty of Censure on Shri V.K.Joshi for this lapse.

Shri V.K.Joshi has submitted two appeals (i) dated 20th Oct.1983 and (ii) 20th January, 1984 with a further letter dated 8-12-1983 against the penalty of censure and also

9
against the treatment of his period of suspension as non-duty. In his appeal against the penalty of censure he has not made out any new points for consideration. He has only mentioned that the order issued by the General Manager, Telecom., is not a speaking order and his arguments in his defence statement have not been properly rebutted. In his application against the treatment of the period of suspension as non-duty, he has stated that there was no justification for placing him under suspension.

I, K. Thomas Kora, Director General, Telecommunications, have carefully considered both the appeals of Shri V.K. Joshi with reference to facts and circumstances of the case. After an objective assessment of the case, I find that the Officer was totally wrong in refusing the registration. It is difficult to believe that the officer who has a long service in the Department does not know the actual requirement of the Rules. The party sought the telephone connection at his residence under QYT category and not under special category. There was no waiting list under this category. As such there should have been no difficulty to register the application and to take further action to give a new connection to the party. Although the allegation of trying to extract money from the party could not be substantiated, the Officer has definitely committed the lapse in not giving the telephone connection soon after the application was submitted by the party. The fact that the General Manager Telecom, has not issued a speaking order does not take away the merits of the case. The appeal submitted by Shri V.K. Joshi against the penalty of censure has no substance. As regards his appeal regarding treatment of the period of suspension as non duty, there is no scope to treat the period as duty for the purpose of grant of full pay allowance as Shri V.K. Joshi was not exonerated of the charges by the disciplinary authority. In view of these circumstances, I hereby reject both the appeals.

Receipt of this order shall be acknowledged by Shri V.K. Joshi and sent to DDG Vigilance Telecommunications of this Department.

Sd/-
(K. THOMAS KORA),
Director General, Telecom.

/ True Copy /

[Handwritten Signature]

INDIAN POSTS & TELEGRAPHS DEPARTMENT
Office of the General Manager-Telecom, Karnataka Circle,
Bangalore-9

No.Staff/11-253

dated: 3-7-83.

ORDER

Shri V.K.Joshi, the then SDOT, Gadag, was issued with a charge sheet under Rule 16 of CCS (SSA) Rules, 1965 vide No.Staff/11-253 dated 16th June 1983 for not registering the application of Dr.C.C.Shivappa Goudar for a telephone connection under OYT in his residence at Gadag. Shri V.K.Joshi in reply to the charge sheet vide his letter dated 25.6.83 wanted to examine the concerned file for verification of dates and other documents and he was given permission to examine the concerned documents by the Disciplinary authority. After examining the concerned documents he submitted on 30-7-83 his explanations to the charge sheet. I have gone through the connected papers and reply given by Shri V.K.Joshi to the charge sheet and I have come to the conclusion that Shri Joshi failed in his duty by not registering the OYT application submitted by Dr.C.C.Shivappa Goudar for a new connection in his residence at Gadag. Since this is the first instance of an offence of this nature committed by Shri V.K.Joshi, I take a lenient view and impose a penalty of "CENSURE" on him for this lapse.

Sd/-

(K.P.LUKE VYDHIAN)
General Manager-Telecom,
Karnataka Circle,
Bangalore-9.

To

Shri V.K.Joshi,
Dy.D.E.Telegraphs,
Karwar - through D.E.Telegraphs, Karwar.

/ True Copy



INDIAN POSTS & TELEGRAPHS DEPARTMENT

Office of the General Manager-Telecom., Karnataka

No.Staff/11-253

dated: 3.9.83

FOR D.E.R

Shri.V.K.Joshi, the then SDOT Gadag was issued with a charge sheet under Rule 16 of CCS(CCA) Rules 1965 vide No.Staff/11-253 dated 16th June 1983 for not registering the application of Dr.C.C.Shivappa Goudar for a telephone connection under OYT in his residence at Gadag. Shri.V.K.Joshi in reply to the charge sheet vide his letter dated 25.6.83 wanted to examine the concerned file for verification of dates and other documents and he was given permission to examine the concerned documents by the Disciplinary authority. After examining the concerned documents he submitted on 30.7.83 his explanations to the charge sheet. I have gone through the connected papers and the reply given by Shri.V.K.Joshi to the charge sheet and I have come to the conclusion that Shri.Joshi failed in his duty by not registering the OYT application submitted by Dr.C.C.Shivappa Goudar for a new connection in his residence at Gadag. Since this is the first instance of an offence of this nature committed by Shri V.K.Joshi, I take a lenient view and impose a penalty of "CENSURE" on him for this lapse.

SD/-

(K.P.LUKE VYDHIAN)

General Manager-Telecom,
Karnataka Circle,
Bangalore.9.

To

Shri. V.K.Joshi,
Dy.D.E.Telegraphs,

Karwar - through D.E.Telegraphs, Karwar.

.....

Shri V.K.Joshi
Dy. Telecom Dist. Engineer
Karwar

No 2/5/84. VIG- II
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
(DEPTT.OF TELECOMMUNICATIONS)

New Delhi- 110001

Dated the 29.4.85

ORDER

Shri V K Joshi, the then SDOT, Gadag, was suspended by the General Manager Telecom., Karnataka Circle, Bangalore under sub-rule (1) of Rule 10 of the CCS (CCA) Rules, 1965 vide his order No.Staff/11.253 dated 4th May, 1983. His suspension was revoked by the General Manager Telecom., Bangalore under Clause(C) of sub-rule(5) of Rule 10 of the CCS(CCA) Rules, 1965 vide order No.Staff/11-253 dated 4th June 1983. The suspension period was treated as non duty and his pay and allowances during the period of suspension were fixed at 90 per cent of what he would have drawn, had he not been kept under suspension vide order No.Staff/11-253 dated 15th Nov'83.

Shri V K Joshi, SDOT, Gadag was charge sheeted under Rule 16 of the CCS(CCA) Rules, 1965 by the General Manager Telecom., Karnataka Circle, Bangalore vide his order No.Staff/11-253 dated 16th June, 1983, for not registering the application of Dr C C Shivappa Goudar for a telephone connection under OYT in his residence at Gadag. Shri V K Joshi in reply to the charge sheet vide his letter dated 25.6.83 wanted to examine the concerned file for verification of dates and other documents and he was given permission to examine the concerned documents by the disciplinary authority. After examining the concerned documents Shri V K Joshi submitted this reply to the charge sheet on 30.7.83. The General Manager Telecom., Karnataka Circle, Bangalore had gone through the connected papers and the reply given by Shri V K Joshi to the charge sheet and came to the conclusion that Shri V K Joshi failed in his duty by not registering the OYT application submitted by Dr C C Shivappa Goudar for a new connection in his residence at Gadag. Since this was the first instance of an offence of this nature committed by Shri V K Joshi, the disciplinary authority took a lenient view and imposed a penalty of Censure on Shri V K Joshi for this lapse.

Shri V K Joshi has submitted two appeals(i) dated 30th Oct, 1983 and (ii) 20th January, 1984 with a further letter dated 8/12/1983 against the penalty of Censure and also against the treatment of his period of suspension as non-duty. In his appeal against the penalty of Censure he has not made out any new points for consideration. He has only mentioned that the order issued by the General Manager Telecom., is not a speaking order and his arguments in his defence statement have not been properly rebutted. In his application against the treatment of the period of suspension as non-duty, he has stated that there was no justification for placing him under suspension.

I, K Thomas Kora Director General, Telecommunications, have carefully considered both the appeals of Shri V K Joshi with reference to facts and circumstances of the case. After an objective assessment of the case I find that the Officer was totally wrong in refusing the registration. It is difficult to believe that the officer who has a long service in the Department does not know the actual requirement of the Rules. The party sought the telephone connection at his residence under OYT category and not under special category. There was no waiting list under this category. As such

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the General Manager Telecom., Krasnodar Circle, and also under sub-rule (1) of Rule 10 of the GDS (GDA) Rules, 1955 when his order No. 2257 dated 4th June, 1957. The suspension was revoked by the General Manager Telecom., Krasnodar Circle under Order No. 2257 dated 4th June 1957. The suspension period was of sub-rule (2) of Rule 10 of the GDS (GDA) Rules, 1955. The order No. 2257 dated 4th June 1957. The suspension period was fixed as non-duty and his pay and allowances during the period of suspension were fixed at 50 per cent of what he would have drawn, had he not been kept under suspension. The order No. 2257 dated 15th Nov. 57.

[illegible]

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there should have been no difficulty to register the application and to take further action to give a new connection to the party. Although the allegation of trying to extract money from the party could not be substantiated, the officer has definitely committed the lapse in not giving the telephone connection soon after the application was submitted by the party. The fact that the General Manager Telecom., has not issued a speaking order does not take away the merits of the case. The appeal submitted by Shri V K Joshi against the penalty of censure has no substance. As regards his appeal regarding treatment of the period of suspension as non duty, there is no scope to treat the period as duty for the purpose of grant of full pay allowances as Shri V K Joshi was not exonerated of the charges by the disciplinary authority. In view of these circumstances I hereby reject both the appeals.

Receipt of this order shall be acknowledged by Shri V K Joshi and sent to DDG Vigilance Telecommunications of this Department.

Sd/-
(K THOMAS KORA)
Director General, Telecom.,

Shri V K Joshi
Dy DET(Karwar)
Karwar-581 301

(Through the General Manager Telecom., Karnataka Circle Bangalore).

// C O P Y //

Handwritten:
10/1/13
Dy. Telecom. District Engineer
Karwar

ON. X H-

IN THE HIGH COURT OF KARNATAKA AT BANGALORE
ON TUESDAY THE 10TH DAY OF DECEMBER 1985 AT 10-30 A.M.

BEFORE

THE HON'BLE MR.JUSTICE K.A.SWAMI.

(COURT HALL NO.12)
FOR HEARING

1.WP 12429/84(Agn)
(PH)
with IA IV
C/W

Sri.B.Rudregowda for Petr.
Sri.Kusuma R.Muniraj for R-2.
The G.A. for R-1.

WP 19294/84

Sri.B.Veerabhadrappe for Petr.
Sri.Kusuma R.Muniraju for R-2.
Sri.Abdul Khadar to take
notice for R-1.

C/W
WP 14140/83

Sri.Shivaraj Patil for Petr.
The Govt. Adv. for R-1.
Sri.Kusuma R.Muniraju for R-2.

2.WP 13711/85(GM)

Sri.B.V. Acharya for Petr.
Govt. Adv.
is directed to take notice
for Respts.
(Appearance filed)

C/W

WP 15404/85(GM)

Sri.S.Ramaswamy Iyengar for Petr.
Sri.S.G.Sundaraswamy for R-4.
Govt.Pleader is directed for
R-1 to R-3.

C/W

WP 14053 to 14061/85(GM)

Sri.D.Sathyanarayana for Petr.
Govt. Adv. is directed to take
notice for Respts (M.A. not filed)

C/W

WP 13785/85(GM)

Sri.P.V.Shetty for Petr.
Govt. Adv. to take notice for R-1 to 3

C/W

WP 13253 to 13264/85(GM)

M/s Hegde Associates for Petr.
Govt. Adv. for Respts.

C/W

WP 13836/85(GM)

Sri.N.Y.Hanumanthappa for Petr.
Govt. Adv. to take notice for
Respts.

C/W

C/W

WP 13866 to 13868/85(GM) Sri.D.Sathyanarayana for Petr.
Govt.Adv. is directed to take
notice for Respts
(M.A. not filed)

C/W

WP 13995/85(GM) Sri.P.Vishwanatha Shetty for Petr.
(Rule not issued)

C/W

WP 13973 & 13974/85(GM) Sri.N.Y.Hanumanthappa for Petr.
Govt.Adv. is directed to take
notice for Respts.

C/W

WP 14543 & 14544/85(GM) Sri.R.Gururajan and M.L.N.Reddy
for Petr.
Govt.Adv. is directed to take
notice for Respts
(Appearance filed)

C/W

WP 13283/85(GM) Sri.P.Vishwanatha Shetty for Petr.
Notice issued to Respts.

C/W

WP 14688 to 14690/85(GM) Sri.B.V.Acharya for Petr.
Govt.Adv. to take notice
for Respts.

C/W

WP 15165/85(GM) Sri.K.S.Gourishankar for Petr.
Govt.Adv. is directed to take
notice for Respts.

C/W

WP 13467 to 13472/85(GM) M/s Hegde Associates for Petr.
Govt.Adv. is directed to take
notice for Respts.

C/W

WP 16464/85(GM) Sri.A.Jagannatha Shetty for Petr.
Govt.Adv. to take notice for
Respts.

C/W

WP 14990 to 14992/85(GM) Sri.Davanam Satyanarayan for
Petr.
Govt.Adv. is directed to takes
notice for Respts
(M.A. not filed)

C/W.

R.O.C.
D. Dis.

No. 7077/12

B/85
10/12/85

HIGH COURT OF KAR
HIGH COURT BUILDINGS,

DATED..... 10th Dec

FROM

THE REGISTRAR, HIGH COURT OF KARNATAKA
BANGALORE.1

TO

The Registrar,
Central Administrative Tribunal, Addl. Bench,
T.N. Text Book Society, D.P.I. Compound,
SIR College Road, Nungambakkam,
MADRAS.

Subject:- Filing of petition.

Sir,

Sri M. Raghavendrachar, Advocate has presented a petition U/s 19 of the Act on behalf of ~~petitioner~~ petitioner-V.K. Joshi, Dy. Telecom Dist. Engineer, Karwar.

The petition presented to the Registry of this Court today does not contain any interim prayer.

Yours faithfully,

Vaijanathappa

(Vaijanathappa),
IV Deputy Registrar.

*rsp/-

