

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH BANGALORE

DATED THIS THE 6th NOVEMBER 1986

PRESENT: HON'BLE SHRI CH. RAMAKRISHNA RAO, MEMBER (J)

HON'BLE SHRI P. SRINIVASAN, MEMBER (A)

APPLICATION NO. 851/86(T)

Sri M. Narasanna,
S/o late Madaiah,
26 years, Junior Engineer,
now working as Repeater Station
Assistant, Telephone Exchange,
Bellary

Applicant

(Smt. Yamuna Sreedharan, Advocate)

1. The General Manager,
Telecommunications,
Karnataka Circle,
No. 325, 5th Main Road,
Maruthi Complex, Gandhinagar,
Bangalore-9; and

2. The Divisional Engineer,
Telegraphs, Microwave Survey
Division, Bangalore-1.

Respondents

(Shri Shailendra Kumar, Advocate)

This application has come up for hearing
before this Tribunal to-day, Member (J) made the
following :-

O R D E R

This is an application which originated
as a writ petition in the High Court of Karnataka
and later transferred to this Tribunal. The prayer
in the application is to quash the order dated
21-12-1981 (Annexure-G to the application) reverting
the applicant from the post of Junior Engineer
(JE) which he was holding in the Office of the
Divisional Engineer, Telegraphs, Microwave Survey

Chd

Division, Bangalore - the 2nd respondent herein (R2), to the post of Repeater Station Assistant^{f. C. A.} (RSA) at Bellary, which was a lower post.

2. The facts giving rise to the application are briefly as follows:-

The applicant was selected and appointed as BSA in P & T Department in 1979 against a vacancy reserved for Scheduled Tribe (ST) candidates, vide annexure-A to the application. He was provisionally selected as JE in November, 1980 (Annexure-B) and was directed to report for training at Ghaziabad. After successful training, he was appointed as JE in the office of ^{Mr R-2} ~~As~~ (Annexure-F). Pursuant to this order, the applicant took charge as JE on 1.12.1981. In the said order, it was specifically stated that the provisional appointment was valid upto 28.2.1982, that formal appointment orders would be issued by the General Manager, Telecommunications and till such time, he would be paid the minimum in the pay scale of JE. On 21.12.1981, an order was issued by R2, which reads thus:-

"Shri M. Narasanna, Junior Engineer, is struck off from the strength of this unit with effect from the afternoon of 21.12.1981 as per the instructions contained in the General Manager, Telecommunications, Karnataka Circle, Bangalore letter number cited above with instructions to report as R.S.A. at Bellary under Divisional Engineer, Telegraphs, Bellary immediately."

It is this order which is challenged by the applicant.

3. Smt. Yamuna Sreedharan, learned counsel for the applicant, submits that the impugned order was

C. A.

passed without giving any reasons for the reversion of the applicant from the post of JE, which the applicant was holding, to the lower post of RSA. According to counsel, the applicant belonged to Naika community, which is recognised as ST in Karnataka State, and the reversion took place, perhaps, on the ground that her client did not belong to ST and that he had made a false statement in this regard when he was initially recruited as RSA. If so, counsel urges that the impugned order is violative of the principles of natural justice, in as much as no opportunity was afforded to her client before passing the same.

4. Shri Shailendra Kumar, learned counsel for the respondents, submits that subsequent to the applicant's appointment as JE, doubts arose whether he belonged^{ed} to ST, and on that count, he was reverted to the post he originally held, i.e., RSA. In this connection, learned counsel invites our attention to the reply of the respondents to the application, in which it is stated:

"The Karnataka Circle after satisfying itself by the previous records produced by the petitioner selected him for the post and issued orders to undergo training. The authorities in Madras Telephones District started the verification of the records produced by the petitioner by writing letters to the Educational Institutions where the petitioner studied before taking appointment in Karnataka Circle. By the statements sent by the Educational Authorities, it was found that the petitioner has different entries as 'Kamma' and 'Naik'. The Kamma caste does not come under Scheduled Tribe community. The Statement made by the D.C. of Chitradurga

Ans.

District, states that the petitioner belonged to 'Myasa Nayaka' caste. This caste does not come in the folds of reserved category. After ascertaining the above facts, the authorities of the Madras Telephones informed the Karnataka Circle about this. At this stage the authorities in Karnataka Telecom Circle doubted the genuineness of the certificates produced by the official and reverted the petitioner to his original cadre."

5. After a careful consideration of the matter, we are satisfied that the respondents were not justified in reverting the applicant on the ground stated by them in the reply extracted above without affording an opportunity to the applicant to meet the allegations levelled against him regarding the genuineness of the declaration made by him that he belonged to ST. We therefore set aside the impugned order.

6. Smt. Yamuna Sreedharan submits that as a sequel to the setting aside of the impugned order, her client should be given all consequential benefits. In the present case, as already noted, the appointment as JE was purely a provisional one and was valid upto 28.2.1982 (Annexure-F). The aforesaid order also envisaged formal appointment orders to follow. No such formal orders were actually issued, probably because the order of reversion was passed on 21.12.1981, i.e., within 13 days of the former. The grievance of the applicant, as put forward by his counsel, is that if formal orders had followed as envisaged in Annexure-F, her client would have continued to hold the post of JE upto date. While the argument of counsel is attractive, the difficulty in accepting the same is that it introduces hypothetical considerations, ^{which} ~~while~~ we have to eschew from consideration and go by the material on record.

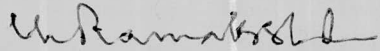
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Whatever may be the reason, the formal orders of appointment not having been issued, the claim of the applicant to hold the post would last only upto the date of reversion, i.e., 28.2.82, as stated in Annexure-F.

7. We, therefore, direct the respondents to reinstate the applicant as JE from the date of this order and fix his pay deeming him to have continued to work as JE from the date of his original appointment. He will not, however, be entitled to any arrears of pay and allowances, i.e., prior to his reinstatement, except for the period from 21.12.1981 to 28.2.1982.

8. The respondents are at liberty to take any proceedings, de novo, for determining whether the applicant belongs to ST in the light of the foregoing, and in accordance with law.

9. The application is disposed of accordingly. Parties shall bear their own costs.


(CH. RAMAKRISHNA RAO)
MEMBER(J)
6.11.86


(P. SRINIVASAN)
MEMBER (A)
6.11.86