

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 1-2-88

APPLICATION NO

809

/87(F)

W.P. NO.

Applicant

Shri K. Satyanarayana

Respondent

V/s

The Divisional Engineer, Telegraphs, Bangalore
and another

To

1. Shri K. Satyanarayana
No. 7181, Yellapur Oni
Hubli
Dharwad District
2. The Divisional Engineer
Telegraphs
19/B, Hindustan Complex
BVK Iyengar Road
Bangalore - 560 009
3. The Director
Telecommunication
Bangalore Area
Bangalore - 560 009
4. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 009

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/~~DIRECTORY~~ ORDER
passed by this Tribunal in the above said application on 18-1-88.

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

RECEIVED H Copies 2/2/88

Diary No. 16.70/C.R. 188

In Date: 4.2.88

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 18TH DAY OF JANUARY, 1988

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

APPLICATION NO. 809/1987

K. Satyanarayana,
No.7181, Yellapur Oni,
Hubli.

.... Applicant

v.

1. The Divisional Engineer,
Telegraphs,
19/B, Hindustan Complex,
BVK Iyengar Road,
Bangalore.

2. The Director Telecommunication,
Bangalore Area,
Bangalore.

.... Respondents.

(Shri M.S. Padmarajaiah, C.G.S.S.C.)

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

ORDER

In this application made under Section 19 of the
Administrative Tribunals Act, 1985 ('the Act'), the
applicant has challenged Memo No.BGA/ST/11-160 dated
15.6.1987 (Annexure-J) of the Director, Telecommunications,
Bangalore Area, Bangalore and the appellate authority ('AA'),
and order No.Q-57/Disc/103 dated 10.4.1985 of the Divisional
Engineer, Telegraphs, Bangalore and the Disciplinary
Authority ('DA').

2. Shri K. Satyanarayana, the applicant before us, was
working as a Combatant Clerk in the Madras Engineering Group

of the Indian Army from 10.5.1963 to 17.6.1968, and he was discharged from the Army on 17.6.1968. But thereafter on 10.9.1970 the applicant joined service as a Time Scale Clerk (TSC) at the Hubli Division of the Telecommunications Department of Government of India and was working at Hubli till 25.4.1982. On 26.4.1982 the applicant was transferred from Hubli to the office of the DA where he reported for duty on 19.7.1982.

3. While working at Bangalore the DA instituted disciplinary proceedings against the applicant under the Central Civil Services Classification, Control and Appeal Rules ('Rules') and served on him a charge memo on 25.7.1984 which reads thus:

" The charge against Shri K. Satyanarayana, T.O.A., office of the DET, Bangalore, is that while functioning as a Telecom Office Assistant in the office of the DET, Bangalore, Shri K. Satyanarayana violated the provisions of Rule 3(i)(ii) (iii) of CCS (Conduct) Rules failing to maintain devotion to duty, by being disrespectful to his controlling officer and by behaving in a manner most unbecoming of a Government servant."

The applicant denied this charge and therefore, the DA appointed an inquiry officer ('IO') to inquire into the truth or otherwise of the same and submit his report to him.

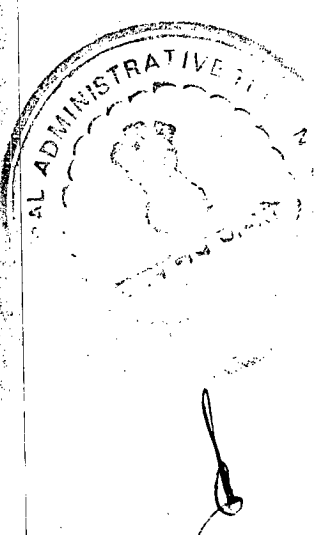
4. On representations made by the applicant thereto the DA changed the IO more than once and lastly appointed one Shri V. Subramaniam, Assistant Chief Superintendent, C.T.O., Bangalore, as the IO who held a regular inquiry and submitted his report to the DA recording ^{that} ~~the~~ applicant was guilty of the charge levelled against him.

5. On an examination of the report of the IO and the records, the DA on 10.4.1985 concurring with the findings of the IO, inflicted the penalty of removal from service against the applicant. Aggrieved by this order, the applicant filed an appeal before the AA, who summarily rejected the same on 12.9.1985, the validity of which was challenged by him before this Tribunal on A.No.469/86. On 23.1.1987, this Tribunal directed the AA to dispose of the appeal by a speaking order. In compliance with the same, the AA restored the appeal to its original file and had dismissed on 15.6.1987 by a speaking order. Hence this application.

6. The applicant has urged a large number of grounds in support of his case. In their reply, the respondents have supported the orders, and have also produced their records.

7. Shri Satyanarayana, the applicant, who is practising as an advocate from 4.9.1985 at Hubli contends:

- (i) that the charge levelled by the DA was vague;
- (ii) that the IO who conducted the inquiry against him was biased;
- (iii) when he had sought for change of IO, the IO, should not have held the inquiry;
- (iv) that, the inquiry held was in contravention of the Rules and the principles



of natural justice, was a farce;
(v) that he was a workman within the meaning of that term occurring in the Industrial Disputes Act of 1947 and was entitled for all the protections under that Act, and;
(vi) and that in any event the punishment of removal was grossly disproportionate to the gravity of the charge levelled and proved and accepting all of them the orders of the DA and AA be annulled and a direction issued to the DA to reinstate him to service with all monetary and consequential benefits flowing from the same.

8. Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel, appearing for the respondents, refuting the contentions urged by the applicant contends that this is a fit case in which we should decline to examine them and uphold the order of removal, as the applicant who had enrolled himself as an advocate and is practising from 4.9.1985 will not at all rejoin service.

9. The applicant admits that he had enrolled himself as an Advocate and is practising as an advocate from 4.9.1985 at Hubli. When we enquired him on this point he tells us that if the orders are set aside also, he was not keen on rejoining government service and was keen on continuing in the legal profession only.

10. When the applicant is not keen on joining and continuing in the Government service except for claiming terminal benefits, it would be really academic to examine the contentions and pronounce on the correctness or otherwise. On this short ground we decline to examine all the contentions except nature of the punishment which has still relevance.

11. Broadly stated the charge levelled against the applicant, was one of disobedience. Everyone of the components of the charge fall within the broad term of 'disobedience to duty' and do not involve moral turpitude.

12. As by the time the applicant developed or exhibited a tendency of disobedience, he had completed nearly 15 years of service in the Telecommunications Department with satisfactory record of service. Before that, the applicant had rendered army service for a period of five years and forty days. We are of the view that the nature of charge, the previous satisfactory record of service rendered in the Department and Army, did not justify the extreme penalty of removal depriving him all the benefits of his fairly long satisfactory service. On a conspectus of all facts and circumstances, we are of the view that this was a fit case in which the DA or the AA should have imposed on the applicant the penalty of compulsory retirement from service from 10.4.1985 instead of removal from service.

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

(1) We allow this application in part and modify the punishment imposed by the DA and upheld by the AA, to one of compulsory retirement from 10.4.1985, from that of removal from service from that date. We further direct the respondents to compute the pension and other terminal benefits due to the applicant on the basis of this order and extend him all such benefits to which he is entitled to in accordance with law, with expedition.

(2) We dismiss this application in all other respects.

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

Sd/-
Vice-Chairman

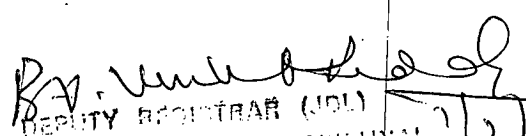
18/1/1988

Sd/-

Member (A) 18.1.88

TRUE COPY

dms/Mrv.

By 
DEPUTY REGISTRAR (JOL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE