

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 3 AUG 1988

APPLICATION NO. 1046 / 87(F)

W.P. NO. _____

Applicant(s)

Respondent(s)

Shri A. Subramanyam

V/s

The GM, Telecom, Karnataka, Bangalore

To

1. Shri A. Subramanyam
C/o Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
3. The General Manager
Telecommunications
Karnataka Circle
Bangalore - 560 009
4. Shri M. Vasudeva Rao
Central Govt. Sng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 28-7-88.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 28TH DAY OF JULY, 1988

Present: Hon'ble Shri Ch. Ramakrishna Rao, Member (J)
and
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 1046/1987

Shri A. Subramanyam,
S/o. Shri Annamalai,
Aged about 47 years,
Industrial Suburb,
II stage, Visveshwaranagar,
Mysore.

... Applicant.

(Shri M. Raghavendrachar, Advocate)

v.

The General Manager,
Telecommunications,
Karnataka Circle,
Bangalore-560 009.

... Respondent.

(Shri M. Vasudeva Rao, C.G.A.S.C.)

This application having come up for hearing to-day,
Hon'ble Member (A), Shri P. Srinivasan, made the following:

O R D E R

In this application, as originally filed, the applicant challenged an order dated 29.11.1986 by which he was compulsorily retired from service by way of punishment. Subsequently, with the permission of this Tribunal, the prayer was amended on 23.3.1988. By virtue of this amendment, the challenge of the applicant is confined to order dated 15.7.1987 appearing as Annexure-C to the original application by which the respondents sought to recover from him travelling allowance advance, for July 1984 and November 1984, and a sum of Rs.6,200/- representing disallowed claim of Leave Travel Concession (LTC).



P. Srinivasan

2. Shri M. Raghavendrachar, learned counsel for the applicant, submitted that disciplinary proceedings were initiated against the applicant for alleged fictitious claim of travelling allowance for the months of July 1984 and November 1984 and also for fictitious claim of LTC. After inquiry, the disciplinary authority imposed the penalty of compulsory retirement on the applicant holding him guilty of the charges levelled against him. Since the charges levelled against him were that certain amounts of claimed by him as TA for the month of July 1984 and November 1984 and as LTC due to him under the rules were not actually spent by him, and since he had been punished for these alleged irregularities, the respondents cannot make a separate order recovering the same amounts as this amounted to double jeopardy visiting two punishments on the applicant for the same offence.

3. Shri M. Vasudeva Rao, learned counsel for the respondents, submitted that the recovery sought to be made from the applicant was on account of the advances drawn by the applicant and not spent by him for the purposes for which they were drawn. Since the applicant had not utilised the amounts he was bound to repay the same irrespective of the penalty imposed on him in the Departmental Proceedings. The amounts sought to be recovered had nothing to do with the penalty imposed on the applicant for his misconduct. What was due from him should be recovered from him and the misconduct could be separately punished and there was no question of double jeopardy.

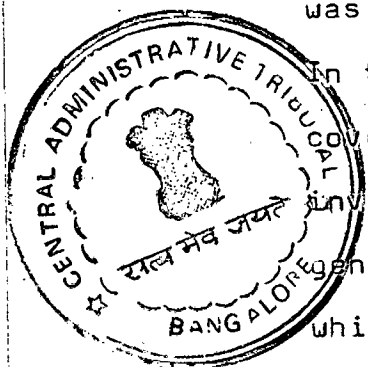
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4. We have considered the matter very carefully.

It is not necessary for the purpose of this application, to go into the question of double jeopardy as contended by Shri Achar. As the narration above will indicate, the allegation against the applicant was that he had submitted fictitious bills to support the TA claims for the months of July 1984 and November 1984. Similarly it was also alleged that he had submitted a fictitious bill to support his claim for LTC. The question in the departmental proceedings was precisely whether the amount claimed by the applicant by way of TA for the months of July 1984 and November 1984 and towards LTC based on the bills submitted by him was actually spent by him ^{for} ^{the} intended purposes. The controversy was thus regarding the genuineness of the expenses claimed to have been incurred by the applicant on official travels and on journey undertaken under the LTC scheme. The finding was that his claims were found ^{to be} fictitious bills and that by furnishing such fictitious bills, he had put the Government to loss and was guilty of conduct unbecoming of a Government Servant.

In the impugned order, the amounts said to have been covered by the fictitious bills were sought to be recovered involving the same controversy whether the claims were genuine or not. Really speaking, therefore, the basis on which the recovery is sought to be made was the same as the one on which disciplinary proceedings were initiated and punishment imposed. When disposing of the disciplinary proceedings, the disciplinary authority could have ordered, by way of penalty, that in addition to compulsory retirement, the applicant should also repay to Government account



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the amounts wrongly claimed by him. When he did not do so, the respondents cannot, by a separate order, seek to recover the same amounts, when such an action is not supported by an order of the disciplinary authority passed in the Departmental Inquiry. The disciplinary authority imposed the punishment of compulsory retirement after hearing the applicant and at that stage, he did not consider it necessary to direct that amounts wrongly claimed by the applicant be recovered. That being so, the impugned order directing recovery of the amounts said to have been wrongly claimed, to our mind, is without authority and cannot be justified, particularly when a major penalty of compulsory retirement had already been imposed on him. We, therefore, quash the impugned order dated 15.7.1987 and allow this application. If the amount stated in the impugned order has been recovered from the applicant, it should be repaid to him within two months from the date of receipt of this order.

5. The application is allowed and parties to bear their own costs.



Sd/-
MEMBER (J) 28/7

Sd/-
MEMBER (A)

TRUE COPY

Gr/Mrv.

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE