

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex(BDA)

Indiranagar

Dangalore - 560 038

Dated : 23 MAR 1989

APPLICATION NO (s) 1613

88(F)

W.P. NO (s) /

Applicant (s)

Shri R.R. Hegde

To

v/s

The Sub-Divisional Officer, Telegraph, Sirsi (N.K.),
& 2 Ores

1. Shri R.R. Hegde
S/o Shri Ramachandra Narayana Hegde
R/o Amminhalli
Sirsi Taluk
North Canara District

4. The Telecom District Engineer
Karwar - 581 301
North Canara District

2. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009

5. The Member (Personnel)
Telecom Board
Sanchar Bhawan
New Delhi - 110 001

3. The Sub-Divisional Officer
Telegraphs
Sirsi - 581 401
North Canara District

6. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/STRAK/EXCEP/ORDER
passed by this Tribunal in the above said application(s) on 20-3-89.

Encl : As above

At Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

dc

23-3-89

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 20TH DAY OF MARCH, 1989

PRESENT: HON'BLE SHRI P. SRINIVASAN ... MEMBER (A)

APPLICATION NO. 1613/88(F)

1. Sri R.R. Hegde,
Aged 28 years,
S/o Ramachandra Narayana Hegde,
Amminahalli, Sirsi Taluk,
North Canara District.

APPLICANT

(Dr. M. S. Nagaraja....Advocate)

Vs.

1. The Sub-Divisional Officer,
Telegraph,
Karwar District

2. The District Engineer(Telecom)
KARWAR

3. Member(Personnel),
Telecom Board,
New Delhi.

... RESPONDENTS

(Shri M. Vasudeva Rao....Advocate)

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

ORDER

The applicant who is working
as Telecom Office Assistant (TOA) in the

P. Srinivasan



Telegraphs Department is aggrieved with adverse remarks recorded in his character roll for the year 1985-86.

2. The Sub-Divisional Officer, (SDO) Sirsi, under whom the applicant was working during the year 1985-86 recorded an adverse remark in the applicant's character roll which reads as follows :-

"Tendency to keep arrears."

He repeated the same remark against two columns namely 7(a) vii which speaks of 'ability to reduce arrears' as also against column 9(a) which speaks of 'general performance'. These adverse remarks were communicated to the applicant by letter dated 26.8.1986 (Annexure A-1). His representation against the same was rejected by the Telecom District Engineer, Karwar on 20.4.1987. A further representation by the applicant was also rejected by the Member, Telecom, New Delhi on 29.9.1987.

3. Dr. Nagaraja made the following points, challenging the adverse remarks and the rejection of the applicant's representations to the higher authorities. No adverse remarks had been recorded against the applicant since he entered service as TOA in 1979. The Reporting Officer had

P. D. K.

never drawn the attention of the applicant during the year of report to any delay in disposing of papers. Thus, without guiding the applicant during the year, the Reporting Officer had recorded the adverse remarks at the end of the year. The Reporting Officer is expected to maintain a memorandum of services and to issue verbal or written instructions to his subordinates from time to time to rectify their short-comings, if any, before recording adverse remarks in the Confidential Report. This had not been done in the case of the applicant. The Reporting Officer who made the adverse remarks was in position only for a part of the year i.e. from 1.8.1985 to 31.3.1986. The applicant had during this period worked as Cashier in 3 spells, when he could not attend to the work of TOA. His representation, stating all this had been rejected by non-speaking orders which had not dealt with every objection raised by the applicant and they were, therefore, bad in law. Dr. Nagaraja relied on a number of judgements of this Bench as well as other benches of this Tribunal to support his contention that the higher authorities should have given the applicant an opportunity of being heard before rejecting his representations.



P. J. B.

4. Shri M. Vasudeva Rao, learned counsel for the respondents submitted that when the applicant left his seat as TOA at the end of year 1985-86, a large number of papers which were pending with him at the time were handed over to his successor. The Reporting Officer had also explained that he had warned the applicant orally several times that he should not keep papers pending and it was only thereafter that he was obliged to make the impugned adverse remark. The Telecom District Engineer and Member, Telecom Board had considered the representations made to them by the applicant and had rejected the same after careful consideration.

5. Having considered the matter carefully, I am of the view that this application is devoid of merit. This Tribunal is not expected to substitute its own opinion for the opinion of the Reporting, Reviewing and Counter-Signing Officers. In fact this Tribunal will be slow to interfere with adverse remarks in a Confidential Report unless malafides on the part of the Reporting, Reviewing or Counter Signing Officer is brought home or it is shown that the remarks were not based on any evidence whatsoever. I have perused the records produced by the respondents, in which a list of 35 papers

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pending on the applicant's table at the end of 1985-86 has been prepared. The applicant had no doubt some explanation namely that he was working as Cashier for sometime, but this way for the departmental officials to consider and not for this Tribunal. It cannot be said that the adverse remark was made without any evidence or that the representations of the applicant were rejected without considering the evidence on record. The applicant has not urged malafides against the Reporting, Reviewing or Counter Signing Officer. I am, therefore, unable to interfere with the adverse remarks in the Confidential Report of the applicant for 1985-86 which have been upheld by the Member, Telecom Board.

6. In view of the above, the application is dismissed, leaving the parties to bear their own costs.

Sd. _____

MEMBER (A)

TRUE COPY

By Order of the
DEPUTY REGISTRAR (JDL) 3/3
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

