

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 21 APR 1988

APPLICATION NO 57 / 88(F)

W.P. NO.

Applicant

Shri Umesh A. Naik

To

v/s

Respondent
The District Engineer, Telecom,
Karwar & 2 Ors

1. Shri Umesh A. Naik

Driver

Office of the Sub-Divisional Officer
Telephones
Karwar - 1
Uttara Kannada District

2. Shri N.B. Bhat

Advocate

545, 16-A Main, III Block
Koramangala
Bangalore - 560 034

3. The District Engineer

Telecommunications

Karwar
Uttara Kannada District

4. The General Manager

Telecommunications

Bangalore - 560 009

5. The Secretary

Ministry of Communications
New Delhi - 110 001

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 the copy of ORDER/~~STAY~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said application on 12-4-88

Encl : As above

SC *RA Venkatesh*
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 12TH DAY OF APRIL, 1988

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

APPLICATION NO. 57/88

Shri Umesh A. Naik,
s/o Annappa Naik,
Driver, O/o the Sub-Divl. officer,
Telephones, Karwar-1.

... Applicant

(Shri N.B. Bhat, Advocate)

v.

1. District Engineer,
Telecommunications,
Karwar.
2. General Manager,
Telecommunications,
Bangalore.
3. Union of India,
by its Secretary to Government
of India, M/o Telecommunications,
Dak Tar Bhavan,
New Delhi.

... Respondents.

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

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

O R D E R

In this application made under Section 19 of the
Administrative Tribunals Act, 1985 (the Act), the
applicant has challenged memo No.E-123/95 dated
10.12.1987 (Annexure-C) of the District Engineer,
Telecommunications, Karwar (DET).



2. The applicant who is employed as a Driver, was driving government tempo vehicle bearing registration No. MYE 2361 on 15.10.1982 on a public highway, which met with an accident resulting in the death of one Rahmat Ali. On his death, his wife Smt. Zuleka Bai made an application under Motor Vehicles Act, 1939 before the Accidents Claims Tribunal, Dakshina Kannada, Mangalore (Act) claiming a sum of Rs.1,03,762.30p as compensation from the applicant and the respondents which was contested by all of them on diverse grounds. On 4.3.86 the A.C.T. made an award in favour of Smt. Zuleka Bai for Rs.43,730/- with interest and costs and the respondents have paid the award amount to Smt. Zuleka Bai. On making that payment, the DET by his memo dated 10.12.1987 had called upon the applicant to pay half of the award amount i.e. Rs.26,572.65 p as his contribution to Government. Hence this application under the Act before us.

3. In pursuance of the order of the DET, 1/3rd of the salary of the applicant for the months of December 1987 and January 1988 has been recovered.

4. The respondents have resisted this application.

5. Shri N.B. Bhat, learned Counsel for the applicant, contends that the award made by the A.C.T. and payment of the amounts thereto by Government, that too, when the applicant had been acquitted by the criminal court did not justify, the DET to recover any amount from the applicant, in any event without affording him an opportunity of hearing before such recovery.

6. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for the respondents sought to support the impugned order.

7. Among others, the applicant has asserted that before making his order on 10.12.1987, the DET had not issued him a show cause notice and had not afforded him an opportunity to state his case either in writing or orally which is not denied by the respondents. We must therefore accept this plea of the applicant and examine his case on that basis.

8. In the impugned order, the DET had fastened liability on the applicant for a heavy sum of Rs.26,572.65 p The order without any doubt results in serious civil consequences to the applicant. It is now well settled, that such an order cannot be made without issuing a show cause notice and providing an opportunity of hearing to the applicant which had been violated by the DET. On this short ground, the impugned order calls for our interference. On this view, it is unnecessary for us to examine all other questions, urged by both sides. We therefore leave them open.

9. In the light of our above discussion, we allow this application, quash the impugned order and direct the respondents to refund the amounts so far recovered to the applicant with expedition.

10. Application is allowed. But in the circumstances of the case, we direct the parties to bear their own costs.

R. Venkatesh
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

Sd/-
12/4/88
VICE-CHAIRMAN

Sd/-
12/4/88
MEMBER (A)