

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 13 OCT 1988

APPLICATION NO.

831

88(F)

W.P. NO.

Applicant(s)

Shri S.V. Thengadgi

v/s

Respondent(s)

The Telecom District Engineer, Karwar & anr

To

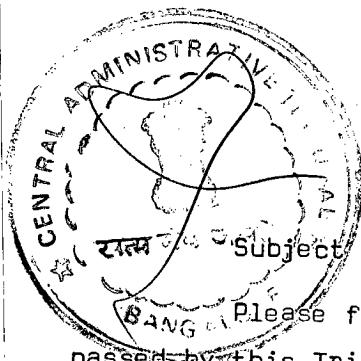
1. Shri S.V. Thengadgi
Junior Accounts Officer
Office of the Telecom District Engineer
Karwar - 581 301

4. The Director
Telecom
Mangalore Area
Mangalore - 575 001

2. Shri S.K. Srinivasan
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009

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

3. The Telecom District Engineer
Karwar - 581 301
Uttara Kannada District



Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/EXCEP/ORDER
passed by this Tribunal in the above said application(s) on 29-9-88.

Encl : As above

0) C

D. Shetty
SECTION OFFICER
EXCEP/REGISTRAR
(JUDICIAL)

14-10-88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 29th DAY OF SEPTEMBER, 1988

Present : Hon'ble Sri P:Srinivasan

Member (A)

APPLICATION No. 831/88

S.V.Thangadgi,
Deputy Accounts Officer,
C/o District Engineer,
Telecom.
Karwar.

...

Applicant

(Sri S.K.Srinivasan ... Advocate)

vs.

1. The Telecom District Engineer,
Karwar.

2. The Director,
Telecom, Mangalore Area,
Mangalore.

...

Respondents

(Sri M.Vasudeva Rao ... Advocate)

This application having come up before the Tribunal
for hearing today, Hon'ble Member (A) made the following :

ORDER

The applicant in this application was working as
Junior Accounts Officer (JAO) in the office of the Telecom
District Engineer, Karwar (TDE) when he received a commu-
nication dated 29.4.1987 (Annexure A1) conveying to him
adverse remarks recorded in his confidential report for
the period 28.5.86 to 31.3.87 (CR). The remarks are
reproduced below :

"Part III :

17. Has the officer been reprimanded)Certain lapses were
for indifferent work or for other)brought to his notice
causes during the period under)through his Personal
report ? If so, please give)File. Cautioed him
brief particulars.)to be careful in fu-
ture by TDE.

P. Srinivasan

....2/-



Part IV :

21. Do you agree with the remarks of the Reporting Officer in Part III above? If not, indicate the extent of your disagreement.) Yes, except the following : Knowledge of) rules : Inadequate) Ability to } - do -) apply rules,) Ability to) manage staff) - do -

2. The applicant represented against the said remarks to the Director Telecom, Mangalore (Director) which was rejected vide memorandum dated 7.4.88(Annexure A3). The applicant is aggrieved with the adverse remarks recorded in the CR and the rejection of his representation made against those remarks. Respondents have filed their reply opposing the contentions raised in the application.

3. Sri S.K.Srinivasan, learned counsel for the applicant submitted that the adverse remarks were based on incorrect facts and no specific facts had been mentioned in the CR to substantiate the remarks which were also vague; the remarks were not based on the memorandum of service required to be maintained for the purpose; the order rejecting the representation was not a speaking order and further it had been passed more than one year after the representation was made and finally the applicant was not given an opportunity to represent before the remarks were first recorded or before his representation was rejected. It is stated in the application that the applicant was promoted from the post of JAO to that of Deputy Accounts Officer w.e.f. 1.4.1987. In the course of the arguments, Sri Srinivasan submitted that this was an error and that the applicant continues to be in the lower post of JAO till today. This fact was confirmed by Sri M.V.Rao.

4. Sri M.V.Rao, A.C.G.S.C. appearing for the respondents submitted that so far as the first of the remarks was con-

cerned, four letters had been issued to the applicant on 5.7.86, 16.8.86, 11.9.86 and 3.1.87 drawing his attention to several lapses of omission and commission on his part. Col. 17 of the CR required the Reporting Officer(RO) to give brief particulars of any reprimands for indifferent work, issued to the officer whose CR is being written. In the four letters the first two of which were issued by the Accounts Officer(AO) who was the immediate superior of the applicant and the two others by the TDE, the applicant was advised that due to his negligence reports to higher authorities had been delayed; he had shown insubordination by leaving the office without completing the work which he had been directed to do; inspite of being warned several times he continued to delay submission of reports to higher authorities; he had proceeded on leave when he had been ordered to go for a training programme; he did not put up the calendar of returns when required to do so by his superior officers and all these ^{1) facts} reasons showed his callous indifference to his work. The memorandum of service for the year 1986-87 maintained by the superior officer in respect of the applicant's work was produced during the hearing which referred to these various letters issued to him. Sri Rao submitted that these letters amounted to reprimand issued to the applicant for various lapses committed by him and all that the reporting officer had done was to refer to these letters in the CR. It was actually a factual remark borne out by the records which do not deserve interference by this Tribunal. So far as second of the adverse remarks was concerned, Sri Rao submitted that this was made ^{1) facts} by the Reviewing Officer, viz. TDE based on ~~his personnel~~ ^{his} personal



Re the applicant's
knowledge of rules and his ability to apply those rules were both inadequate and so was his ability to manage the staff and that is why he recorded remarks to that effect. When general remarks of this kind are made, they are based on an overall assessment of the work of the subordinate official during the period of the report. It was not obligatory on the part of the officer recording the remark to furnish specific instances on which they were based. Repelling Sri Srinivasan's contention that the TDE could not have been aware of the applicant's knowledge of rules or his capacity to apply them, Sri Rao submitted that as the overall head of the organisation, he was in a position to assess the qualities of officials working in the same office even though not immediately under him. Relying on a decision of the Madras Bench of this Tribunal in D.Periaswamy v. Chairman, CBOT, ATR 1987(1) CAT 638 Sri Rao submitted that this Tribunal should not sit as a further appellate authority over the decision of the Director Telecom, Mangalore who had rejected the applicant's representation after due consideration. This Tribunal was not in a position to reappraise and assess the applicant's work and conduct during the relevant period. Sri Rao therefore submitted that this Tribunal should not interfere with the adverse remarks remarks recorded in the CR of the applicant.

to
5. I have given anxious consideration/the submissions made on both sides. As will be evident from the extract from the CR given earlier in the order, column 17 of the CR seeks information regarding reprimands for indifferent work or for other causes issued to the official reported upon.

P. J. Rao

The word 'reprimand' is not defined in the rules and not being a technical term needs no special interpretation. The dictionary meaning of the word is 'rebuke severely and officially (for a fault committed) or simply "official rebuke" or "severe reproof". The letters issued to the applicant to which Sri Rao referred listed out acts of ^M and ^{Commission} commissions on the part of the applicant of different types which had affected office work adversely and in the later letters it was observed that he did not improve inspite of repeated letters on the subject. The applicant gave a reply only to one of the letters i.e., the one dated 11.9.86 wherein, while admitting the delays in submitting returns he offered some reasons thereto. This reply dated 26.9.86 was in turn dealt with in detail by the TDE in his letter dated 3.1.1987 to the applicant rejecting ^{the} his explanation offered, and cautioning him against recurrence of the same. I have therefore no doubt in my mind that the letters issued to the applicant by his superior officers constituted reprimands for indifferent work during the period under report. That being so the remark against col.17 is a factual one and is indeed a true reflection of what had happened during the period. I see no reason to interfere with this remark. So far as the second remark against col.21 is concerned, this was made by the reviewing officer, disagreeing with the reporting officer. Since the applicant was working in the office of TDE who made these remarks I am unable to accept Sri Srinivasan's contention that the TDE ^M could not have been aware of the failings of the applicant. As the overall head of the office, he is expected to have an



7. f. 1/2

...6/-

idea of the abilities of officials working directly under him or under any of his subordinates. As will be evident from the remark they are based only on an overall assessment of the applicant's work during the period under review. The Reviewing officer cannot be expected to reproduce all the instances noticed by him leading upto these remarks. As observed by the Supreme Court in R.L.Butail v U.O.I. & Ors 1970 SLR 926, what is required of the reporting reviewing officer was a "general assessment of work for the whole of the year, the conduct of the officer concerned, his efficiency, ability, initiative or lack of it etc., and not a judgement with reference to any specific instance." The court also observed that it is not necessary for the reviewing and reporting officers to give the subordinate officer an opportunity of being heard before recording an adverse remark. I am unable to agree with Sri Srinivasan that the remarks were vague. They refer to the applicant's knowledge of rules and ability to apply them and also his ability to manage staff and the reviewing officer has recorded that the applicant was inadequate in all these respects. These are specific remarks, by no means vague and are based on an overall assessment of the work of the applicant. Therefore the contention urged on behalf of the applicant that these remarks were vague and, not being supported by specific instances, deserved to be rejected has no merit.

6. Since all the contentions raised on behalf of the applicant have been rejected, the application is dismissed. But in the circumstances of the case parties are directed to bear their own costs.

TRUE COPY

Sd/-

MEMBER (A)

APRIL 13/1988
SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

BANGALORE

an.