

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 21 DEC 1988

APPLICATION NO.

1025

/88(F)

W.P. NO.

Applicant(s)

Shri M. Premnath Shetty

v/s

Respondent(s)

The Assistant Engineer (Telephones),
Mangalore & another

To

1. Shri M. Premnath Shetty
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 Assistant Engineer
Telephones (Out Door)
Mangalore - 575 001
4. Telecom District Engineer
Mangalore - 575 001
Dakshina Kannada District
5. 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/~~REXX~~/~~REXX~~ ORDER
passed by this Tribunal in the above said application(s) on 8-12-88.

Encl : As above

NP
SECTION OFFICER
~~REXX~~ REGISTRAR
(JUDICIAL)

(O/C)

JK
JK
22.12.88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 8TH DAY OF DECEMBER, 1988

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY ... VICE-CHAIRMAN
HON'BLE SHRI P. SRINIVASAN ... MEMBER (A)

APPLICATION NO. 1025/88

1. Sri M. Premnath Shetty,
Major, Ex. Class IV,
Telephone Exchange,
Panambur. ... APPLICANT

(Sri M.R. Achar.....Advocate)

Vs.

1. The Assistant Engineer,
(Telephone), Out-Door,
Mangalore.
2. Telecom District Engineer,
Mangalore

... 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 :

O R D E R

The applicant before us was working at
the material time as a class IV official at Mangalore
Telex Indoor, Mangalore. Disciplinary proceedings
were initiated against him as per Memo dated 26.12.83
(Annexure-A) in respect of four articles of charge.

The substance of the charges levelled against him



P. Srinivasan

was that he had entered the telex workshop premises without permission, smoked continuously in the workshop despite warnings not to do so, assaulted the Junior Engineer (JE) in the Workshop and remained absent from duty without authorisation on 29.11.1983. Since he denied the articles of charge an Inquiry Officer (IO) was appointed who recorded a finding holding the applicant guilty on all the charges. Accepting this finding, the Disciplinary Authority (DA) viz. Assistant Engineer (Phones) by his order of 21.9.1987 imposed the punishment of removal from service with immediate effect on the applicant. The order also directed that the period during which the applicant was under suspension from 29.11.1983 to 31.5.1985 be treated as suspension for all purposes. The applicant filed an appeal against this order which was dismissed by the Appellate Authority (AA) viz. Telecom District Engineer, Mangalore, by order dated 19.1.1988. It is against these orders that the applicant has filed the present application.

2. When the matter came up for hearing today Shri M.R. Achar, learned counsel for the applicant, submitted that the finding of guilt recorded against the applicant was without evidence and perverse and that the punishment imposed was out of proportion to the charges levelled against him. He also submitted that a criminal case had been instituted against the applicant for the same acts but he had been acquitted by the Trial Court.

P. S. K

3. Shri M. Vasudeva Rao, learned counsel for the respondents, strongly opposed the contentions of Shri Achar and submitted that the Inquiry Officer (IO) had adequate evidence to come to the finding which he did and that the DA and the AA rightly accepted this finding. He also submitted that the penalty imposed was proper considering the gravity of the charges levelled against the applicant.

4. We have considered the matter carefully. As will be seen from the earlier narration the most serious charge against the applicant was that the applicant assaulted the Junior Engineer. The applicant stated in the course of inquiry that he did not actually assault the Junior Engineer but merely held his collar in order not to fall down. The evidence recorded in the inquiry report clearly supports the finding of guilt against the applicant. We have no reason to interfere with this finding. The acquittal in the criminal case is neither here nor there as different rules of evidence apply to a criminal case and to a departmental inquiry. Coming to the quantum of penalty we do feel that the punishment of removal from service was excessive in the face of the charges levelled against the applicant. We feel that it would meet the ends of justice if the penalty of compulsory retirement from service is imposed on the applicant from the date the order of the DA was passed i.e., from 21.9.1987.

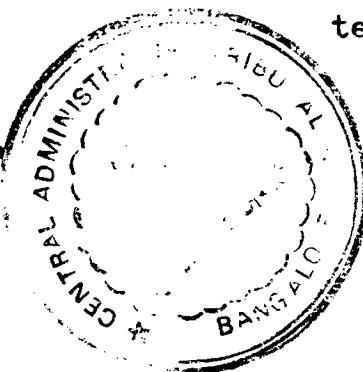
P. f - W



5. In the result we pass the following orders:-

- i) We uphold the finding of guilt recorded by the IO, DA and AA.
- ii) We reduce the penalty imposed on the applicant to one of compulsory retirement effective from 21.9.1987.
- iii) The period during which the applicant was under suspension should be counted for the purpose of determining the terminal benefits due to the applicant.

6. The application is disposed of in the above terms. Parties to bear their own costs.



Sd/-

(VICE-CHAIRMAN)

Sd/-

(MEMBER (A))

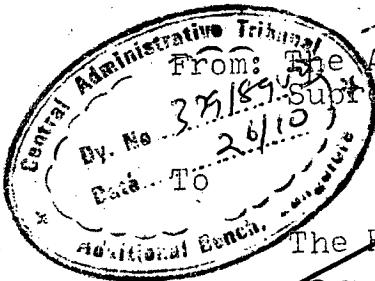
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Rathna 21/12/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

D.No. 3034/89/ Sec-IV-A
SUPREME COURT OF INDIA
NEW DELHI

Dated 5-10-89

From: The Additional Registrar
Supreme Court of India.



Central Administrative Tribunal
at Bangalore

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 7748 of 1989
(Petition under Article 136 of the Constitution of India,
for Special Leave to Appeal to the Supreme Court from the
Judgment and Order dated 8-10-88 of the High Central
Court of Administrative Tribunal at Bangalore
in Appln. No. 1085/88 /

C.A.T.
Wif
M. Pennath Shetty Petitioner.

Versus

Asstt. Engineer Mangalore Respondent 5
and Ans

Sir,

I am to inform you that the Petition above-mentioned
for Special Leave to Appeal to this Court was/were filed on
behalf of the Petitioner above-named from the Judgment/Order
of the Central Administrative Tribunal at Bangalore
noted above and that the same was/were dismissed/disposed of
by this Court on the 4th day

Seal today
the 25th of October, 1989.

AS/ FR 25/10/89
25/10/89

Yours faithfully,
Devaraj
for ADDITIONAL REGISTRAR 19.10.89
Item