

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Dated: **1 FEB 1994**

APPLICATION NO(s) 485 of 1993

APPLICANTS: **R.M. Ganesharao v/s. RESPONDENTS: Deptt. of Telecommunication,
New Delhi and Others.**

TO.

1. **Sri.M.Raghavendra Achar, Advocate,
No.1074 and 1075, 4th Cross,
Opp: Raghavendra Nursing Home,
Mysore Bank Colony, Bangalore-50.**
2. **Sri.M.S. Padmarajaiah, Central Govt. Stng. Counsel,
High Court Bldg, Bangalore-1.**
3. **The Chief General Manager,
Karnataka Telecom Circle,
No.1, Old Madras Road, Bangalore-8.**

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

-xxx-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 21-01-1994.

*Issued on
3/2/94*

for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

o/c

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.485/93

FRIDAY THIS THE 21ST DAY OF JANUARY, 1994

MR. JUSTICE P.K. SHYAMSUNDAR

VICE CHAIRMAN

MR. V. RAMAKRISHNAN

MEMBER (A)

Shri R.M. Ganesha Rao,
S/o Ramachandra Rao,
Aged about 56 years,
C/o R. Shivaji Rao,
No.4, Shanbhogu Krishnappa Lane,
Chickamavalli,
Bangalore - 4

Applicant

(By Advocate Shri M.R.Achar)

vs.

1. The Union of India,
Department of Telecommunication,
New Delhi
2. The Chief General Manager
(Telecommunications),
Maruthi Complex,
Bangalore
3. The Telecom District,
Engineer,
Department of Telecommunications,
Karwar

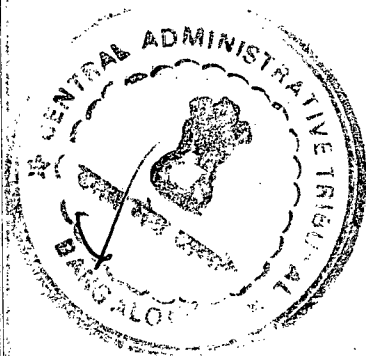
Respondents

(By Advocate Shri M.S.Padmarajaiah)
Sr.Standing Counsel

ORDER

Mr. Justice P.K. Shyamsundar, Vice Chairman

We have heard Shri M.R. Achar for the
applicant and the learned Standing Counsel in



this application which is posted for admission. Whether we should admit this matter and keep it pending for sometime or dispose it off on merits right now is for consideration. It transpires the pleadings have been completed after notice to the Central Government at the stage of admission. Through the courtesy of learned Standing Counsel, relevant records have been made available. It appears therefore unnecessary to allow this matter to enter the further stage of being posted for hearing on its merits after admission. We therefore propose to dispose off this matter on merits the same being done with the consent of both parties.

2. The applicant is a Section Supervisor in the Telecom Department at Karwar who, after attaining the age of 55 years of age, was retired compulsorily by Government in exercise of powers under 56(j) by an order made on 4.12.92 produced at Annexure A-2 which reads:

"WHEREAS THE DIRECTOR TELECOM, MANGALORE is of the opinion that it is in the public interest to do so:

NOW THEREFORE, in exercise of the powers conferred by clause j(ii) of Rule 56 of the Fundamental Rules, the DIRECTOR TELECOM MANGALORE hereby gives notice to SHRI R.M. GANESH RAO, SECTION SUPERVISOR T.D.E. KARWAR that he, having already attained the age of fifty five years on the 14th of July, 1992, shall retire from service on the forenoon of the day following the date of expiry of 3 months computed from the date following the date of service of this notice on him."

3. The said order makes it clear that the services of the applicant were found to be no

longer required and it was therefore decided to retire him under Sec.56(j) which enables government to remove its own officer when he completes 55 years of age or 30 years of working tenure in the office. It is not denied that the officer satisfied both the said requirements on the date of superannuation. He had completed 55 years of age and also had put in 30 years of service. With the result, short of complaining that the order is not justified, nobody could possibly allege that it was not in accordance with the provisions of the rules namely rule 56(j).

4. The Department when called upon to justify the premature removal of the applicant from service filed a suitable statement in which it was pointed out that the case of the applicant along with the cases of a large number of other officers were brought up for consideration before a High Power Committee to examine whether their further continuance was necessary in the interest of public service. The Committee consisting of the high officers of the Department i.e. - CGM Telecom, Deputy General Manager, Telecom and Vigilance Officer Telecom, Bangalore reviewed the career graphs of a large bunch of officers for the period from 1.7.92 to 30.9.92 at a conclave held by them on 4.11.92 at Bangalore. They recommended for premature retirement of ~~only~~ the applicant Shri Ganesha Rao. It was surprising to note that although the High Power Committee, after reviewing the cases of 55 persons found 53 to be good enough for further continuance in the Department, in regard to 2 others, the applicant Shri Ganesh Rao



and Shri Abdul Salam, the Committee expressed the view that both were not fit for further continuance in office. In the file made available to us, the following observation is made by the High Power Committee:

"In respect of Shri R.M. Ganesh Rao, Section Supervisor, the committee noted from the records that this official has been punished a number of times during his service in the years 75-76, 78-79, 80-81 and 90-91 for incompetency in handling cash and cash records, for misappropriation of Government money, for misappropriation of HBA sanctioned to him and also responsible for not billing the trunk call tickets which is nothing but for personal gain - thus showing lack of trustworthiness and lack of integrity. This is so in spite of several punishments without any sign of improvement. In addition, the records reveal that the official has developed bad conduct which is unbecoming of a Government servant such as lack of devotion to duty, exhibiting inadequate control and management of staff, showing inadequate ability to inspire confidence in staff etc. as reflected in the recent confidential rolls for the year 1990-91. The retention of such an untrustworthy official with low integrity is not in public interest. Therefore, the committee does not recommend the retention of Shri R.M. Ganesh Rao in service in public interest."

5. At the conclusion of their deliberation, the Committee then recommended for premature retirement of the applicant. That recommendation was subsequently affirmed by the Chief General Manager in terms as follows:

✓
"With reference to the above subject, I am directed to inform you that the High Power Committee constituted for considering the cases of officials attaining 55 years of age/30 years of qualifying service during the period 1.7.92 to 30.9.92 as to their retention in service met on 4.11.92 and the said HPC has come to the conclusion that the following official(s) of your Telecom, District/Telegraph Traffic Division is not a fit person(s) to be regulated in service."

1. Shri R.M. Ganesh Rao, SS

Hence, you are hereby requested to kindly take further necessary action on the subject as per rules by issuing three months notice.

The confidential reports of the official(s) is returned herewith.

Kindly acknowledge receipt of this letter.*

6. After such spade work was done, the matter was sent up to Government by the High Power Committee when the appointing authority namely the Director ~~General~~ of Telecom accepted their recommendation at the government level. The Government then passed the impugned order acting under 56(j). In these matters it is now well settled that the decision of the authorities remains absolute unless of course the exercise of power in that behalf is stated to be actuated by improper motives or lacks in bona fides. This is what has been laid down in the case of Union of India v. Col. J.N. Sinha - AIR 1971 SC 40. The position as aforesaid is hardly disputed.

7. Now, the only question that arises for consideration is whether the impugned order is hit by any malafide or it has been passed in a mechanical way without application of mind by the authorities, to the extant situation. We have seen the records which bears out that nobody in the higher officialdom had any grievance against the applicant. So whatever has been done is done wholly in a congenial atmosphere.

8. However, Shri Achar points out that a DPC had only imposed two minor punishments on the applicant way back in 1990 and 1991 and on the



- 6 -

basis of those minor punishments, the Department should not have caused this major upheaval in the life of the government servant by cutting ^{him} off from active service prematurely.

There is force in this contention and that is the reason why we were constrained to look into the records to see whether the order was passed on the basis of a simple punishment imposed in the past or it was otherwise. But that is not so, as could be seen from the observation of the High Power Committee while recommending applicant's premature retirement. It appears that the applicant was therefore recalcitrant and was not quite serious about the work he performed for the government. The committee has paid heed not only to the remarks made in the official records but has also gone back and reviewed his records for the earlier years as enjoined by the guidelines prescribed by the Government. We see no flaw in the techniques adopted by the committee in making its recommendation which is based purely on the finding that it was not necessary to continue the applicant in service further. As could be seen from the foregoing excerpt in the order passed by the Director General, he was found not fit for further continuance in service. Therefore, it becomes clear to us that the impugned order was not made with a blank mind but it is done after applying the mind after necessary focus on the various issues by the authorities concerned.

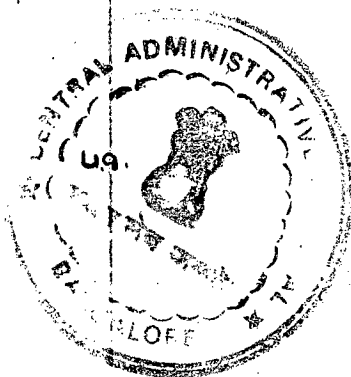
9. This is, therefore, not a case which can be shrugged off on the ground that the authorities had passed the order in a mechanical way. This being the only contention urged by Shri Achar for the applicant, having thus found no substance in it, we accordingly dismiss the same with no order as to costs.

Sd-

(V. RAMAKRISHNAN)
MEMBER (A)

Sd-

(P.K. SHYAMSUNDAR)
VICE CHAIRMAN



TRUE COPY

N. Deu

1/2/94

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE