

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 23 NOV 1993

APPLICATION NO(s) 666 Of 1993

APPLICANTS: J. Ranganatha Naicker / FONDENTS: General Manager, Telecom, Bangalore & Ors.

TO.

1. Dr. M.C. Nagendra, Advocate,
No. 11, First Cross 2nd floor,
Srikrishna Complex, Gandhinagar,
BANGALORE-9.
2. The General Manager,
Bangalore Telecom District
K.G. Road, Chamber of Commerce Bldg.,
BANGALORE.
3. Sri. M.C. Vasudeva Rao,
Adv. Central Govt. Stg. Counsel,
High Court Bldg, Bangalore 1.

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 22-11-93.

5
R. *Am S*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

23/11/93

g/c Signed
gm

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

O.A. NO. 666/1993

DATED THIS THE TWENTYSECOND DAY OF NOVEMBER, 1993

Shri V. Ramakrishnan, Member (A)

Shri A.N. Vujjendaradhy, Member (J)

Shri J. Ranganatha Naicker
Aged 50 years
S/o. Late Shri Jagannatha Naicker
residing at 90, Ashwathanagar
Sanjaynagar P.O.
Bangalore-560 094

... Applicant

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

vs.

1. The General Manager
Telecommunications
Bangalore District
Bangalore.

2. The Divisional Engineer
Telecommunications
Melleswaram External
Bangalore-560 055.

3. The Director General cum
Secretary to Government
Ministry of Communications
Telecommunications
Sanchar Bhavan, New Delhi.

... Respondents

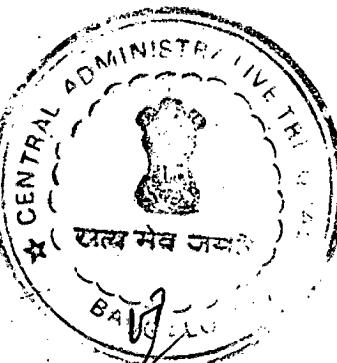
(By Shri M.V. Rao, C.G.S.C.)

Judgement delivered by Shri V. Ramakrishnan, Member (A)

O R D E R

The applicant has come up with a prayer that the order dated 10.8.1990 at Annexure-A1 placing him under suspension should be quashed and that he should be reinstated in service and allowed all the consequential benefits with full pay etc.

2. We have heard Dr. M.S. Nagaraja, counsel for the applicant as also Shri M.V. Rao, the learned Standing Counsel.



We find from Annexure-A1 dated 10.8.1990 that the applicant has been placed under suspension in terms of Rule 10(1)(b) of the CCS(CCA) Rules which states that a Government servant may be placed under suspension "where a case against him in respect of any criminal offence is under investigation, inquiry or trial". The applicant was placed under suspension on the basis of the recommendation of the Vigilance Officer in view of investigation by the C.B.I. and we now find that a criminal case under the Prevention of Corruption Act has been registered against him and the charge-sheet has been filed on 22.4.1993. It is true that the preamble to the order placing him under suspension states that a disciplinary proceeding against the applicant is contemplated, but the department had quoted Rule 10(1)(b) which is the relevant provision in respect of the applicant. The fact that the Department has the power in terms of Rule 10(1)(b) to place the official under suspension is not disputed and it is admittedly the fact that the charge-sheet in a criminal offence has since been filed in the Court against the applicant, Dr. Nagaraja in all fairness does not press the point regarding the preamble to the order. The learned counsel, however, contends that it was incumbent on the part of the Department to have applied its mind and not blindly acted on the basis of the recommendation of the Vigilance Officer. Irrespective of the kind of examination done by the department ^{while} ~~initially~~ placing the official under suspension, the fact that the charge-sheet in a criminal offence has since been filed cannot be lost sight of at this stage. We also find that the prayer of the applicant for enhancement of the subsistence allowance has been granted by the Department. We, therefore, hold that the Department's order dated 10.8.1990 at Annexure-A1 is in order and does not call for any interference.

3. Dr. Nagaraja draws our attention to Government of India instruction no.13(1) relating to the review of suspension (page 185 of Swamy's Compilation of 19th Edition) which states as

Follows:-

"It is in the inherent powers of the disciplinary authority and also mandatory to review periodically the case of a Government servant under suspension in which charge-sheet has been served/filed to see what steps could be taken to expedite the progress of the court trial/departmental proceedings and revoke the order permitting the Government servant to resume duty at the same station or at a different station, which in his view the continuance of suspension is not justified having regard to the circumstances of the case at any particular stage. The first review has been prescribed to be undertaken at the end of 3 months from the date of suspension".

The learned counsel for the applicant wants the Department to adhere to this instruction. We agree with his contention in this regard and direct the department to consider the continuance or otherwise of the suspension of the applicant in terms of the instructions referred to supra. Such a review should be done within one month from the date of receipt of a copy of this order. No costs.



Sd-

(A.N. VIJAYARADHYA)
MEMBER(J)

Sd-

(V. RAMAKRISHNAN)
MEMBER(A)

TRUE COPY

Mr. *[Signature]*
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITI 11
BANGALORE

23/4/83