

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:- 20 APR 1994

APPLICATION NUMBER:

196/94

APPLICANTS:

J. Ranganatha Naikar
Te.

RESPONDENTS: The General Manager,
Telephones, Bangalore District,
Bangalore.

- 1) Dr. M.S. Nagasaja, Advocate,
No. 11, Sujatha Complex,
Gandhinagar, Bangalore 560 009.
- 2) The General Manager,
Telephones, Bangalore District
Bangalore
- 3) Shri M. Vasudeva Rao,
Standing Counsel for Central Govt,
High Court Buildings,
Bangalore - 560 001.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 13-4-1994

SI NO. 1
R. Gopal
R. Gopal
20/4/94 Applicant
of
gm*
Issued on
20/4/94
R:

S. S. Bhowmik 20/4
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO.196/1994

WEDNESDAY, THE 13TH DAY OF APRIL, 1994

Shri V. Ramakrishnan

... Member (A)

Shri A.N. Vujjanaradhyā

... Member (J)

Shri J. Ranganatha Naicker,
Aged 51 years,
S/o late Shri G. Jagannatha Naicker,
90, Ashwathnagar,
Sanjaynagar-P.O.,
Bangalore - 560 094.

... Applicant

(By Advocate Dr. M.S. Nagaraja)

Vs.

1. The General Manager,
Telephones,
Bangalore District,
Bangalore.

2. The Divisional Engineer,
Telecommunications,
Malleswaram External,
Bangalore-560 055.

3. The Director General-cum-
Secretary to Govt. of India,
Ministry of Communications,
Sanchar Bhavan,
New Delhi.

... Respondents

(By Advocate Shri M. Vasudeva Rao,
Standing Counsel for Central Govt.)

O R D E R

Shri V. Ramakrishnan, Member A

The applicant was placed under suspension by an order dated 10.8.90 for the reason that he was allegedly caught red-handed while accepting illegal gratification. We are informed that a charge-sheet has since been filed before the court by the CBI. The applicant had come

before us in OA 666/1993 where he had prayed for quashing the suspension order. We had then held that the suspension order dated 10.8.90 was in order and did not call for interference. We, however, directed the department to consider the need for continuance or otherwise of the suspension of the applicant in terms of relevant instructions of the government. The applicant is again ~~come~~ ¹⁸ before us seeking a direction that he should be reinstated, as he claims that the department had not conducted a proper review as directed but had blindly gone on the basis of the advice from the CBI.

2. We heard Dr. M.S. Nagaraja for the applicant and also perused relevant records. Dr. Nagaraja contends that the applicant had been under suspension for nearly four years and even though a criminal case has been registered against him and a charge-sheet has been filed before the court, it is inequitable and unjust that he should be continued to ^{be placed} remain under suspension for prolonged periods. He further argues that considerable time has elapsed before filing of the charge-sheet and it is likely that the trial will also get prolonged. He submits that the department should revoke the suspension order pending completion of the trial and they may consider posting him to an appropriate place where his reinstatement in Government will not cause any prejudice to the conduct of the trial. He also draws our attention to various judgements of the Tribunal. In particular, he refers to the case of Shri R. Perumal and others versus Union of India and others,

1990 (12) ATC 551 which was disposed of by the Madras Bench of the Tribunal on 6.9.89. He draws our attention to para 5 of the judgement which reads as follows:

"In the facts and circumstances of the case and in view of the fact that criminal trial and departmental proceeding have taken over five years and there does not seem to be a likelihood of these being concluded within a short time, we have no other alternative except to grant the relief prayed for. We accordingly direct the respondents to issue orders revoking the suspension of the applicants and to reinstate them in government service forthwith."

Dr. Nagaraja, therefore vehemently argues that in the facts and circumstances of the present application, it is a fit case ^{where} that the Tribunal should direct the department to reinstate the applicant and revoke the suspension order.

3. As already stated, a criminal case is pending as a charge sheet against the applicant has been filed in the court. We find from the records that the department had taken up with the SP, CBI on 17.11.93 requesting him to intimate the present position of the case of the applicant. They had also specifically sought for advice as to whether the suspension of the applicant should be revoked on the compassionate ground. In response to this letter, the SP, CBI in November, 1993 had informed that the case was being posted for hearing before the court and advised the Divisional Engineer against revoking the suspension of the applicant as the trial proceedings are in progress. Subsequently in March 1994 there is a letter from the vigilance officer

of the department informing Divisional Engineer (Telephones) in reply to the letter dated 19.3.94 that "The CBI in their latest letter has stated that it is not advisable to revoke the suspension of the official as the above trial proceedings are in progress. Therefore, suspension cannot be revoked at this stage".

4. We notice that even though the department ought to have conducted the review as to the need for continuance of the applicant under suspension, there is nothing to indicate that the disciplinary authority himself applied his mind and come to the conclusion that the continuance of the suspension is justified, having regard to the circumstances of the case at this stage. He had just acted on the basis of the advice of the CBI that ^{be} suspension should not be revoked. We also do not see any reason given by the CBI for taking the view that the suspension should be continued. We, therefore, direct the disciplinary authority to conform to the instructions of the Government of India regarding review, specifically para 13 (1) in Chapter 2 of Swamy's Compilation of CCS ^{files} (CCA) 19th edition to which their attention was drawn earlier. We again reproduce the relevant extract from the instruction as below:-

"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, when 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 three months from the date of suspension."

The disciplinary authority should, therefore, consider the question objectively taking into account the relevant facts and circumstances of the case including the fact that the applicant has been under suspension for nearly four years and also the likely time to be taken for the criminal trial to reach its conclusion and come to an appropriate finding. If he chooses to consult the CBI, he may do so and take into account the reasons given by the CBI, *among other factors*, but the disciplinary authority, *among other points*, has to make an objective assessment keeping in view all relevant materials. We further direct that the review should be done within one month from the date of receipt of a copy of this order.

15/ No costs.

Sd/-

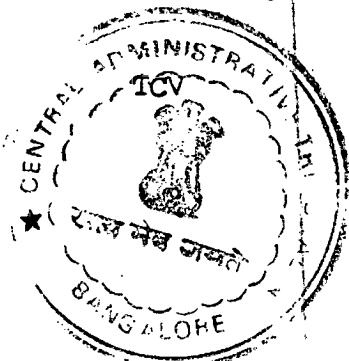
13/4/94

(A.N. Vujjanaradhyā)
Member (J)

Sd/-

13/4/94

(V. Ramakrishnan)
Member (A)



TRUE COPY

S. Gounder
SECTION OFFICER 20/4
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE