

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated: 25 JAN 1995

APPLICATION NO: 2030 of 1994.

APPLICANTS:- Sri.Devegowda,Mysore-12-  
V/S.

RESPONDENTS:-The General Manager,Mysore Telecom Dist, and another.

To

1. Sri.P.A.Kulkarni,Advocate,No.47,  
Second Floor,57th -A- Cross,  
Fourth Block,Rajajinagar,Bangalore-10.
2. Sri.M.Vasudeva Rao,Addl.C.G.S.C.  
High Court Bldg,Bangalore-1.

Subject:- Forwarding of copies of the Order passed by the  
Central Administrative Tribunal,Bangalore.

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Please find enclosed herewith a copy of the ORDER/  
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above  
mentioned application(s) on 16-01-1995.

Issued on  
25/01/95

o/c

  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

gm\*

CENTRAL ADMINISTRATIVE TRIBUNAL,  
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 2030/ 1994

MONDAY, 16TH DAY OF JANUARY, 1995

SHRI V. RAMAKRISHNAN ... MEMBER (A)  
SHRI A.N. VUJJANARADHYA ... MEMBER (J)

Shri Devegowda,  
S/o Shri Arasegowda,  
aged about 37 years,  
Occ: Lineman (Phones),  
(Under Suspension),  
O/ the Sub-Divisional Engineer (Extnl),  
Telephone Exchange, Belavadi,  
Gokulam, Mysore - 12.

Devegowda, S/o Shri Arasegowda,  
Lineman,  
Belavadi at No. K-7,  
P&T Quarters, Belavadi,  
Mysore - 570 019.  
(Present Postal Address)

... Applicant

( By Advocate Shri P.A. Kulkarni )

Vs.

1. General Manager Telecom,  
Mysore Telecom District,  
Jayalaxmipuram,  
Mysore - 570 012.

2. Sub-Divisional Engineer (External),  
Telephone Exchange,  
Belavadi,  
Gokulam, Mysore - 570 012.

... Respondents

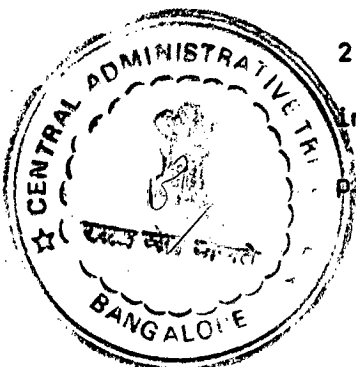
( By Addl. Central Govt. Standing Counsel,  
Shri M. Vasudeva Rao )

ORDER

Shri V. Ramakrishnan, Member (A)

Admit.

2. The applicant herein has challenged the action of the department in initiating proceedings under Rule 19 of the CCS (CCA) Rules which provides for skeleton enquiry, inter alia in a situation where the



government servant had been convicted on a criminal charge. The ground adduced by the applicant for the relief is that even though he was convicted by the lower Court, on appeal, the appellate Court had stayed both the conviction as also the sentence by its order dated 25.7.92 as at Annexure 3. He has prayed for quashing the entire proceedings by the department starting with the memo. dated 7.7.94 as at Annexure-4 and ending with the issue of show cause notice dated 20.10.94 asking the applicant to show cause as to why he should not be dismissed from service, vide memo. as at Annexure 7.

3. We have heard Shri P.A. Kulkarni for the applicant and Shri M.V. Rao for the respondents.

4. It transpires that the applicant faced a criminal trial for theft of some articles and the Court had found him guilty and convicted him under Section 379 IPC and sentenced him to suffer rigorous imprisonment of 3 months and to pay a fine of Rs. 500/- and in default of payment of fine to suffer further R.I. for one month. He, however, had obtained a stay by the District and Sessions Judge, Mysore on 25.7.92 where the learned Judge stayed both the conviction and sentence passed by the trial Court. When the department came to know about his conviction by the trial Court, it issued a memo. dated 7.7.94 (Annexure A-4) to the applicant to the effect that it was proposed to take action in pursuance of provisions of Rule 19 under CCS (CCA) Rules and directing the applicant to be present on a certain date for facing a skeleton enquiry. Such an enquiry was held on 24.8.94 as at Annexure-5 and an enquiry report was submitted on 20.10.94 as at Annexure-6 where the enquiry officer had come to the conclusion that the applicant by his conduct failed to maintain absolute integrity and thus contravened the provisions of CCS (Conduct) rules. On the same day, a notice was issued

informing him that the department proposed to impose the penalty of dismissal from service and giving him an opportunity to make any representation. (Annexure-7). The applicant represented on 26.9.94 against the order dated 7.7.94 (Annexure-4) and also submitted another representation on 8.11.94 as at Annexure-9 as reply to show cause notice dated 20.10.94 (Annexure-7). He has approached this Tribunal soon after with the present application.

5. Shri Kulkarni, learned counsel for the applicant submits that in view of the stay order dated 25.7.92, the department could not have taken recourse to the special procedure laid down under Rule 19. Shri M.V. Rao, the learned Standing Counsel submits that the department was not at all aware that he had obtained a stay order from the District and Sessions Judge, both against the conviction and the sentence. He also draws our attention to the fact that the applicant neither in his representation nor during deposition during the enquiry has drawn the attention of the department to the fact that the conviction and sentence had been stayed. Shri Rao submits that the department came to know of the order dated 25.7.92 only when they received the copy of the application and if they had been aware of this order of the learned District and Sessions Judge, they would have acted differently. Shri Rao has been shown the photostat copy of the certified copy of the order dated 25.7.92 of the learned District Judge.

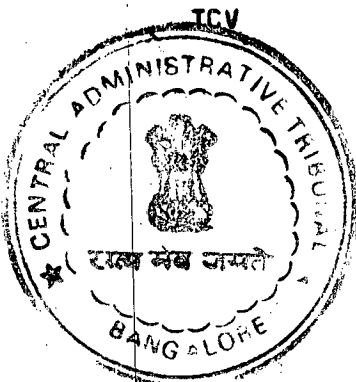
6. The issue to be decided in this case whether in view of the order obtained by the applicant under which both the conviction and sentence had been stayed, the order of the department in taking recourse to Rule 19 of CCS (CCA) rules can be sustained. We find that in the case of Om Prakash Narang vs. Union of India decided by the Full Bench of this Tribunal on 7.9.88 (Full Bench Judgements page 21 to CAT 1986 - 1989 Vol.1), the Full Bench had taken the view that merely filing an

appeal against a conviction in a criminal case and getting the sentence suspended does not affect the validity of the order under Rule 19 of CCS (CCA) Rules. In para 3 of the Judgement, the Full Bench had specifically referred to the fact that the conviction of the applicant in that case was not suspended. In the present case, however, the position is different and the learned District and Sessions Judge had not only stayed the sentence but also the conviction. We note the submission of Shri M.V. Rao that if the Department had been aware of the fact of stay of conviction given by the District Judge, they would have acted differently. In view of this position, the Department's action in taking recourse to the special procedure laid down under Rule 19 of the CCS (CCA) Rules cannot be allowed to stand when the conviction has been stayed so long as the stay against such conviction operates. We, therefore, quash the memo. dated 7.7.94 as at Annexure-4 and the subsequent actions taken in pursuance of that memo. including Annexure-7.

7. With the above observations, the application is finally disposed of. No costs.

*Sch*  
( A.N. VUJJANARADHYA )  
MEMBER (J)

*Sch*  
( V. RAMAKRISHNAN )  
MEMBER (A)



**TRUE COPY**  
*[Signature]*  
25/01/95  
Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangalore