

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Original Application No.380/98

Date of Decision: 8.3.2002

CORAM: HON'BLE SHRI GOPAL SINGH, MEMBER (A)
HON'BLE SHRI S.L.JAIN, MEMBER (J)

Shri Chandrakant Govind Tawde,
S/o Govind Tawde,
Age: 36 years
Ex.Telegraphman (Outdoor)
Staff No.11540 CTO, Mumbai-1,
Residing at: Shankar Pawar Bldg.
Agar Ali, Gaodevi Road, Kulgaon,
Tal. Ulhasnagar, Badlapur (East),
Dist. Thane. ... Applicant

(Applicant by Shri S.P.Kulkarni, Advocate)

vs.

Union of India (through)

1. The Chairman,
Telecom Commission,
Department of Telecommunications
Ministry of Communication,
CTO-1,
Sanchar Bhawan, New Delhi 110 001.
(Review Coordinating Authority for
President of India).
2. Adviser, Human Resources Department
(H.R.D), (Review-Authority)
(Department of Telecom),
Ministry of Communication,
New Delhi 110 001.
3. Chief Superintendent
Central Telegraph Office,
Fort, Near Hutatma Chowk,
(Appellate Authority),
Mumbai 400 001.
4. Assistant Chief Superintendent
(G-III), C.T.O.
Central Telegraph Office,
Near Hutatma Chowk, Fort,
Mumbai 400 001.
(Disciplinary Authority) Respondents

(Respondents by Shri V.S.Masurkar, Advocate)

Page -

O R D E R (ORAL)

[Per: S.L.Jain, Member (J)]

This is an application under Section 19 of the Administrative Tribunals Act 1985 to quash and set aside the Review Order dated 2.9.1997 (Exh.A.1), the Revisional Order dated 29.1.1993 (Exh.A/2), Appellate Order dated 2.1.1992 (Exh./A4), Punishment Order dated 26.11.1991 (Exh./A3) and Charge Memo dated 1.4.1991.

2. The applicant who belongs to Scheduled Caste community was appointed as a Telegraphman (Outdoor) on 23.9.1983 and served as such till 26.11.1991. He was served with a Charge Sheet dated 1.4.1991 for allegedly remaining absent from duty from 1.10.1990 to 01.4.1991, an exparte disciplinary proceedings were held after serving the chargesheet as the applicant did not choose to appear before the Inquiry Officer. Thereafter the penalty of removal from service was passed by the Disciplinary Authority agreeing with the findings of the Inquiry Officer. The applicant preferred an appeal, thereafter a revision and review, ^{but} ^{all} ~~but~~ in vain.

3. The learned Counsel for the applicant relied on the judgement of the Hon'ble Rajasthan High Court in Union of India & Ors vs. Ummed Singh & Ors reported in 2002(1) ATJ 184 where the question of law decided was whether a person who has served 19 years without any stigma -- directed the authorities to reconsider the quantum of punishment to be awarded for the

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alleged misconduct and recommended the penalty of compulsory retirement instead of order of removal and the High Court found no infirmity in the direction of the Tribunal.

4. We have perused the pleadings of the parties, and it was only a typing error by which applicant in para 4.5 stated ^{that} he had at this credit total service of 17 years. He has in the same para mentioned earlier that he served the respondents w.e.f. 23.9.1983 to 26.11.1991 and as such we do not find any malafides on the part of the Applicant.

5. If we examine the case relied upon by the learned Counsel for the applicant, the applicant has only the service of about 8 years while in the case relied by the applicant, the applicant of the said case has served for 19 years. As such there is no bearing on the case in hand.

6. The learned counsel for the applicant argued that the punishment awarded by the Respondents does not commensurate with the misconduct committed by the applicant and as such deserves to be interfered by this Tribunal. We are conscious of the decision of the Apex Court that until and unless the punishment awarded by the authorities does not shocking the conscious of the Tribunal it is not permissible to interfere with the said punishment. The Applicant has remained absent for six months, w.e.f 1.10.1990 to 1.4.1991, the date of issue of Chargesheet, does not deserve any sympathy at the hands of the Tribunal.

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7. The learned counsel for the applicant lastly submitted that the applicant's case be considered by ignoring his earlier services, for fresh appointment. We are referring the submission of the learned counsel for the applicant, which is opposed by the learned counsel for the respondents, we leave the matter for consideration by the Respondents to pass such orders as they consider deemed fit without recording our opinion in this respect.

8. In the result, OA. deserves to be dismissed and is dismissed accordingly. No order as to costs.

Signature
(S.L.Jain)
Member (J)

Signature
(Gopal Singh)
Member (A)

sj*

24/8/32
~~Order/Judgement despatched~~
to Applicant respondent (s)
24/6/02
ON

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