

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

MONDAY THE TWELFTH DAY OF JANUARY
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN

: PRESENT :

THE HON'BLE MR.B.N.JAYA SIMHA: VICE-CHAIRMAN
AND
THE HON'BLE MR.D.SURYA RAO: MEMBER.

ORIGINAL APPLICATION NO.55 of 1987.

Between:-

C.YadagiriApplicant.

And

1. The Sub-Divisional Officer,
Telecom., Secunderabad-500003.
2. The General Manager,
Telecommunications, A.P.,
Hyderabad.
3. The Secretary, Telecommunications
Department, (representing Union of India),
Sanchar Bhavan, New-Delhi-110001.

....Respondents.

Application under Section 19 of the
Administrative Tribunals Act 1985, praying that in the
circumstances stated therein the Tribunal will be pleased
to declare that the disciplinary proceedings against him
are illegal null and void and to direct the respondents
to cause immediate payment of his duty period salary for the
period from 1st May to 19th July, 1979 and the subsistence
allowance ~~from 20-7-79 till date pending regularisation~~
of the ~~xx~~ suspension period together with interest at the
rate at which Banks lend money as personal or secured loans
to the public.

For the Applicant:- Sri C.Suryanarayana Murthy, Advocate.

For the Respondents:- Mr.N.R.Devaraj, Addl.C.G.S.C.,

The Tribunal delivered the following Judgment:-

O A No. 55 of 1987.

Regd
O.A. 9 of 1987.

(JUDGMENT OF THE BENCH DELIVERED BY
HON'BLE MEMBER MR. D. SURYA RAO)

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The applicant herein, who was working as Linesman in the Telephones Department at Kom-pally with headquarters at Vikarabad was placed under suspension w.e.f. 20-7-1979 pending disciplinary ^{action} orders instituted under Rule 14 of CCS (CCA) Rules, 1965. The applicant's contention is that he submitted a reply on 26-11-1979. It is the applicant's case that while admitting his guilt in regard to the charges framed, he had repaid the amounts collected from subscribers or potential subscribers. The charge apparently was for illegal collecting these amounts. It is alleged that instead of accepting the applicant's defence statement, the Inquiry Officer by a letter dated 3-12-1979 informed the applicant that unless proof was produced as to the payment of amounts, he would have to disbelieve the statement of the applicant. The applicant's case is that an inquiry ought to have been held by Inquiry Officer and establish that the applicant had not repaid the amounts as pleaded by him in his defence statement. Thereafter, the first respondent, Sub Divisional Officer, Telecom., Secunderabad issued a show-cause notice dated 8-2-86 enclosing a copy of the Inquiry Officer's report calling upon the applicant to make his representation in regard to a penalty of dismissal from service proposed to be imposed upon him. According to the applicant, thereafter no further action was taken by the Department and he was not given an opportunity of being heard. He claims that

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the disciplinary proceedings was frozen and the applicant has been kept under suspended animation all these years. Legal notice dated 20th May, 1985 demanding restoration to duty, payment of salary from 1-5-1979 to 19-7-1979 and subsistence allowance from 20-7-79 onwards proved ~~on~~ no avail. He prays that a declaration that the disciplinary proceedings against him are vitiated, that he is entitled to be restored to service & that he may be paid arrears of salary and subsistence allowance for the ~~purposes~~ periods mentioned in his legal notice.

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The only question that arises for consideration at this stage, whether the applicant's application is within time. We had called for the original record from the Department to verify whether ~~no~~ ^{any} final order was passed. We heard ^{and} arguments of Sri N.R. Devaraj, Standing Counsel. We find from the record that a final order has been sent to the applicant by registered post under R.L.no.1273 dated 19-4-1980 to the applicant's last known address. But the same was ^{however} returned with an endorsement that ~~as~~ it was refused. Thus there has been sufficient notice to the applicant of the order of removal from service as long ago as in 1980. The applicant has not explained what he was doing all these years. Assuming that he did not receive the final order, he has not explained what he did till the year 1984 when he sent what he terms is "an appeal" to the second respondent, viz., General Manager, Telecommunications. Under the Central Administrative Tribunal Act, limitation has been prescribed vide Section 21 of the Act. Under this provision, a grievance which had ^{arisen} ~~arisen~~ three years preceding the date

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on which the jurisdiction and powers of the authority of the Tribunal becomes exercisable and in respect of which no proceedings have been initiated before the High Court before such date can be entertained by way of an application by the Tribunal only if it is made within six months from the date of constitution of the Tribunal. The Tribunal in the instant case has assumed jurisdiction and powers on 1-9-1985. The application should have, therefore, been made by 31-3-1986. In any event, the grievance of the applicant has arisen in the year 1980, i.e. prior to three years of the Tribunal assuming jurisdiction and powers. The applicant got a legal notice issued on 20th May, 1985 and thereafter though it was open to him to have approached the Tribunal any time after 30-9-1985. He failed to do so and no satisfactory explanation is given to account for his laches. Hence, in all respects, the application is hopelessly time-barred and not maintainable. It is accordingly dismissed as barred by limitation.

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(Dictated in open Court.)

12th January, 1987.

B.N.Jayasimha
(B.N. JAYASIMHA)
Vice-Chairman.

D.S.
(D.SURYA RAO)
Member.

(P-7-0)