

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.
T.A. No.

199

1987

DATE OF DECISION

7-8-89

Petitioner

M. K. S. R. Anja meyeru

Advocate for the Petitioner(s)

Versus

Respondent

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B. N. Jagasimha

The Hon'ble Mr. J. Narasimha meyeru

1. Whether Reporters of local papers may be allowed to see the Judgement? No
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

MGIPRRND-12 CAT/86-3-12-86-15,000

B. N. J.

J. N. M.

107

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD

O.A.NO.. 199/87.

Date of Order: 7-8-89.

P.Abraham.

...Applicant.

and

1. The Telecom District Engineer,
Ashoknagar, Guntur-522 050. A.P.
2. The Director of Telecommunications,
Guntur-522 007. A.P.

....Respondents.

FOR THE APPLICANT: MR. K.S.R.ANJANEYULU: ADVOCATE.

FOR THE RESPONDENTS: MR.PARAMESWARA RAO FOR MR.P.RAMAKRISHNARAJU:
SR.CGSC.

CORAM:

HON'BLE MR.B.N.JAYASIMHA: VICE CHAIRMAN

AND

HON'BLE MR.J.NARASIMHA MURTHY: MEMBER(JUDL)

(JUDGMENT OF THE BENCH DELIVERED BY HON'BLE VICE CHAIRMAN
SRI B.N.JAYASIMHA).

...Contd...

108

O.A.No.199/87.

(Judgment of the Bench delivered by Hon'ble Vice-Chairman,
Shri B.N.Jayasimha.)

--

The applicant herein is a Mazdoor in Telephone Exchange, Repalle. He filed this application against the order No.E1/Disc. Case/DS/A/84-85/106 dated 17-6-1986 under which he was reduced from the post of Line Man to the post of a regular Mazdoor against the Appellate Order No.TAG/ST/8/126/IV dated 2--12--1987 of the Director of Telecom., Guntur who confirmed the order of the Divisional Engineer, Telecom, Guntur.

While
/ The applicant was working as Lineman the Divisional Engineer, Telecom, Guntur by his Memo No.E1/Disc/Case/DS/PA/ ~~8485~~ 84-85/2 dated 9-5-84 issued a Memo of charges under Rule 14 of C.C.S.(C.C.A.) Rules 1965 alleging that the applicant along with one Sri D.Sudhakara Rao, Technician Cherukupalli demanded tips from Telephone subscribers and a complaint to that effect was given by them. It was also alleged that the ^{applicant} ~~applicant~~ along with Sri D.Sudhakar Rao collected donations for the Union, of which he is a Member. After an enquiry, the Disciplinary Authority imposed ^{the} ~~a~~ punishment of reduction in rank i.e., from the post of Lineman to the post of regular Mazdoor and it was confirmed by the Appellate Authority.

bn's

P3
9/12/89

The main ground urged by the applicant in challenging these orders ^{is} ~~are~~ that he was directly recruited as ^a Lineman ^{he} and never worked as ^a Mazdoor and therefore the reversion ^{to his post of} as Mazdoor is illegal, ~~and~~ ^{He also} contends that the subscribers assaulted the applicant. ~~The~~ and ~~the~~ Department instead of coming to his rescue for protection harassed him with charge sheet and penal action. As against the complaint given by the applicant in the course of his official duties to the Sub Inspector of Police, Cherukupalli the miscreants have given a letter of apology addressed to the Sub Divisional Officer, Tenali with a copy to the Sub Inspector of Police, Cherukupalli and also to the Union. The Authorities failed to take note of the same and sought to punish the applicant without any valid and legal grounds. The procedure laid down in C.C.S. (C.C.A.) Rules has been grossly violated. There was a denial of reasonable opportunity in not affording the assistance ^{of a} ~~of a~~ Government servant. There was denial of opportunity in not producing some of the listed documents in the enquiry and not giving access to additional documents. The exparte enquiry conducted is without justification and liable to be quashed. Although the applicant requested the appellate authority to take note of the procedural and constitutional lapses which ~~were~~ resulted in mis-carriage of justice and rendered justice by setting aside the order of punishment,

it was not done.

The applicant states that in the case of Sri D.Sudhakar Rao Technican who was also issued a charge sheet along with the applicant on the same grounds, the penalty was reduced by the appellate authority by reverting him to the cadre of lineman only for a period of eight months. There was, therefore, discrimination in the matter of imposing penalty.

We have heard the learned counsel for the Applicant Shri Anjaneyulu and the learned Standing Counsel for the Department.

The main ground urged by Sri Anjaneyulu is that the applicant could not have been reverted to the post of a regular Mazdoor to which post he was not recruited. He was recruited as Line Man in the year, 1974. He relies on the decision in NYADAR SINGH V. UNION OF INDIA(1) wherein it was held that reduction of an employee initially recruited to higher time scale Grade or service or post to a post in a lower time scale, grade, service or post never held by the employee before

(1) A.I.R. 1988 S.6. 1979

P.S.
12/8/2014

BNS

is not permissible. He also relied on a decision reported in NIRANJAN NAYAK V. SECRETARY IRRIGATION AND POWER DEPARTMENT (Orissa)(2) wherein it was held:

"that an officer cannot be reverted to a post to which he was not originally appointed."

He also relied on a decision reported in BABJI CHARAN ROUT V. STATE OF ORISSA (3) wherein it was held:

"There is no dispute that the petitioner's first appointment was to the grade of Revenue Inspector. The punishment admittedly reduced him to a lower rank than the original appointment. A Bench of this Court in an unreported decision in the case of SANTOSH KUMAR PANDA V. STATE OF ORISSA AND OTHERS took the view that the punishment imposable in a disciplinary action could not be of reversion to a rank lower than the initial recruitment itself."

The decisions relied on by Sri Anjaneyulu fully apply to this case. In these circumstances, the impugned order is set aside and the matter is remitted to the Disciplinary Authority with a

(2)1988(2)A.T.L.T.C.(C.A.T.)31.
(3)1982(1)S.L.J.496.

bnj

PL 98
28/7/87

TO

1. The Telecom District Engineer,
Ashoknagar, Guntur - 522050 - A.P.
2. The Director of Telecommunications,
Guntur - 522007 A.P.
3. one copy to Mr. K.S.P. Anjaneyulu, Advocate,
1-1-365/A, Jawahar Nagar, Bakaram,
Hyderabad.
4. one copy to Mr. ^{P. Ramakrishna Raju}
~~R. Srinivasulu~~, ^{SV} Addl. Commr,
Hyderabad.
5. one spare copy.

P 8 5 100

88
24/12/85

For
Atk
Received on 6⁹/₈₅
At: 12.12

112

direction to reconsider which other penalty it considers appropriate to impose having regard to the facts and circumstances of the case. With these directions, the application is allowed. No costs.

Dictated in open Court.

B.N. Jayasimha
(B.N. JAYASIMHA)
Vice-Chairman.
7-8-1988.

NS
(J. NARASIMHAMURTHY)
Member (Judicial)
7--8--1989.

P7
28/7/88

SSS.

S. V. Anand
Deputy Registrar (J)
28/8/88