

(S8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

D.A. No. 142/89 & 994/90
Txix No. 143/89 and 126/91

Dt. of Decision: 17.2.1993

Mr. M.P.Patrudu & Mr. B.Venkanna

Petitioner

Mr. G.Bikshapathy

Advocate for
the Petitioner
(s)

Versus

OG. Defence Accts, N.Delhi, and others

Respondent

Mr. N.V.Ramana & Mr. M.Keshava Rao

Advocate for
the Respondent
(s)

CORAM:

THE HON'BLE MR. Justice V.Neeladri Rao, Vice Chairman

THE HON'BLE MR. R.Balasubramanian, Member (Admn.)

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?
5. Remarks of Vice-Chairman on Columns 1,2,4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench.)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO.142 of 1989

Date of Judgment: 17th February, 1993

Mr. M.P.Patrudu

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Applicant

Vs.

1. The Controller General,
Defence Accounts,
New Delhi-66.

2. The Controller of Defence Accounts,
C.D.A. (Navy) No.1,
Bombay-400039.

3. The Area Accounts Officer (AAO),
Controller of Defence Accounts,
(Navy) NAD Post,
Visakhapatnam-530009.

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Respondents

O.A.NO.994 of 1990

Mr. M.P.Patrudu

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Applicant

Vs.

1. Government of India,
represented by its Secretary,
Ministry of Defence,
New Delhi.

2. The Controller General of
Defence Accounts,
New Delhi-110066.

3. The Controller of Defence Accounts,
Madras-600018.

4. The Controller of Defence
Accounts (Navy) No.1,
Bombay-400039.

5. Shri D.Krishnamurty,
Dy.Controller of Defence Accounts
and Enquiry Officer,
Area Accounts Officer,
CDA, Visakhapatnam-530009.

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Respondents

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O.A.NO.143 of 1989

Mr. B.Venkanna ..

Applicant

Vs.

1. The Controller General,
Defence Accounts,
New Delhi-66.
2. The Controller of Defence Accounts,
C.D.A. (Navy) No.1,
Bombay-400039.
3. The Area Accounts Officer (AAO),
Controller of Defence Accounts (Navy),
NAD Post,
Visakhapatnam-530009. ..

Respondents

O.A.NO.126 of 1991

Mr. B.Venkanna ..

Applicant

Vs.

1. Government of India,
represented by its Secretary,
Ministry of Defence,
New Delhi.
2. The Controller, General of
Defence Accounts,
New Delhi.
3. The Controller of Defence Accounts,
Madras.
4. The Controller of Defence Accounts (Navy),
Bombay.
5. The Shri D.Krishna Murthy,
Dy. Controller of Defence Accounts,
and Enquiry Officer,
Area Accounts Officer,
C.D.A., Visakhapatnam. ..

Respondent

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COUNSEL FOR THE APPLICANTS: Mr. G.Bikshapathy, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Addl.CGSC for O.A.Nos.142/89, 143/89 & 126/91.

Mr. M.Keshava Rao, Addl.CGSC for OA No.994/90

CORAM:

Hon'ble Mr. Justice V.Neeladri Rao, Vice Chairman

Hon'ble Mr. R.Balasubramanian, Member (Admn.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE SHRI R.BALASUBRAMANIAN, MEMBER (ADMN.)

OA 142/89 and OA 994/90.

Both these O.As are filed by Shri Patrudu who is an S.O(A), to quash the disciplinary proceedings initiated on 8.8.1986 and repeated on 11.12.1989 and also to promote him as Assistant Accounts Officer with effect from the date ~~as~~ his junior was promoted along with all consequential benefits.

2. The sequence of admitted facts are as below:-

CDA, Bangalore issued a charge sheet against the applicant on 8.8.1986.

Inquiry Officer (I.O) and Presenting Officer (P.O) were appointed by CDA/MS on 12.5.1988.

Change of Inquiry Officer by CDA/MS on 19.7.1988.

Fresh Charge Sheet by CDA/MS on 11.12.1989.

Fresh appointment of I.O. & P.O. by CDA/MS on 6.4.1990.

Change of P.O. on 27.9.1990.

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The applicant contends that the alleged lapses in the discharge of his duties related to the years 1981 and 1982 and that the progress of the unjustified charge sheets is tardy resulting in denial of promotion due to him from April 1987 itself. He also questions the competence of the CDA/BG/MS to initiate disciplinary action against him since he had all the time been working under the control of CDA (Navy) Bombay. It is also his case that in a similar case (OA 194/88) this Bench allowed the OA with all consequential benefits.

3. The OAs are opposed by the respondents, viz., CDA (Navy), Bombay in OA 142/89 and CDA/MS in OA 994/90. It is pointed out that the case relied upon by the applicant (OA 194/88) has no relevance to the case. In OA 194/88, when the promotion proceedings were completed ~~even~~ there was no charge sheet whereas in the present case ~~even before~~ the promotion proceedings commenced in January 1988, a charge sheet was already there against the applicant. The CDA/MS also contends that he is competent to conduct disciplinary proceedings.

4. We have examined the case and heard Shri Bikshapathi for the applicant and S/Shri N.V.Ramana and Keshava Rao for the respondents in the two cases. We fully agree

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that the case relied upon by the applicant (OA 194/88) has no relevance to the case before us inasmuch as the essential facts are different. The deciding point is whether the CDA/Bangalore and Madras are at all competent to initiate/conduct the disciplinary proceedings. This question had been raised by the applicant in the rejoinder and was the main point depended upon during the hearing. That the applicant was never under the administrative control of the CDA/Bangalore/Madras and that he was all the time under the administrative control of CDA (Navy), Bombay are not disputed. That being so, it is only the CDA (Navy), BY, being the controlling authority, that can initiate the disciplinary proceedings. This view is further strengthened by the clarification contained in G.O.I., M.H.A., O.M.No. F.39/1/69-Ests(A), dated 16.4.1969-See G.O.I. Order (3) shown under Rule 12 of CCS (CCA) Rules, 1965 (Swamy's compilation, 17th edition). The proceedings pending are thus ex facie illegal and liable to be quashed. This quashing also entitles the applicant to consequent benefits as if the proceedings were not there.

5. We, therefore, quash the disciplinary proceedings of the CDA/Bangalore and Madras. The respondents are directed to open the sealed cover of the DPC proceedings of January 1988 and if the applicant was recommended for promotion, he should be promoted from the date his immediate junior in the panel was promoted. He is also

To

1. The Controller General, Defence Accounts,
New Delhi-66.
2. The Controller of Defence Accounts,
C.D.A.(Navy) No.1, Bombay-39.
3. The Area Accounts Officer(AAO),
Controller of Defence Accounts, (Navy)
NAD Post, Visakhapatnam-9.
4. The Secretary, Ministry of Defence, New Delhi.
5. The Controller of Defence Accounts, Madras-18.
6. The Controller of Defence Accounts(Navy)No.1, Bombay-39.
7. One copy to Mr.G.Bikshapathy, Advocate, CAT.Hyd.
8. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
9. One copy to Mr.M.Kesava Rao, Addl.CGSC.CAT.Hyd.
10. Copyto All Reporters as per standard list of CAT.Hyd.Bench.
11. One copy to Deputy Registrar(J)CAT.Hyd.
12. One spare copy.

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entitled to all consequential benefits including arrears of pay. If he was not recommended by that DPC, he should be considered along with others in the subsequent DPC meetings and action thereon taken. This order does not, however, preclude the respondents from initiating disciplinary proceedings de novo in accordance with law, so advised.

6. The OAs are disposed of thus with no order as to costs.

O.A.Nos.143/89 and 126/91.

Both these OAs are filed by Shri Venkanna who is a S.O(A) in the respondents organisation. These OAs are only slightly different in minor details of facts from OAs 142/89 and 994/90 filed by Shri Patrudu, but are very much the same on essential points. Hence, it would only be appropriate to give the same direction as in the cases of Shri Patrudu and accordingly we give the same directions as in OAs 142/89 and 994/90. The disposal is also the same.

V.Neeladri Rao
(V.NEELADRI RAO)
Vice Chairman

R.Balasubramanian
(R.BALASUBRAMIAN)
Member (Admn.)

Dated: 17th February, 1993.

5/3/93
Deputy Registrar (J).

