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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: :HYDERABAD BENCH: :
AT HYDERABAD.

O.A.No. 351/90.

Date of Judgment:

Between:

B. Venkataramudu

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Applicant

And

1. Divisional Officer, Engineering, Telecommunications, Kurnool-518 050.
2. The Dy. General Manager, Telecom, Tirupathi-517 501.
3. The Chief General Manager, Tele-communications, A.P., Hyderabad-500001.
4. The Director-General, Telecom, (representing Union of India), New Delhi-1

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Respondents

For the Applicant

: Shri C. Suryanarayana, Advocate.

For the Respondents

: Shri N.R. Devaraj, Addl. Standing Counsel for Central Government.

CORAM:

HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER (ADMN.)

HON'BLE SHRI C.J. ROY, MEMBER (JUDL.)

X JUDGMENT OF THE BENCH AS PER HON'BLE SHRI C.J.ROY, MEMBER(J) X

This is an application filed under section 19 of the Administrative Tribunals Act, 1985 questioning the impugned order bearing No.E.4-16/XV/105 dt. 21.10.1987 and confirmed by Order bearing No.TAT/RE/23/18/21 dt. 21-4-1989 of 2nd respondent cancelling the selection of the applicant as Lineman and his non-employment even as Casual Mazdoor as illegal, null and void and consequently to direct the respondents to appoint the applicant as Lineman together with all benefits incidental and consequential thereto.

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2. The applicants belongs to a Scheduled Caste Commu-
nity studied upto X Class, but failed in X class in the
public examination held in March, 1980. The applicant
joined as Casual Mazdoor in the year 1981 in Telecom
Department and registered his name in the Employment
Exchange at Kurnool. The applicant was directed by
the then Sub-Divisional Officer, Phones, Kurnool by order
dated 16-9-1985 (Annex. A-1) to be present before him on
7.10.1985 for interview for selection to Casual Mazdoor,
along with all his original certificates viz. educational
qualifications, date of birth, employment exchange regis-
tration card etc. The applicant alleges that for recruit-
ment as Casual Mazdoor neither educational qualifications
nor date of birth were prescribed in respect of persons
who have already been recruited and engaged. Such persons
were advised only to register their names in the Employ-
ment Exchange if they have not registered.

3. The applicant was selected as Casual Mazdoor by a
formal order of the Sub-Divisional Officer, Phones, Kurnool
(Annex.A-2) dated 22-11-1985 and was shown in the select at
Sl.No.3. The applicant also in the meanwhile, was selected
as a Lineman Learner by orders dt. 5-11-1986 (Annex.A-3)
against 1983 vacancies in reserved category of S.C. by
the orders of 1st respondent. The applicant, pursuant to
selection, was directed to appear before the 1st respondent
with all original documents/certificates on 2.12.1986. It
was also warned that any lapse will lead to forfeiture of
the selection as Lineman Learner. The applicant averred that
under the pressure he was obliged to submit a Transfer
Certificate and that the same is neither certificate of
educational qualification nor a date of birth. The applicant
further alleges that in the recruitment year viz. 1983 for
the post of Lineman, no educational qualifications were
prescribed for recruitment, and therefore submission of

✓ educational certificate is not relevant for recruitment as Lineman. The applicant states that by order dt. 3-12-1986 issued by 1st respondent (Annex.A-5) he was directed to appear for medical examination in connection with appointment as Lineman and that he complied with the directions and obtained Health Certificate and submitted the same to the 1st respondent. The applicant further states that along with other selected candidates, he was deputed for training as Lineman for four months by order dt. 1-5-1987 (Annex.A-7) and successfully completed the training. The applicant and others were advised to wait for further instructions.

4. The applicant alleges that, except himself, the remaining candidates were given appointment orders, and he was informed by order dt. 21.10.1987 that his selection as Lineman was cancelled on the ground that the record sheet produced by him in support of his educational qualification and date of birth are not genuine and found to be bogus after due verification. The applicant further alleges that the said action of the respondent was done without notice to him and that he was not even allowed to be reinstated as Casual Mazdoor. The applicant therefore, represented to the 1st respondent in the matter by his representation dt. 3.12.87 (Annex.A-9), and to all concerned with all details. The applicant alleges that the order of the 1st respondent dt. 21.10.1987 cancelling his selection as Lineman without notice and opportunity etc. is irregular and unsustainable. The applicant alleges that the 2nd respondent by orders dt. 21.4.89 (Annex.A-22) informed him that the 1st respondent reported that he had produced a Transfer Certificate which is not genuine etc. and therefore, his name was deleted from the selection of Lineman. The applicant also alleges that the action of respondents is arbitrary, violative of principles of natural justice incorporated in Articles 14 & 16 of the Constitution of India.

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5. The respondents have filed counter affidavit on their behalf on 2-5-1991. The respondents admit that the applicant was engaged as Casual Mazdoor and that he appeared for recruitment as Lineman in the year 1983. They also state that he was qualified in the tests thereto and that the same was announced, but the vacancies were not filled up due to imposition of ban on filling up of vacant posts. The respondents submitted that all the ten candidates selected were asked to submit all the original educational qualifications certificates and other relevant documents with regard to date of birth, caste etc. for further formalities of pre-appointment. Thereafter the Transfer Certificate submitted by the applicant was sent to the concerned school authorities for verification, but in the meanwhile the applicant was directed to undergo medical examination and thereafter for formal/initial training. The respondents allege that in respect of other candidates the verification of character and antecedents found to be genuine, but in respect of the applicant, it is found that the Transfer Certificate furnished by him was not genuine. Therefore, the name of the applicant was deleted from the select list of Lineman. The respondents allege that the applicant furnished bogus information contrary to his declaration and therefore he was discontinued as Casual Mazdoor. The respondents also admit that the applicant represented the matter by letter dt. 19.12.1988 to the Director, Telecom, Tirupathi, but the same was not acceded and he was informed accordingly. The respondents contend that the cancellation of applicant's selection as Lineman is sustainable in law and desired the O.A. be dismissed.

6. The applicant filed 12 annexures (Annex.A-1 to A-12) along with the application. This Tribunal by orders dt.



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24-12-1990 directed the respondents to continue the applicant as Casual Labourer during the pendency of the O.A.

7. We heard the learned counsel for applicant Shri C.Suryanarayana, and Shri N.R.Devaraj, learned counsel for respondents and perused the records carefully.

8. It is not in dispute that the applicant belongs to Scheduled Caste Community and that he was initially appointed as Casual Mazdoor, and that he appeared for recruitment to the cadre of Lineman. He was qualified in the tests conducted by the respondents and also that the recruitment against SC quota announced subsequently. It is also a fact that the applicant along with other selected was asked to undergo medical examination in pursuance of their selection and accordingly the applicant also underwent and furnished Health Certificate. The applicant along with others was deputed for training prescribed for post appointment as Lineman for a period of 4 months and that he had successfully completed the training thereof. It is also not in dispute that the other selected candidates were issued with appointment orders, but the applicant was not issued accordingly, on the ground that he had furnished a bogus Transfer Certificate from the School Authorities and the same was found on due verification with the concerned authorities and therefore the name of the applicant is deleted from the select list. The respondents justify their action on the ground that the applicant had declared that the information furnished by him is true and correct to the best of his knowledge etc. and acted contrary to his statements.

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7. The applicant filed a Transfer Certificate showing his date of Birth as 1-1-1963 issued by the Head Master, Z.P.H.School, Giddalur bearing the Serial No.166888 Ad.No.1208/74 (Annex.A-12). The applicant admits that he had enclosed another certificate obtained from the Head Master, Z.P.H.School, Veldurthi showing his date of birth as 1-1-1965. He justifies the change on the ground that it was obtained as he was innocent, and not aware of the departmental rules besides stating that he believed their words, his parents were also illiterate. Due to pressure, the change in the date of birth was shown and produced at the time of selection of Lineman (Annex.A-9). The applicant filed a letter dated 18-1-1991 addressed to the Telecom Dist. Engineer, Kurnool by him stating that -

"Sri H.Lakshminarayana, CM working in Coaxial Maintenance, Dronachalam was found ineligible for regularisation under 7 years scheme as his name was kept in 'Black List' of RM recruitment in Anantapur Division following submission of false certificate of educational qualification. Later, as per Director, Telecom, Tirupathi lr.No. TAT/RE-2-21/Mazdoors/31 dt. 23-1-90 received through DET, Anantapur letter No.E.66-7/I/98 dt. 19-3-90 (E.4-46/II/KNL), the Mazdoor was regularised as RM against post sanctioned by GMM, Madras for Coaxial Mtce., Dronachalam Unit".

This precedent cannot be considered to give any source of strength to the applicant to claim any discrimination.

Therefore, the case of the applicant has to be considered on its own merits.

8. The learned counsel for the applicant cited -

"In 1974 (1) SLR 67 (Allahabad HC) Abdul Aziz Khan Vs. Union of India His Lordship observed that 'alleged deceitful means for securing employment were not applied in the course of performance of duties. As such, it cannot constitute misconduct. Hence, when misconduct is not involved, termination of the workman's service is arbitrary".

The learned counsel for applicant further cited -

"In 1986 (4) SLR 371 (CAT, Madras) Their Lordships held that the Transfer Certificate is neither a certificate of educational qualification, nor a certificate of date of birth".

"In 1990(2) ATJ 27 (CAT, Principal Bench) Shri Ratti Ram and others Vs. Union of India and others Their Lordships held that who have not acquired temporary status are entitled to be given show cause notice before termination from service merely on the suspicion or allegation that they were guilty of fraud or misrepresentation", and

"In 1991 (2) ATJ 71 (CAT, New Delhi Bench) Shri M.P.Singh Vs. Union of India held that Disengagement from service without show cause notice not valid".

9. In this case, (Annex. A-8) Proceedings dt. 21.10.1987 bearing No.E.4-16/XV/105 the details of date of birth, school certificate furnished by the applicant are shown. It is stated that on due verification the same are found to be not genuine and held that the selection of applicant as Lineman stands cancelled. It is issued without giving reasons and also opportunity of being heard. In our opinion the Annex.A-8 dated 21.10.1987, cancellation of the selection of the applicant as Lineman, amounts to denial of natural justice.

10. We cannot help observing that the applicant is denied natural justice by not giving any show cause notice before issuing the letter bearing No.E.4-16/XV/105 dated 21.10.1987 by the Telecom District Engineer, Kurnool.

Therefore, we quash the said proceedings. The respondents are at liberty to issue suitable notice to the applicant and proceed further if they choose to. The case is disposed-of thus with the above observations. No order as to costs.

R. Balasubramanian

(R. BALASUBRAMANIAN)
MEMBER (A)

C.J. Roy
(C.J. ROY)
MEMBER (J)

Dated: 28th January 92

grh.

87/2/92
Deputy Registrar (Judl.)

Copy to:-

1. Divisional Officer, Engineering, Telecommunications, Kurnool-518 050.
2. The ~~DM~~ General Manager, Telecom, Tirupathi -517 501.
3. The Chief General Manager, Telecommunications, A.P. Hyderabad-500001.
4. The Director-General, Telecom, (representing Union of India), New Delhi-1.
5. One copy to Shri. C.Suryanaryana, advocate, CAT, Hyd-bad.
6. One copy to Shri. N.R.Devraj, Addl. CGSC, CAT, Hyd-bad.
7. One spare copy.

Rsm/-

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O.A. 35110

TYPED BY

CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V.C.

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)
AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY:
M(JUDL)

AND

THE HON'BLE MR.C.J.ROY : MEMBER(JUDL)

DATED: 28/1/1992

ORDER/JUDGMENT: ✓

R.A/C.A/M.A.No.

in

O.A.No.

351190

T.A.No.

(W.P.No. →

Admitted and interim directions
issued.

Allowed

Disposed of with directions.

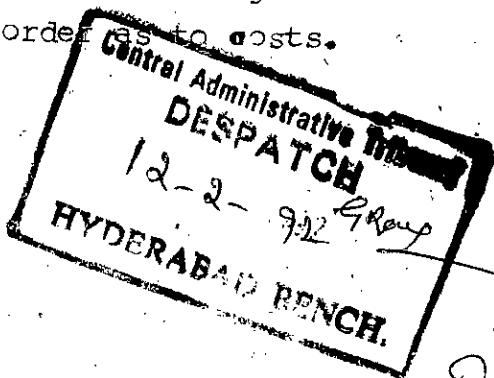
Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/ Rejected

Ms. order as to costs.



DV/ML