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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD

O.A.No. 471 of 1990

Date of Decision: 8-8-1990

Between:-

A.Narsinga Rao .. Applicant
and

1. The Union of India
represented by the Director-
General, Telecommunications,
New Delhi-110001.
2. The General Manager
Hyderabad Telecom District
Suryalok Complex
Hyderabad.
3. The Assistant Engineer
Cables - Charminar
Dept.t. of Telecommunications
Hyderabad.

.. Respondents

Appearance:-

For the Applicant : Sri R. Sri Ramulu, Advocate.

For the Respondents : Sri Naram Bhaskar Rao, Addl.CGSC.

CORAM:

THE HONOURABLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HONOURABLE SHRI D.SURYA RAO, MEMBER (JUDICIAL).

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI D.SURYA)
RAO, MEMBER (JUDICIAL).

1. The Applicant herein was working as Casual Mazdoor in the Telecommunications Department under the Control of the 3rd Respondent viz., the Assistant Engineer (Cables) Charminar, Deptt. of Telecommunications, Hyderabad-24, since 1-5-1983. He was conferred temporary status w.e.f. 1-10-1989. While working as Temporary Mazdoor, a Memo

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was issued under letter No.AEO(CMR)/DISC/MAZ/89-90/AN, dated 28-2-1990 by the 3rd Respondent giving him one month's notice of termination that ~~came~~ into effect from 1-4-1990. The reason assigned therein was that the Applicant has involved in a cable theft case in Charkhandil area of Gouliguda West Sub-Division, and consequently his services were being terminated.

2. The Applicant had submitted an explanation dated 15-3-1990 denying the allegations and requested for withdrawal of termination notice and allow him to continue in service beyond 1.4.1990. Later the Applicant was issued another letter No.AEC/CMR/Disc/AN/89-90, dated 26-3-1990 rejecting his request for conduct of inquiry as per rule 14 of CCS (CCA) Rules, 1965 maintaining that it is not applicable for temporary Mazdoors. His request for continuing him in service beyond 31.3.90 was also rejected.

3. The Applicant states that his services were terminated w.e.f. 1.4.1990 without any written order other than giving him one month notice. The Respondents relied on material collected but never ~~afforded to him a~~ furnished to him extending reasonable opportunity to defend the case put up against him. He was denied the reasonable opportunity to defend his case before resorting to the extreme action of his termination from service, which is against the principles of natural justice. For these reasons, he prayed to call for records and quash the impugned order No.AEO/CMR/ Disc/MAZ/89-90/AN, dated 28-2-1990 and ~~to direct~~ the Respondents to reinstate the Applicant as Temporary Mazdoor immediately.

4. On behalf of the Respondents a counter has been filed stating that the Applicant was involved in a cable theft case and ^{an} on the spot enquiry was held on 16-2-1990

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and 17-2-1990 by the Junior Telecom Officer and the Officer (External), Gowliguda. During this enquiry the Applicant has accepted that on interrogation he gave his name as P.Yadagiri. But on further interrogation on 17-2-1990 he identified himself as A.Narsing Rao and accepted the charge of Cable theft. In these circumstances a one month's notice was issued and his services were terminated w.e.f. 1-4-1990. It is stated that the applicant submitted a representation dated 15-3-1990 in reply to the impugned notice that he has been granted temporary status having put in six years of service, and that he has been granted the status of a group 'D' ^{decis. m of the} official in accordance with the Supreme Court of India and therefore requested to afford a reasonable opportunity to defend himself under the provisions of Rule 14 & 16 of CCS (CCA) Rules, 1965. While admitting that the Applicant was granted temporary status pursuant to the orders of the Supreme Court, it is stated that his claim that he has a right under rules 14 & 16 of CCS (CCA) Rules 1965 is untenable. The Respondents deny that these provisions apply to the Applicant's case. For these reasons the Respondents resist the application.

5. We have heard Shri R.Sriramulu, learned Counsel for the Applicant, and Shri Naram Bhaskar Rao, learned Additional Central Government Standing Counsel for the Respondents.

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1. The Director General, Union of India, Telecommunications, New Delhi - 1.
2. The General Manager, Hyderabad Telecom District Suryalok Complex, Hyderabad.
3. The Assistant Engineer, Cables-Charminar, Department of Telecommunications, Hyderabad.
4. One copy to Mr. R.Sriramulu, Advocate 4-2-227, Rachemalla, Old Boiyaguda, Secunderabad - 3.
5. One copy to Mr. N.Bhaskara Rao, Addl CGSC. CAT. Hyd. Bench.
6. One spare copy.

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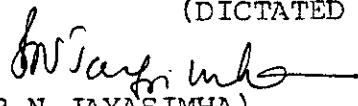
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Srinivas

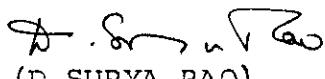
6. Sri Sriramulu, learned Counsel for the Applicant, relies upon the instructions given by the Department of Telecommunications in S.R./MA2/IV/28, dated 20-12-1989 containing the instructions of the Director-General, Telecommunications, in relation to appointment of temporary Mazdoors. Para-VI of the said instructions reveal that if a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with. It is clear that in the instant case no such enquiry was held, no charges were framed against the Applicant nor furnished. Thus it is clear that no enquiry as contained in Para-VI of the Director-general's instructions, has been conducted.

7. In the circumstances the plea of the Applicant that no reasonable opportunity has been afforded to him has to be sustained. The Application is accordingly allowed. The impugned order contained in letter No. AEO(CMR)/Disc. MA2/89-90/AN, dt. 28.2.1990 is set aside. The Respondents are directed to reinstate the Applicant into service as temporary Mazdoor with consequential benefits including arrears of salary. It is, however, open to the Department to conduct an enquiry into the alleged misconduct of the Applicant.

8. With the above observation the application is allowed. No order as to costs.

(DICTATED IN OPEN COURT)


(B.N. JAYASIMHA)
VICE-CHAIRMAN


(D. SURYA RAO)
MEMBER (JUDICIAL)

DATE: 8th Aug., 1990

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Deputy Registrar (Judge)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA : V.C.

AND

THE HON'BLE MR. D. SURYA RAO : MEMBER (J)

AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)

AND

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

DATE: 8/8/90

ORDER/JUDGMENT:

L.A./ R.A/C2A/No.

in

T.A. No.

W.P. No.

O.A. No. 671 | 90

Admitted and Interim directions issued

Allowed.

Dismissed for Default

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered/Rejected.

No order as to costs.

