

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1007/90.

Date of Decision: 4.1.1991.

M.V.Krishna Rao✓

...Applicant

vs.

- ✓ 1. The Sub-Divisional Officer,
Telecom, Nidadavole-534 301.
- ✓ 2. The Telecom District Manager,
Eluru-534 050.
- ✓ 3. The Chief General Manager,
Telecom, AP, Hyderabad-500 001.
- ✓ 4. The Director-General, Telecom,
(representing Union of India),
New Delhi-110 001.

...Respondents

✓ Counsel for the Applicant : Shri C.Suryanarayana

Counsel for the Respondents : Shri Naram Bhaskar Rao,
Addl.CGSC

CORAM:

✓ THE HON'BLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN

✓ THE HON'BLE SHRI D.SURYA RAO : MEMBER (JUDICIAL)

(Judgment of the Division Bench delivered by
✓ Hon'ble Shri D.Surya Rao, Member (J)).

~~is a~~
~~Delay condoned for the reasons stated in the~~

Miscellaneous Application. Accordingly Miscellaneous Application No.1059/90 is allowed.

2. The applicant herein ~~is~~ ^{was} working as Casual Mazdoor
~~and a~~
in the Telecom Department contends that his services were
~~2~~
originally terminated with effect from ~~9-5-88~~, on the ground
of negligence resulting in loss of a cable. This termination
was questioned in OA 537/88 wherein the Tribunal ordered re-
instatement with full back wages, but left it open to the

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Department to initiate departmental enquiry against him which enquiry was directed to be completed with a period of four months. It is stated that thereafter the applicant was re-instated into duty ~~on 15-9-1989.~~ The 1st Respondent issued a letter dt. 15-9-89, wherein several allegations were ~~uppon him to submit his~~ made and calling explanation ~~to submit~~ within 10 days. On 12-10-89 the 1st respondent issued a letter stating that the last date for submitting his explanation had expired on 30-9-89, and that the applicant had sought five more days time for submitting explanation, which had also expired on 4-10-89 and therefore he ~~had~~ ^{was} asked to explain as to why the case should not be proceeded ex-parte. The applicant states that ~~he~~ ^{had} submitted his explanation on 31-10-89 praying for condonation of delay. Thereafter on 31-10-89 a letter No. E.13A/CAT/89-90/31 was issued terminating his service as Casual Mazdoor with effect from 31-10-89. It is this order which is sought to be questioned in this application.

3. We have heard Shri C. Suryanarayana, learned counsel for the applicant and Shri Naram Bhaskar Rao, learned standing counsel for the Respondents. Shri Bhaskar Rao has appeared at the stage of admission pursuant to our directions and opposes the application. The impugned order reads as ~~.....~~ follows:-

"You ~~have~~ not given reply to any of the above letters. It is understood that you are ~~reluctant~~ to give your explanation for reasons best known to you.

Therefore you are hereby terminated

contd..3..

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from the service of casual mazdoor in this department with effect from today, the 31-10-89. You are herewith paid one month salary in lieu of notice. Please acknowledge this letter. "

4. The main ground alleged by Shri C.Suryanarayana while questioning the order of termination, is that no enquiry was held and that no opportunity was given to the applicant to rebut the allegations made against him. He has no doubt also sought to contend that the termination is in violation of section 25(f) of the Industrial Disputes Act, but it is seen from the impugned order extracted above, that the termination is only on the ground of want of an explanation by the applicant despite his being given an opportunity to explain. The order of removal is, therefore, clearly one of by way of removal for the acts of misconduct alleged. If a workman employee is aggrieved by such an order of termination, his remedy is to move the Industrial Tribunal under the Industrial Disputes Act and not to straightaway approach this Tribunal. The purport of the larger bench decision of this Tribunal (5 Member Bench) rendered in O.A.576 of 1986 (A.Padmavalli vs. CPWD) & batch cases (Dt. of decision: 30-10-1990) is that the remedies available under the Industrial Disputes Act to workmen are adequate alternative remedies and that they must be exhausted before a workman can approach this Tribunal if aggrieved by an order of termination. It was held by the larger bench that the power of the Tribunal to interfere in regard to grievances of workmen is analogous to the power which the High Court exercises under article 226

.../...

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and 227 of the Constitution and that if the High Court would not normally interfere unless the remedies under the Industrial Disputes Act have not been exhausted, the Tribunal also would not interfere. Applying the larger bench decision, we are of the view that the applicant should have exhausted the remedies available to him under the Industrial Disputes Act if he is aggrieved by the order of termination of his services. On the ground that the applicant has not exhausted these remedies, the present application is dismissed. No costs.

B.N.Jayashimha
(B.N.JAYASIMHA)
VICE-CHAIRMAN

D.Surya Rao
(D.SURYA RAO)
MEMBER (JUDICIAL)

Date: 4/1/91 *Supreme Court*
Deputy Registrar (Judl)

To

1. The Sub-Divisional Officer,
Telecom, Nidadavole-534 301.
2. The Telecom District Manager, Eluru - 534 050
av1/nsr
3. The Chief General Manager, Telecom, A.P. Hyderabad-1.
4. The Director-General, Telecom, Union of India,
New Delhi-1.
5. One copy to Mr.C.Suryanarayana, Advocate
6. One copy to Mr.N.Bhaskar Rao, Addl CGSC.CAT.Hyd-Bench.
7. One spare copy

pvm

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APPROVED BY
COMPARED BY

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 : M(J)
AND

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

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

DATE: 24-6-91

ORDER / JUDGEMENT:

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

in

T.A. No.

W.P. No.

O.A. No. 1607/90.

Admitted and Interim directions
issued.

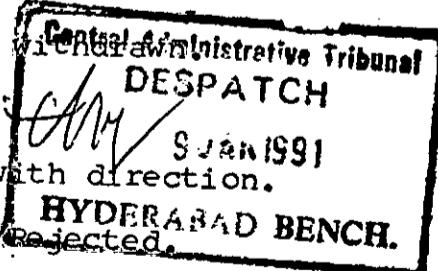
Allowed.

Dismissed for default.

Dismissed as withdrawn by the party.
Dismissed.

Disposed of with direction.

M.A. Ordered / Rejected.



No order as to costs.