

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1040 of 1990

DATE OF JUDGMENT: 10th September, 1993

BETWEEN:

Mr. Iqbal Khan

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Applicant

AND

1. Union of India represented by the
Director General,
Telecommunications,
New Delhi-1.
2. The General Manager,
Hyderabad Telecom District,
Hyderabad-500033.
3. The Sub Divisional Officer (Phones),
(Gowliguda East Sub Division),
Hyderabad-12.

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Respondents

HEARD:

COUNSEL FOR THE APPLICANT: Mr. C.Suryanarayana, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Addl. CGSC

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (ADMN.)

JUDGMENT

(As per Hon'ble Shri Justice V.Neeladri Rao, Vice Chairman)

The applicant herein was first engaged as casual labour on 2.2.1985 under the 3rd respondent. Thereafter, he was engaged from time to time till 1.12.1988, ^{from} ~~on~~ which he was not engaged on the allegations that he had committed

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theft of the cable wire. A Criminal Case No.386/88 on the file of the XVI Metropolitan Magistrate, Hyderabad was registered on the basis of the charge sheet filed for the offence under Section 379 IPC, after the investigation by the police. The applicant was acquitted by the order dated 25.2.1990. Thereafter, the 3rd respondent passed the impugned order dated 29.6.1990 black-listing the applicant. Then, this OA was filed on 26.12.1990 praying for a declaration that the impugned order dated 29.6.1990 is void and illegal and for a further declaration that the applicant is entitled to reinstatement into service with full back wages with effect from 2.12.1988 by protecting his seniority amongst casual mazdoors of Hyderabad Telecom District, and for regularisation and absorption in the regular establishment in accordance with the scheme formulated as per the directions of the Supreme Court reported in AIR 1987 SC 2342.

2. Ofcourse, the ~~xx~~ complaint was given to the police alleging that the applicant had committed ~~theft~~ ^{the} of/cable wire belonging to the Telecom Department. But the applicant was acquitted after the trial in the Criminal Case. It is urged for the respondents that the order of acquittal was passed by giving the benefit of doubt. But it does not make any difference for, the respondents had not ~~xxxxxx~~ conducted any inquiry before passing the impugned order. Thus, in view of the material on record, it has to be stated that there were mere allegations against the applicant in regard to the charge of ~~theft~~ ^{the} and it is not established. In such a case, it is not open to the ~~3rd~~ respondent to black-list the applicant, for there is no material ~~xxxxxx~~ other than the material ~~about~~ ^{alleged} the involvement of the

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applicant in the theft of the cable wire. As such, the impugned order dated 29.6.1990 is liable to be set-aside.

3. The next question that arises ~~far~~ is as to whether it is ~~seen~~ just and proper to allow back wages for the period from 2.12.1988 till the applicant was re-engaged as casual labour, ~~in~~ in pursuance of the interim order dated 21.1.1991 passed by this Court in this OA. Admittedly, the applicant had not approached the concerned authorities during the pendency of the criminal case, claiming re-engagement. Thus, it is not a proper ~~in~~ case for granting the relief for back wages.

4. Regularisation and absorption into Group 'D' depends upon the seniority. The Bench of this Tribunal had given the benefit of seniority in regard to the similarly circumstanced employees/labours as per the order dated 12.12.1991 in OA No.964/89. It is to be now considered as to how the period from 2.12.1988 till the date of re-engagement of the applicant has to be reckoned for the purpose of seniority. We feel that ~~for few days of~~ ~~and~~ the applicant should be deemed to have worked for such a number of days that can be arrived at on the basis of the average ~~of~~ number of days worked for one calender year prior to 1.12.1988. But it is subject to the condition that he should not be placed as senior to his erstwhile senior by 1.12.1988.

5. In the result, the impugned order No.SR-201/Reml. of Casual Mazdoor/90-91/6, dated 29.6.1990 is set-aside and the interim order dated 21.1.1991 directing the respondents to re-engage the applicant should be treated as the final order and his seniority has to be fixed as per the Para No.4 above.

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6. The O.A. is ordered accordingly. No costs.

(Dictated in the open Court).

P.T. *Thiru*

(P.T. THIRUVENGADAM)
MEMBER (ADMN.)

V. Neeladri Rao
(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 10th September, 1993.

S. J. 19/9/93
Deputy Registrar (J)

vsn

To

1. The Director General, Union of India, Telecommunications, New Delhi-1.
2. The General Manager, Hyderabad Telecom Dist., Hyderabad-33.
3. The Sub Divisional Officer (Phones), (Gowliguda East Sub Division), Hyderabad-12.
4. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.N.v.Ramana, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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4th Sept
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1993

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.A.B.GORTHY : MEMBER(A)

AND

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

AND

THE HON'BLE MR.P.T.TIRUVENGADAM:M(A)

Dated: 10 - 9 -1993

ORDER/JUDGMENT:

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

in

O.A.No. 1060/90

T.A.No. (W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs

