

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

OA No. 73/90, Prasad

Dt. of Order: 9-9-93.

N.Syam Prasad

....Applicant

Vs.

1. The J.T.O., Phones,  
Kovvur - 534 350.
2. The Sub-Divisional Officer,  
Telecom, Nidadavole-534 301.
3. The Telecom District Engineer,  
O/o The District Manager,  
Telecom, Eluru - 534 050.
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 N.V.Ramana, Addl.CGSC

... ... ...

CORAM:

THE HON'BLE SHRI A.B.GORTHI : MEMBER (A)

THE HON'BLE SHRI T.CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Divn. Bench passed by  
Hon'ble Shri A.B.Gorthi, Member (A) ).

The applicant was employed as Casual Mazdoor

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by the Sub-Divisional Officer, Jangareddigudem from 1-1-81. He continuously served the Department as Casual Mazdoor till 1988. There was some theft of cable drum between 6th and 7th of May, 1988. The applicant was on weekly-off from 06.00 hours on 6-5-1988 and came back to duty only at 19.00 hours on 7-5-1988. The Criminal case against him was closed with the Second Additional Magistrate, Kovvur, recording that the case became undetectable. The Respondents however carried some investigations behind the back of the applicant and issued notice dt.6-2-1989 stating that his services were not required w.e.f. 9-5-88. The applicant's grievance is that the order of termination is punitive in nature and was passed against him although he was not responsible for the loss of cable drum <sup>happened</sup> <sub>^</sub> occurred between 6th and 7th May, 1988.

2. We have heard Sri C.Suryanarayana, counsel for the applicant and Sri N.V.Ramana, standing counsel for Respondents. The Respondents in the reply affidavit stated that when the loss of cable drum was detected <sup>and</sup> <sub>^</sub> enquiries were made <sub>as</sub> a result of which it was found that the applicant and Sri M.V.Krishna Rao, both Casual Mazdoors were responsible for the cable drum theft.

was accordingly considered that further retention in service of both the Casual Mazdoors would not be in the interest of service. The services of the applicant as also of Sri M.V.Krishna Rao were therefore terminated.

3. Learned counsel for the applicant has brought to our notice that Sri M.V.Krishna Rao, approached the Tribunal in OA 537/88 and that the Tribunal directed re-engagement of Sri M.V.Krishna Rao. Relevant portion of the judgment is reproduced below :-

"On consideration of the facts, we direct that the applicant be re-instated to duty. If the department initiates disciplinary action against him the question how the period shall be treated will have to be determined upon the result of the departmental enquiry. The applicant will be entitled to full back wages if he is not found guilty in the departmental proceedings. The department should complete the enquiry/proceedings, if they wish to proceed with the enquiry/proceedings within a period of four months from today. With these directions, the application is disposed of. There will be no order as to costs."

To

1. The J.T.O. Phones, Kovvur-350.
2. The Sub-Divisional Officer, Telecom, Nidadavole-301.
3. The Telecom District Engineer,  
O/o The District Manager, Telecom, Eluru-050.
4. The Director General, Telecom, Union of India, New Delhi-1.
5. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
6. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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4. The respondents in their counter affidavit categorically stated that both Sri M.V.Krishna Rao and applicant were involved in the cable drum theft. It is also apparent that investigations conducted by the officials concerned were without association of the applicant and behind his back. We therefore would like to follow the judgment of the Tribunal in OA 537/88 so ~~dispensation of~~ that equitable/justice would be made to both the applicant and Sri M.V.Krishna Rao. Accordingly we direct that the applicant be taken back to duty. We however make two things clear ;

- (1) the applicant will not be entitled ~~to~~ any back wages and
- (2) it will be open to the department, if they so choose, to proceed against the applicant in accordance with law.

5. The application is disposed of in the above terms. There shall be no order as to costs.

*T. Chandrasekhar Reddy*  
(T.CHANDRASEKHAR REDDY)  
Member (J)

*A.B.Gorthi*  
(A.B.GORTHI)  
Member (A)

Dated: 9th September, 1993.  
Dictated in the Open Court.

*Shri S. Raja*

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TYPED BY

COMPARED BY

CHECKED BY

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.GORTHI :MEMBER(A)  
AND

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

AND

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

Dated: 9 - 9 - 1993

ORDER/JUDGMENT:

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

in

O.A. No. 73 | 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.

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