

(35/5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

DA 1/93.

Dt. of Order: 22-3-94.

Sheik Suleman

....Applicant

Vs.

1. The Sub-Divisional Officer,
Telecom, Khammam-507 003;
2. The Telecom District Engineer,
Khammam-507 050;
3. The Chief General Manager,
Telecommunications, A.P., Hyd-1.
4. The Chairman, Telecom Commission,
(Rep. Union of India),
New Delhi-110 001.

....Respondents

Counsel for the Applicant : Shri C.Suryanarayana

CORAM:

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

.....2.

13/4/94

DA.1/93

Judgement

(As per Hon. Mr. A.B. Gorthi, Member (Administration))

The applicant is the son of Sri Sheik Miskin, who while working as Sub Inspector, Telegraphs, was "missing" from 21-1-1981. Eversince, his whereabouts ^{are} were not known. The matter was reported to the Police by the Sub Divisional Officer Telecom, Khammam. Several complaints were lodged by the family members also with the police with a request to trace the missing person. Even to this date, the whereabouts of Sheik Miskin are not known either to any of the officials or to any of the family members. The applicant's claim is for compassionate grounds. It is stated in the application that the applicant has to support a large family comprising his mother, three sisters and one brother. The case regarding grant of family pension has not yet been finalised. ^{are} The family is under great financial stress, it is urged that the respondents may take a kind and sympathetic view and give the applicant immediate appointment on compassionate grounds.

2. ~~We have~~ Heard learned counsel for both the parties.

~~relevant~~ ^{relevant} Government of India, Department of P&PW, O.M. No.17/86/

86-P&PW, dated 29-8-1986. It provides for payment of retirement gratuity and family pension to the family in case an

employee is not known for a period of one year. The conditions stipulated for grant of the said benefits are as under :

- i) The family must lodge a report with the concerned Police and obtain a report that the employee has not been traced after all efforts are made by the police; and

ii) An indemnity Bond should be taken from the nominee that all payments should be adjusted against payment due to the family in case he appears on the scene and makes any claim.

3. The aforesaid OM applies only to the grant of retirement gratuity and family pension in case an official is found missing for more than one year. There is, however, no reason why the same analogy cannot be applied to the grant of compassionate appointment also. In the instant case admittedly the fact that Sheik Miskin was missing was reported to the police soon after the occurrence and in any event in 1982 by

the respondent-11 himself.

4. Learned counsel for the applicant has produced the certificate dated 14-4-1992 issued by the Sub-Inspector of Police, PS Khammam I Town, to the fact that regular complaints were being made on behalf of the family members of Sheik Miskin from March, 1981 and that in spite of passage of time his whereabouts are not known nor anything has been heard of him even as on today. A xerox copy of the certificate is taken on record.

5. The question of furnishing an indemnity bond in a case of this nature should not arise as it will be applicable only in the case of ~~ex~~ payment of retirement gratuity, etc.

6. Learned counsel for the respondents has stated that in view of the prolonged absence of Sheik Miskin he was removed from service.

7. In this context it is seen from a communication from the Telecom District Engineer, Khammam, addressed to

Reddy, District Sessions Judge, Khammam, that the question of revoking the order of removal so as to enable Smt. Hasmat Bibi (Wife of Sri Sheik Miskin) to claim family pensionary benefits is under consideration of the Chief General Manager, Telecom, AP Circle, Hyderabad. The said communication was dated

26-12-1990. As more than three years have been elapsed Respondent-3 is hereby directed to pass necessary orders in this regard. It may be stated here that an employee cannot automatically ^{be} removed from service on account of prolonged absence without following the procedure specified in the relevant Disciplinary rules.

8. In the aforesaid circumstances it will be just and proper if we dispose of this application with the following direction to the respondents :

- a) The applicant will now make a fresh application to the Chief General Manager, Telecommunications, AP, Hyderabad (R-3) giving full facts of the case and also describing in detail his financial difficulties / responsibilities.
- b) Respondent-3 shall consider the case of the applicant for appointment on compassionate grounds on merits and without further delay.

9. The OA is allowed accordingly without any orders as to costs.

A.B. Gorthi
(A.B. Gorthi)
Member (Admn.)

Dated : March 22, 1994
Dictated in the Open Court

Amulya 24/3/94
Deputy Registrar(J)CC

To

1. The Sub-Divisional Officer, Telecom, Khammam-3.
- 2.^{sk} The Telecom Dist.Engineer, Khammam-050.
3. The Chief General Manager, Telecommunications, A.P.Hyd-1.
4. The Chairman, Telecom Commission, 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.

pvm.

*Let's 2/1/94
p. 3/3
24/3/94*

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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 (AD)

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

Dated: 22-3-1994

~~ORDER~~ JUDGMENT

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

in

O.A.No.

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

pvm

Central Administrative Tribunal
DESPATCH

18 APR 1994

HYDERABAD BENCH.