

(48)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.369/93

Date of Order: 25.2.1994

BETWEEN:

R.Master Vijay Kumar

.. Applicant.

A N D

1. Union of India, Rep. by its Secretary Ministry of Communications, New Delhi.
2. The Chief General Manager, Telecommunications, A.P.Circle, Hyderabad - 500 001.
3. The Telecom District Manager, Kurnool.
4. The Telecom District Manager, Tirupathi.

.. Respondents.

Counsel for the Applicant

.. Mr.P.Rathaiah

Counsel for the Respondents

.. Mr.V.Bhimanna

CORAM:

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

SHR
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Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Admn.).

The applicant while working as a Telephone Operator was placed under suspension pending disciplinary enquiry w.e.f. 8.6.1979. The suspension was revoked on 16.11.1979 and in the meantime (a) charge memo was issued on 28.7.1979. The said charge memo was withdrawn and the applicant was served with another charge memo containing the same allegation in January 1981. Without finalising the disciplinary enquiry the respondent terminated the services of the applicant w.e.f. 1.11.82) invoking Rule 5 of the C.C.S (Temporary Service) Rules. The applicant had to be reinstated in compliance with the judgement of this Tribunal in T.A.463/86. The order of the Tribunal dated 9.6.1987 was to the effect that the applicant would have to be reinstated with all consequential benefits.

2. The prayer in the present O.A. is for grant of increment after crossing EB from 1.3.1982. The applicant's ~~complete~~ grievance is that his pay at the stage of Rs.300/- was ~~thus~~ withheld and he was denied increment of Rs. ^{8/-} ~~300/-~~. *8/-*

3. The respondents in their counter affidavit have stated that the judgement of the Tribunal in T.A.463/86 was duly complied with. As regards the crossing of the efficiency bar, it became due only on 8.8.1982. This was because the date of increment ^{which was} due on 1.3.1980 was postponed to 8.8.1980 because of the fact that the applicant was under suspension or

a period of 5 months and 8 days from 8.6.1979 to 15.11.1979. The respondents contention is that the case of the applicant for crossing EB w.e.f. 1.1.1982 and the competent authority took the decision not to allow the applicant to cross the EB. The case of the applicant was reinstated after his reinstatement and he was allowed to cross EB w.e.f. 1.1.1989.

4. As on 8.8.1982 when the respondents considered the case of the applicant for crossing the EB, admittedly there was an enquiry pending against him. The respondents should have therefore followed the Sealed cover procedure in respect of the applicant's crossing of the EB. It seems that the disciplinary proceedings pending against him, which does not seem to be proper. The D.P.C. should have assessed the suitability of the applicant for crossing EB without taking into consideration the disciplinary case pending against him.

5. In view of the above we allow the application with a direction to the respondents to convene a revised DPC for the purpose of considering the case of the applicant for crossing EB w.e.f. 8.8.1982. This should be done within a period of 3 months from the date of receipt of this order.

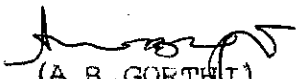
6. Learned Counsel for the applicant also agitated that the date when the increment fell due should have been 1.3.1982 only and not 8.8.1982. The explanation of the respondents is that because of the period of suspension the date of next increment has to be

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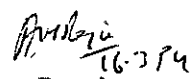
postponed in the year 1980 from 1.3.1980 to 8.8.1980.
There is no challenge in this OA to the ~~order~~^{order} of the
competent authority to treat the period of suspension
as such and not as on ^{duly} ~~due~~. In any case it is open to
the Review D.P.C. to consider this aspect of the matter
also.

There shall be


(A.B. GORTHY)
Member (Admn.)

Dated: 25th February, 1994

(Dictated in Open Court)


16.2.94
Deputy Registrar(J)C.C.

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To

1. The Secretary, Ministry of Communications,
Union of India, New Delhi.
2. The Chief General Manager, Telecommunications,
A.P.Circle, Hyderabad-1.
3. The Telecom District Manager, Kurnool.
4. The Telecom District Manager, Tirupathi.
5. One copy to Mr.P.Rathaiah, Advocate CAT.Hyd.
6. One copy to Mr.v.Bhimanna, Addl.CGSC.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

pvm.

4 copy
P.V.M.
7.16.94

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COMPARED 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. SORTHU : MEMBER (A)

AND

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

AND

THE HON'BLE MR. R. RAMARAJAN : MEMBER
(ADMN)

Dated: 25-2-1994.

~~ORDER~~/JUDGMENT:

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

in

O.A.No. 369/93.

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

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

p/m

