

(32)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

O.A.NO.632/94

Between:

Date of Decision; 7.2.95.

Ch.Mallesw

...Applicant.

And

1. The General Manager,
Hyderabad Telecom District,
Suryalok Complex,
Hyderabad - 500 033.
2. Union of India rep. by
The Chairman, Telecom Commission,
New Delhi - 110 001.

...Respondents.

Counsel for the Applicant : Mr.C.Suryanarayana

Counsel for the Respondents : Mr.N.R.Devraj, Sr.CGSC.

CORAM:

THE HON'BLE SHRI A.V.HARIDASAN : MEMBER (J)

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

contd...

O.A.No.632/94

Date of Order:7.2.95

(As per Hon'ble Shri A.V.Haridasan, Member(Judl.)) X

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The applicant who commenced the service as a casual labour on 1.2.1983 was disengaged w.e.f. 4.3.91 as a criminal case C.C.335/91 for an offence punishment under Section 411 IPC was pending against him. The Trial Court convicted him. But in appeal the learned Sessions Judge found ~~that~~ the applicant not guilty and acquitted him reversing the judgement of the Magistrate. The demand of the applicant for reinstatement in service with backwages was turned down by the impugned order dated 26.4.93 on the ground that the judgement of the Sessions Court did not direct his reinstatement. Aggrieved by this the applicant has filed this application praying that the respondents may be directed to reinstate him in service with full backwages, continuity of service and all other consequential benefits.

2. The application has been admitted. The respondents in their reply have contended that though the applicant was acquitted by the appellate court reversing the conviction and sentence by the Magistrate the fact that the applicant was caught red handed in an offence under Section 411 renders him ineligible for re-engagement and therefore the applicant is not entitled to any relief as prayed for by him.

3. We have heard learned counsel for both the parties and have also perused the material on record.

4. The fact that the appellate court found that no offence had been made out against the applicant and

that he has been acquitted is not in dispute. The disengagement of the applicant as stated in the reply statement is not on account of his conviction but on account of his character which rendered him unfit for casual service. It is a fact that such a finding was not arrived by the competent authority after any enquiry. A unilateral decision about the character of the applicant without hearing him is opposed to the principles of natural justice. Under these circumstances we are of the considered view that the applicant is entitled to be reinstated in the casual service with continuity of service.

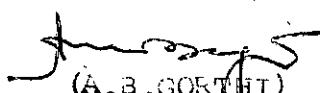
5. The applicant has in this application claimed that he is entitled to backwages. It is a fact that the applicant has not performed any duty during the period and that he was not a regular employee or even a casual mazdoor but had been granted temporary status. His claim for backwages under these circumstances cannot be sustained. In almost all similar circumstances the Supreme Court has in a reasoned judgement reported in 1994 27 ATC 78 Saghir Ahmed Vs. Union of India and others held that the casual mazdoor was entitled to reinstatement with benefit of ~~service but~~ not entitled to backwages.


6. In the result, the application is disposed of with the following directions and declarations:-

The impugned order at Annexure A-4 of the 1st respondent is set aside. The respondents are directed to reinstate the applicant in casual service and to continue him in service so long as work is available and in preference to his juniors. The applicant shall

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not be entitled to any backwages but the period during which he was out of service shall count for seniority for the purpose of grant of temporary status and regularisation but he will not be placed senior to his earstwhile ^{Juniors} seniors. The applicant shall be reinstated in casual service within one month from the date of receipt of this order.

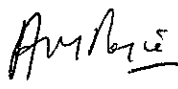

(A.B. GORTHI)
Member (Admn.)


(A.V. HARIDASAN)
Member (Judl.)

Dated: 7th February, 1995

(Dictated in Open Court)

sd


10-395
DEPUTY REGISTRAR(J)

To

1. The General Manager, Hyderabad Telecom District, Suryalok Complex, Hyderabad - 500 033.
2. The Chairman, Telecom Commission, Union of India, New Delhi.- 110 001.
3. One copy to Mr.C.Suryanarayana, Advocate, CAT, Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC., CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. One spare copy.

YLKR

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

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

DATED : 7.2.95

ORDER/JUDGEMENT.

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

in

D.A.No. 632/94

~~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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