

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

...

Dated, this the 29th day of November, 1996

Review Application SR No.3659/96
in O.A.No. 3/96

CORAM

HON'BLE MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN
HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

A.A. Siddiqui,
Superintending Engineer (Civil)
D/o Telecommunications,
Telecom Civil Circle,
Hyderabad.

... Applicant

(By Advocate Mr. Y. Suryanarayana)

Versus

1. Union of India rep. by
Secretary to Government,
M/o Communications,
Sanchar Bhawan, N.Delhi.

2. Director General,
D/o Telecommunications,
Sanchar Bhawan, N.Delhi.

3. Chief Engineer (Civil)
D/o Telecommunications,
Telecom Civil, AP Zone,
Hyderabad.

.... Respondents

(By Advocate Mr. V. Bhimanna)

The application having been heard on 29.11.1996, this
Tribunal, on the same day, passed the following:-

O R D E R

Oral Order (per Hon'ble Mr. Justice M.G. Chaudhari, VC)

Mr. Y. Suryanarayana with Mr. P.N.Sanghi for the
applicant. Mr. V. Bhimanna for the respondents.

By consent the review application is taken for hearing
and final orders. Notice waived.

Arguments of Mr. Y.Suryanarayana and Mr. V.Bhimanna heard.

2. The applicant seeks a review of the order dated 12.9.96 passed by us in OA 3/96, although what transpired when that order was passed is correctly reflected in the order. It appears that the words "not pressed" created some difficulty in the way of the applicant in proceeding with the appeal in the Supreme Court. He, ^{had} ~~therefore~~, filed a Special Leave Petition (No. 20162/96) in the Supreme Court. Their Lordships of the Supreme Court were pleased to pass an order on 28.10.96 as follows:-

"Mr. Sanghi states that the petitioner will approach the Tribunal to modify the order under appeal because the order, in that states that the Original Application was not pressed, is incorrect. The SLP is dismissed as withdrawn accordingly, with liberty to move the Tribunal for appropriate relief."

3. Pursuant to the aforesaid order the applicant has filed the present R.A. It is, however, pertinent to mention that the review is directed only against the order in the OA and not against the reasons that were recorded in the order on the M.A. It is again pertinent to mention that the learned counsel for the applicant who had appeared at that stage himself had stated that in view of the detailed reasons given in the M.A. nothing would survive in the O.A. In para 3 of the R.A. it is stated as follows:-

"I most respectfully submit that after the detailed order was passed in a miscellaneous application and since the contentions which was raised by me in the O.A.No.3 of 1996 was dealt by this Hon'ble Tribunal in the orders passed in M.A.No. 775 of 1996, consequently since no point was left over to be argued in the original application, it was represented by the learned counsel Mr. Pratap Narayan Sanghi to dispose of the original application itself. Shri V.Bhimanna, the learned additional standing counsel for the respondents was also of the same opinion. This Hon'ble Tribunal by its order dated

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12th September, 1996 passed a separate order disposing of the original application....."

To this extent our order in the OA correctly reflects as follows:-

"Mr. Sanghi, learned counsel for the applicant submits that nothing would survive in the OA for decision and therefore it may be disposed of and that Mr. Bhimanna, the learned additional standing counsel joins in the said submission".

In the face of this admitted position, it is not easy for us to understand as to how a grievance was made before the Supreme Court suggesting that this Tribunal had passed some wrong order. It appears that ~~for~~ the purpose of getting over the orders in the M.A. it was ^{so} projected before the Hon'ble Supreme Court. What is now stated in paragraph 3 of the Review Application in continuation of the above quoted passage is reading thus:

"but unfortunately, while recording the same it was also mentioned as 'not pressed' which was factually incorrect....."

The way in which this grievance appears to have been made and the statement in paragraph 3 of the R.A. thus treat this Tribunal with unfairness. It is the manner in which a thing is expressed and it is not necessary that the Tribunal should use the same words as used by the counsel, if the substance of what is stated has been reflected in the words used by the Tribunal. The earlier portion quoted above from paragraph 3 cannot but reasonably mean that the OA could not be pressed and was not pressed and although such words may not have been used by the counsel, the use of the same by us did not mean that we have assumed something which was not said by the counsel.



4. Proceeding with paragraph 3 of the R.A. the applicant himself continues to say, after the above mentioned portion, and to make it complete reading, it may be quoted:

"But unfortunately while recording the same it was also mentioned as 'not pressed' which was factually incorrect because in view of the orders passed in M.A.No. 775 of 1996 since the same reasons would also follow in the original application, it was represented to also dispose of the O.A. and was never mentioned as not pressed."

It is merely playing on words and we are unable to grasp as to how the applicant could make a grievance of the use of the words 'not pressed'. However, since the Hon'ble Supreme Court has been pleased to grant leave to the applicant to seek a modification to that extent, we may straightaway modify the order by deleting the words 'not pressed'.

5. A copy of the order of the Supreme Court annexed to the R.A. does not show that the SLP was filed against the order in the M.A. Since the order in the O.A. was based on the reasons recorded in the Order on the M.A., by merely deleting the words 'not pressed' the reasons stated in the M.A. do not get automatically set aside. There is no such order from the Supreme Court. The position that, therefore, emerges is that by reason of the statements made in paragraph 3 of the R.A. itself, even after deleting the words 'not pressed' from the order, the consequence that would follow would be that the O.A. has to be disposed of by adopting the reasons recorded in the M.A. That becomes much more pronounced because, even the R.A. is not directed against the order in the M.A. The title of the R.A. states that it is filed in O.A. 3/96. The applicant has also only prayed that "the Tribunal may be pleased to review its order dated 12.9.96 and consequently allow the O.A. 3/96...."

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In the prayer clause also he has made the same prayer. He has nowhere prayed for setting aside the order in the M.A., nor has filed any R.A. for that purpose.

6. Mr. Y. Suryanarayana, learned counsel appearing today for the applicant submitted that in fact the SLP was filed not only against the order in the O.A. but also against the order in the M.A. and since the Supreme Court was pleased to grant liberty to the applicant to apply for appropriate relief in this Tribunal, it is open to the applicant to canvass his objections to the reasoning given in the M.A. Prima facies the title of the SLP, from the order of the Supreme Court which is produced, does not support this position. Secondly, the order of the Supreme Court, when read as a whole, leaves no doubt that liberty was sought only to approach the Tribunal to modify the order under appeal, because the order in stating that the OA was not pressed is incorrect and the words 'liberty to move the Tribunal for appropriate relief' can apply only to seeking modification in respect of the statement contained in the order that the O.A. was not pressed.

We do not agree with the learned counsel that the words 'appropriate relief' occurring in the order entitle the applicant to re-open the order in the M.A. With due respect to the order of the Hon'ble Supreme Court, we would straightaway modify the order by deleting the words 'not pressed'.

7. The next question is as to whether the O.A. should be restored to its file. As discussed above we are not fully convinced that even after restoration ~~any other reasons~~ grounds could be argued together with those in the M.A. and the reasons given in the order in the M.A. are merely to be adopted for disposing of the O.A. It will ^{require} be merely to reproduce the entire reasoning given in the order on the M.A. to dispose of the O.A. It is well recognized practice that, that ^{can} ~~cannot~~ be obviated by merely stating that the same reasons are adopted.

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That precisely was done when the order under review was passed and we really fail to understand as to what purpose would be served by proceeding with the O.A.

8. We have set out the detailed background to dispel any impression if at all prevails in any quarters or in the mind of the applicant that we had acted while disposing of the O.A. on the basis of something which was not said before us by the counsel for the applicant appearing at that time. We would not have easily entertained the R.A., but for the fact that we consider it our duty to respect the intention of the Supreme Court in granting liberty to the applicant to apply and seek modification from this Tribunal.

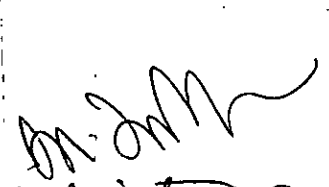
9. In the result, the review application is allowed. The order dated 12.9.96 in OA 3/96 is hereby set aside and the OA is restored to its file. The learned counsel on both sides agree that interim directions may be considered in the O.A. immediately.

R.A. disposed of. No order as to costs.


H. Rajendra Prasad
Member (Admn.)


M.G. Chaudhari (J)
Vice Chairman

29th November, 1996


Deputy Registrar CEC

VM

To

1. The Secretary to Govt.,
Ministry of Communications,
Union of India, Sanchar Bhavan,
New Delhi.
2. The Director General,
D/o Telecommunications,
Sanchar Bhavan, New Delhi.
3. The Chief Engineer(Civil)
D/o Telecommunications,
Telecom Civil, AP Zone, Hyderabad.
4. One copy to Mr. Y.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.V.Bhimanna, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD
MEMBER (ADMN)

Dated: 29-11-1996

~~ORDER~~ / JUDGMENT

^{SR}
M.A./R.A/C.A. No. 3659/96

in

O.A.No.

T.A.No.

3/96 (W.P.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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