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18-07-76

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.857 of 1992.

Date: July 8, 1996.

Between:

Mukkaram Hussain.

.. .. Applicant.

and

1. Divisional Engineer (Phones)
Charminar Telephone Exchange,
Hyderabad - 2.
2. Sub Divisional Officer (Phones)
South SAXs Gowliguda, Hyderabad.
3. Sub Divisional Officer (Phones)
SAXs II Charminar, Akbarbagh,
Malakpet, Hyderabad - 36.

Respondents.

COUNSEL FOR THE APPLICANT:

SRI C.Suryanarayana.

COUNSEL FOR THE RESPONDENTS:

Sri V.Rajeswara Rao, Standing
Counsel for the respondents.

CORAM:

HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN.

HON'BLE SHRI H.RAJENDRA PRASAD, MEMBER (A)

⑥
O.A.No.857/92.

⑥
Date: July 8, 1996.

⑨
O R D E R.

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN)

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The Charge-sheet was issued against the applicant vide Memorandum dated 25--6--1977 by the Office of the Sub-Divisional Officer (Phones) South SAXs Gowli-guda, Hyderabad ^{while} where the applicant had been working as Wireman at Chandrayanagutta Exchange. The ~~first~~ Article of Charge was that "he had absented from duty with effect from ~~19xxixxxi~~ 16--12--1976 without prior permission and without submission of leave application as required by CCS Leave rules. and thus he had acted in the manner unbecoming of a Government servant and did not maintain devotion to duty which amounted to violation of Rule 3 (1) (ii) (iii) of CCS Conduct Rules, 1964" There was one more article of Charge for violation of Rule 3 (1) (ii) (iii) of CCS Conduct Rules on the ground that the applicant had absented from duty with effect from 8-1-1977 without prior permission ^{and without} intimation of his whereabouts. According to the respondents, the charge-sheet was sent to the last known address of the applicant but it was returned un-delivered, as the applicant was not available at the said address which was the last known address furnished by the applicant. A registered letter asking the applicant to appear at the enquiry was also returned un-delivered. Thus, as the Department was not able to serve the

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Charge-sheet personally for the aforesaid reasons. The Enquiry Authority proceeded with the enquiry ex parte, and came to the conclusion that the charges were proved. The Disciplinary Authority accepted the findings and did not consider the applicant to be a fit person to be retained in Government service. Hence by an Order dated 21/24--1--1978 passed by the S.D.O(P) Gowliguda South, the applicant was awarded the penalty of removal from service.

2. After a long lapse of time, the applicant filed an application in January, 1989 to the General Manager, Telecom Circle, Hyderabad on 23--1--1989 seeking re-employment as a Wireman. That request was rejected on 23--1--1989. The applicant thereafter submitted another application on 19--1--1992 seeking re-employment as well as permission to resume duty which was addressed to the General Manager, Telecom District, Hyderabad. That also was rejected on 5--8--1992 stating that in view of the delay in submission of the appeal, the same cannot be considered. Aggrieved ~~with the same~~ with the same the applicant filed the instant O.A. on 15--9--1992 for quashing the order of removal and seeking re-instatement with consequential benefits.

3. The application was resisted by the respondents. By Order dated 13--10--1992 the earlier Division Bench had dismissed the ~~application at admission stage~~ ^{application at admission stage} as barred by limitation as well as being without

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jurisdiction. The applicant filed a review application, ^{ie.} R.P.No.121/92 against the said Order. That was also rejected by the earlier Division Bench by an Order dated 7--12--1992. The applicant carried the matter to the Hon'ble Supreme Court. By Order dated 25--1--1996, in Civil Appeal No.2522/96, the Hon'ble Supreme Court ^{after} allowing the ~~review~~^{appeal} application has been pleased to remand the O.A. for disposal on merits. The O.A., has ~~is~~, therefore been restored and is now heard finally.

4. The learned counsel for the applicant, Mr. C.Suryanarayana submitted that the applicant ought to have been given an opportunity to answer the ^{levelled} alleged charges lawfully against him and the order of removal from service amounts to an order passed in violation of the principles of natural justice. He also submits that as noted by Their Lordships of the Supreme Court the applicant has been deprived of the opportunity to show that as he was suffering from Manic Depressive Psychosis, he cannot be awarded the penalty of removal from service and was entitled to be allowed to resume the duty after he was certified to be normal and continue in service with all benefits as per the rules for the period he was absent from duty.

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5. Mr. Rajeswara Rao, learned counsel for the respondents submits that the Enquiry Officer had ~~not~~ chosen to proceed with the enquiry ex parte, but as the whereabouts of the applicant were not known and therefore the impugned order cannot be held to be passed contrary to law and having regard to the enormous delay, the order of removal cannot be interfered with and the O.A., may be dismissed. Although the submission may be technically correct, we are not impressed by the same in the fact situation of this case.

6. Having regard to the overall circumstances and keeping in mind the observations of the Hon'ble Supreme Court we are of the opinion that it would not be in the interests of justice to maintain the impugned orders and the proper course ~~in the~~ ~~interests of justice~~ would be to direct de novo enquiry. Although we are inclined to make that direction we would also like to impress upon the respondents that they may consider whether the enquiry should be dropped altogether and instead the request of the applicant to be re-employed subject to his medical fitness ^{may} be considered looking to the circumstance that the alleged mis-conduct was committed ~~may be about~~ twenty years ago and as a further enquiry will consume

hull

considerable time and also the circumstance that the alleged mis-conduct was after all of not such a serious nature as should justify the exercise of ^{going through the} being gamut of a fresh enquiry. However, after considering this aspect in the first instance and if the respondents are not inclined to drop the enquiry, then the respondents shall carry out the directions given below. We are inclined to give these directions as in our view an adequate opportunity is necessary to be afforded to the applicant to establish the fact that he was prevented from attending duty owing to mental illness and therefore, he was not liable to be removed from service but ought to have been allowed to resume the duty as soon as he had become normal and had approached the respondents for that purpose.

Hence the following Order:

- i) ~~Subject to observations above, the~~
ii) The respondents are directed to hold a fresh enquiry from the stage of issuance of the charge-sheet in accordance with the CCS(CCA) Rules.
- iii) The Disciplinary Authority is directed to re-appoint the Enquiry Officer for holding the fresh enquiry
- iiii) The enquiry shall proceed from the stage of service of charge-sheet

Full

- iv) To ensure the service of charge-sheet, it is directed that as requested by the learned counsel for the applicant, Sri C.Suryanarayana, a copy of the Charge-sheet may be served upon the applicant through the said learned Advocate. Service upon the said Advocate will be taken as good service upon the applicant. However, all further service thereafter shall be effected upon the applicant directly.
- v) The applicant shall inform the Enquiry Officer his address for future correspondence and the applicant shall ensure that he would be available at the said address till the enquiry is concluded. Any change in the address shall be intimated to the Enquiry Officer.
- vi) The applicant will be given an opportunity in accordance with the rules to submit his statement of defence in answer to the charge and the enquiry shall thereafter be concluded in accordance with the provisions of Rule 14 of CCS(CCA)Rules
- vii) The applicant shall cooperate with the Enquiry Officer for speedy conduct of the enquiry
- viii) All the consequential questions as may arise as a result of the enquiry shall be dealt with in accordance with the rules.



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ix) The enquiry to be concluded as expeditiously as practicable.

7. The O.A., is partly allowed in terms of the above directions. No order as to costs.

प्रमाणित है.
CERTIFIED TO BE TRUE COPY

Prithi

न्यायालय अधिकारी
COURT OFFICER

केन्द्र प्रशासनिक न्यायालय
Central Administrative Tribunal

हैदराबाद बेंच
HYDERABAD BENCH

SSS.

P.

08.05.2022
8.7.26
17.7.26
At Home

GOVERNMENT OF INDIA

MINISTRY OF TELECOMMUNICATIONS

Dated... 16.3.1977..

MEMORANDUM

The President/undersigned proposes to hold an inquiry against Shri MUKRAM HUSSAIN under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

2. Shri. MUKRAM HUSSAIN is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

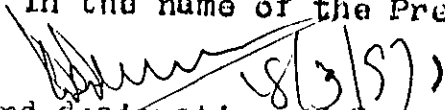
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri MUKRAM HUSSAIN is further informed that if he does not submit his written statement of defence on or before the date specified in para-2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the C.C.S. (C.C.A.) Rule, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Shri. MUKRAM HUSSAIN is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri MUKRAM HUSSAIN is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the C.C.S. (Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged.

* (By order and in the name of the President)

()
Name and designation of Competent Authority

To
Shri MUKRAM HUSSAIN, Ep. wireman

Handed to 16/3/77 H. Hussain: A. B. Hussain
265.

D. D. KRUPAVARAM
Sub-Divisional Officer Phones
Chaudrayanagutta, Hyderabad-5

ANNEXURE I

Statement of articles of charge framed against Shri MUKRAM HUSSAIN
EX-WIREMEN.

ARTICLE I

That the said Shri MUKRAM HUSSAIN while functioning as *Wireman*
absent from duty during the period from 16.12.1976.

ARTICLE II

That during the aforesaid period and while functioning in the
aforesaid office the said Shri MUKRAM HUSSAIN.

ARTICLE III

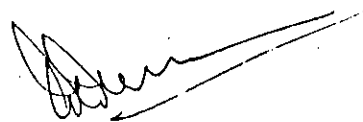
That during the aforesaid period and while functioning in the
aforesaid office, the said Shri MUKRAM HUSSAIN.

annexure II

Statement of imputation of misconduct or misbehaviour in support
of the articles of charge framed against Shri MUKRAM HUSSAIN, Ex-
WIREMEN,

Article I
Article II
Article III

} - nil -



ANNEXURE III

List of docuemants by which the articles of charge framed against Shri.MUKRAM HUSSAIN Ex-WIREMEN are proposed to be sustained.

— nil —

ANNEXURE IV

List of witnesses by whom the articles of charge framed against Shri MUKRAM HUSSAIN Ex-WIREMEN are proposed to be sustained.

— nil —

[Signature]

P.

BY HAND.

A-III

16

To

The Sub-Divisional Officer
Chandrayangutta,
Hyderabad, A.P. 500005.



Date: 24-3-1997.

Ref: & Sub:-

- 1) Memorandum dt. 18.3.1997 issued by S.D.O.P., Chandrayangutta, Hyderabad, 5.
- ii) Submission of Written Statement of Defence- Reg:

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Respected Sir,

With reference to the above, I am to humbly reiterate that the presently issued Memorandum dated 18.3.1997 purportedly a Rule.14, Enquiry under CCS (CCA) Rules, 1965 does not stand to legal validity or tenability in the context of overwhelmingly mitigating circumstances that veer round the issue to warrant the sheer unnecessary of conducting any such contemplated enquiry, much less into the imputed articles of charge annexed to the said Memo.

2. It is obvious that even the statement of articles of Charge does not make out any misconduct or misbehaviour on the part of the charged Official. Even article I which vaguely and faintly say "absence from duty" has been already clearly explained in my humble and sincere explanation in the explanation dated 20-1-1997 made in response to the Charge Memo dated 8.1.1997 in Memo No.E.5/SDOP/CGI/96-97 /MH dated 8.1.1997 that the alleged absence was beyond human control and as a vis major due to serious mental ailment, supported by Medical Evidence. Such absence was also categorically Characterised even by Hon'ble Supreme Court in relevant proceedings as due to serious ailment and also by the Hon'ble Central Administrative Tribunal, Hyderabad, as not only and "not such a serious nature as should justify the exercise of going through the garment of a

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Fresh Enquiry, but also that " the request of the applicant to be reemployed".

3. It has been repeatedly explained all through my representations, explanations etc., that the said absence was due to serious ailment for manic depressive psychosis, also unequivocally accepted by judiciary in connected proceedings of the existence of such cause. Moreover nothing is coming out from the statement of imputations of misconduct or misbehaviour in support of said Charge in contrast to my already made out such explanation that is already forming part of record, which I request the same to be treated as part of this Written Statement,. Further the Charge itself is not imputing any malice or animous on the part of the charged official.

4. Another basic and inviolable legal requirements of paying backwages/Salaries/allowances etc., that is warranted to be payable to the charged official, in the context of the already set aside removal orders, by the judiciary is also not forthcoming to give my legal sanctity to the present contemplation of enquiry under this Memo of Rule.14. So on that count also the enquiry becomes untenable.

5. In view of the above all, it is humbly prayed that the present Memo dated 18.3.1997, of Rule 14 enquiry (ofSDOP Chandrayangutta , Hyd.5) may be withdrawn/ set aside/ revoked and permit me to resume to duty.

For which act of kindness I shall ever remain grateful.
Be pleased to consider favourably..

Yoursfaithfully,

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(Mukarram Hussain.) Ex-w/M,
20-2-609/6, Hussainialam,
Baragalli, Hyderabad.265.A.P.



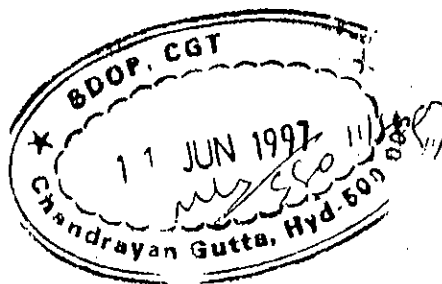
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Date: 11-06-1997.

From:

MUKRAM HUSSAIN, Exwireman,
H.No. 20-2-609/6,
Hussaini Alam,
Baragalli,
Hyderabad - 500 265.



To

The Sub Divisional Officer Phones,
Chandrayangutta,
Hyderabad.

Sir,

Sub: i) OA No. 857/92 filed on the file of CAT HD bench.

ii) RP No.12/92 in OA No.857/92 on the file of CAT HD bench.

iii) Civil appeal No. 2522/96 in SLP No.163228/96 on the file of Supreme Court of India.

.....

The Honourable Supreme Court of India vide order dated 25.1.1996 in SLP No. 16328 of 1993 filed by me against order dated 13.10.1992 of CAT HD bench in OA No.857/92, dismissing the OA filed by me on the point of limitation, has set aside the order of the CAT HD bench and restored OA 857/92 to the file of CAT HD bench, to be heard and decided by the Tribunal on merits.

The Honourable CAT HD bench vide order dated 8.7.1996 in OA No.857/92 has directed the respondents to consider whether the enquiry should be dropped altogether since the alleged misconduct was committed about 20 years ago and that the alleged misconduct was not much of serious nature. However if the department desired to hold a fresh enquiry from the stage of issuance of charge sheet in accordance with the CCS (CCA) rules the disciplinary authority should re-appoint Inquiry Officer for holding fresh enquiry and the enquiry shall proceed from the stage of serving of charge sheet.

By virtue of above order, the order passed by the Divisional Engineer Phones Charminar dated 5.8.1992 removing from service is set-aside.

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Your order dated 18.3.1997 shows that a fresh enquiry under rule 14 of CCS (CCA) rules is being held. If that so, I should be placed under 'Deemed Suspension' in accordance with Sub Rule 4 of Rule 10 of CCS (CCA) 1965 and I have to be served with an order of suspension and must be paid subsistence allowance, pending enquiry, which was not done.

I hereby inform you that the department has failed to implement the orders of the CAT HD bench and thus floated the same, which results in contempt of Court Order, in which event you are personally responsible for the action that has to be contemplated by the Honourable Tribunal.

I therefore request you to implement the orders of the Honourable Tribunal in OA 857/92 within 15 days from the date of receipt of this letter, failing which, I shall be constrained to file a petition under section 12 of contempt of Courts Act in the CAT HD bench, in which event you are personally responsible for the consequences being respondent number 3 in OA No. 857/92.

Thanking you Sir,

Yours faithfully,

Mukram Hussain
(MUKRAM HUSSAIN)
Ex-Wireman.

Copy to:

The DEP (Extrl)
Telephone Exchange
Chairman, Hyd-2 and Respondent No.1 in OA No. 857/92
for information and necessary action.

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No.E-5/SDOP/COT/97-98/MH

Government of India

Sub-Divisional Officer

Ministry of Comm

Dated 7.7.97

Hyderabad

WHEREAS an inquiry under Rule 14 of the central Civil Services (Classification, control and Appeal) Rules, 1965, is being held against Shri. Makkaram Hussain Ex Wireman.

AND WHEREAS the undersigned considers that an Inquiring Authority should be appointed to inquire into the charges framed against the said Shri. Makkaram Hussain.

NOW, THEREFORE, the undersigned, in exercise of the powers conferred by Sub-rule(2) of the said rule, hereby appointed Shri.K.Krishna S.D.E. Installation, as the Inquiring Authority to inquire into the charges framed against the said Makkaram Hussain.

Signature

Designation of the competent Authority.

Sub-Divisional Officer Phones

उप मंडल अधिकारी फोन

Chandrayanagutta Hyd-5

चंद्रायनगुट्टा. हद्द-5.

Copy to: Mr. Makkaram Hussain, Ex Wireman

Copy to: K.Krishna, S.D.E. Installation, Musheerabad Exce.

R.

Reind

From

Mukram Hussain (Ex Wireman)
H.NO.20-2-609/5
Hussaini Alam
Baragalli, Hyderabad.255.

Date. 19/8/97

To

The Divisional Engineer Phones(External)
Telephone exchange
Charminar, Hyderabad-500 002.

Respected Sir,

Sub:- Request to issue order, under deemed suspension
accordance with rule 4 of Rule 10 of CCS(CCA)
my letter dated 11/6/97 regarding.

Ref:- i) OA NO.857/92 filed on the file of CAT HD Bench.

ii) RP No. 12/92 in DA No.857/92 on the file of CAT HD
Bench.

iii) Civil appeal No. 2522/96 in SLP No:163228/96 file
on the file of Honourable Supreme court of India.

...

Sir while inviting your kind attention to the above subject
as referred above I further draw your kind attention to the
following as referred to the above subject to my representation
dated 11/6/1997 for your kind consideration and earlier needful
action please.

The Honourable Supreme court of India vide order dated
25-1-96 in SLP No. 16328 of 93 file by me against order dated
13-10-92 of CAT HD Bench in OA No.857/92 dismissing the OA file
by me on the point of limitation has set aside the orders of
the CAT.HD Bench and resoted OA.857/92 to the file of CAT HD Bench,
to be heard and decided by the tribunal on merits.

The Honourable CAT.HD Bench vide order dated 08-7-1996 in
OA.No:857/92 has directed the respondent to consider whether the
enquiry should be dropped at together since the alleged misconduct
was committed about 20-Years also and that the alleged misconduct
was not much of serious nature.

In this regard hereover if the Department desired to hold a
fresh enquiry with usvance of charge sheet in accordance with the
provisions of Rule 14 of CCS CCA Rules.

By virtue of above order, the Order passed by DE(P)CHR HD-2
as per Lr.No. DE(P) CHR/76x/92-93/19 dt. 05/8/1992 removing from
service is set-aside. In this regard as per the Honourable CAT-HD
bench directions as referred above the SDO (Phones) Chandrayanjutta,
Hyderabad served me under rule 14 charge sheet and his office
letter dated i.e. on 18-3-1997.

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In this connection I submitted my request representation i.e. on 20/1/97, 24/3/1997 and 11/6/97, but the SDO(P) COT.HD not yet considered my appeal to grant back wages for the said period or not directed as per the sub rule & '4' of Rule '10' of CCS (CCA) 1965.

Sir it is regretted to say that my authority competent adopted illegal and irregular procedure, in this regard I would like to produce one extract read as below SUBRULE 4 of RULE 10 CCS (CCA) for DISCIPLINARY PROCEEDINGS.

Where the penalty of dismissal, removal or compulsory retirement from service imposed upon a government servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority on a consideration of the circumstances of the case decided to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders, and it is most important order unless it is intended to meet a situation where the court has passed an order purely on technical ground without going into the merits of the case.

For the said departmental rulings/the courts have, many a time tersely commented on the imperative need for the departmental authorities to possess a precise knowledge of the constitutional proprieties and the rules of procedure and observe them honestly and efficiently and in a good faith.

In this connection my appointing authority it is observed that the provision of disciplinary rules of CCS (CCA) 1965 and procedures not followed and the said authority failure to comply with them strictly and x very rigidly my failure to observe the proper procedure is liable to vitiate further proceedings rendering them null and void.

In this regard I am appealing to my APPELLATE AUTHORITY (DEEP CMR ETERNAL) HYDERABAD- 500 002 kindly pass favourable orders as per the departmental rulings as referred above accordance with sub Rule 4 of Rule '10' of CCS (CCA) 1965 and I have to be served with the order of suspension and must be paid SUBSISTENCE + ALLOWANCE, and request to you to implement the orders of the Honourable Tribunal in OA 857/92.

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In this regard I humbly request your honour you are the final authority to decide my case as referred above.

Sir, in this connection if I could not get any response from your good office within '10' days from the date of receipt of this letter for want of Justice and it will be presumed that I will be forced to approach the court of law under section 12 of contempt of courts act, in which event you are personally responsible for the consequences being respondent number 3 in OA No. 857/92.

Therefore I request you your early reply and favourable action is highly solicited.

IT IS PRAY

I shall Pray for your long life and prosperity and ever grateful to you sir.

Thanking you.

Yours faithfully,

(MUKRAM HUSSAIN)

Copy submitted to:

1. The Sub_Divisional officer
Telecom request for necessary action
as per the CAT orders & Departmental Rulings please.
2. The Vigilance Officer
Office of the GMTD, Hyderabad request for
your kind directions to follow the Law/departmental -
produce please.

P.
(P. B. Vijay kumar)
Counsel for the Applicant.

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

(27)

O.A. REGD. NO 2962/97

Date: 16.9.97

To SH PD Mr. Jayakumar, Adv.
Sir,

I am to request you to rectify the defects mentioned below in your application within 14 days from the date of issue of this letter, failing which your application will not be registered and action under Rule 5 (4) will follow.

How the interim relief is maintainable
or how it is consequential to the main prayer?



It is submitted that the Hon'ble Supreme Court held that non-payment of subsistence allowance renders the disc. proceedings illegal. (AIR 1983 SC. 803). That why this interim prayer is asked. Thus it is consequential.

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DEPUTY REGISTRAR (JUDL)

17/9/97



28

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1333/97

DATE OF ORDER : 14-10-97.

Between :-

Mukram Hussein

And

... Applicant

1. Sub-Divisional Officer (Phones),
Chandrayanagutta, Hyderabad-5.
2. Sri K.Krishna, Sub-Divisional
Engineer (Installation), Enquiry
Officer, Musheerabad Exchange,
Hyderabad-500020.

... Respondents

-- -- --

Counsel for the Applicant : Shri P.B.Vijay Kumar

Counsel for the Respondents : Shri V.Bhimanna, CGSC

-- -- --

CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

° -- -- --

Heard Sri Patro for Sri P.B.Vijay Kumar, counsel for the applicant and Sri V.Bhimanna, standing counsel for the respondents.

2. The applicant in this OA was removed from service in the year 1978. However on the basis of the directions given by the Apex Court, OA 857/92 was re-heard and was disposed of on 8-7-96. The operative portion of the judgement in that OA reads as follows :-

(i) subject to observations above, the respondents are directed to hold a fresh enquiry from the stage of issuance of the charge-sheet in accordance with the CCS(CCA) Rules.

(ii) The Disciplinary Authority is directed to re-appoint the Enquiry Officer for holding the fresh enquiry.

(iii) The enquiry shall proceed from the stage of service of charge-sheet.

(iv) To ensure the service of charge-sheet, it is directed that as requested by the learned counsel for the applicant, Sri C.Suryanarayana, a copy of the Charge-sheet may be served upon the applicant through the said learned Advocate. Service upon the said Advocate will be taken as good service upon the applicant. However, all further service thereafter shall be effected upon the applicant directly.

(v) The applicant shall inform the Enquiry Officer his address for future correspondence and the applicant shall ensure that he would be available at the said address till the enquiry is concluded. Any change in the address shall be intimated to the Enquiry Officer.

Dr

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(vi) The applicant will be given an opportunity in accordance with the rules to submit his statement of defence in answer to the charge and the enquiry shall thereafter be concluded in accordance with the provisions of Rule 14 of CCS(CCA) Rules.

(vii) The applicant shall cooperate with the Enquiry Officer for speedy conduct of the enquiry.

(viii) All the consequential questions as may arise as a result of the enquiry shall be dealt with in accordance with the rules.

(ix) The enquiry to be concluded as expeditiously as practicable.

3. In pursuance of the above directions ~~given as above~~, it is stated by the applicant that a charge-sheet has been given to him by memorandum dt. 18-3-97 (Annexure-II to the OA). He further submits that he has received the charge sheet and he has also submitted explanation to the charge sheet on 24-3-97. However he was not paid the salary for the period he was away from service and he was not taken back to duty after the issue of the charge sheet. He submits that in view of the pendency of the charge sheet he is entitled to re-instatement into service with back-wages or in case if it is decided to keep him under suspension, he is entitled for ^{Subsistence} suspension allowance.

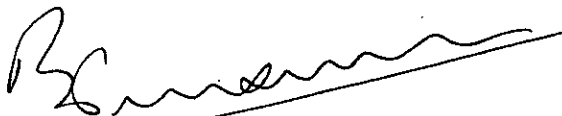
4. This OA is filed with a prayer to pay the suspension allowance to the applicant from the date of removal and continue to pay till the disciplinary proceedings are finalised. The applicant has not submitted a proper representation for the above relief to the respondent authorities. He should submit a detailed representation for the above relief to the respondent authorities

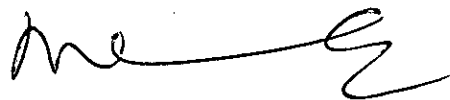
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and if such a representation is received, the same should be disposed of by that authority in accordance with law within 45 days from the date of receipt of that representation.

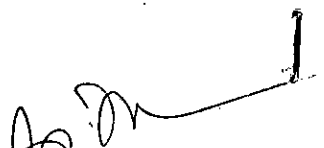
5. The OA is ordered accordingly at the admission stage itself. No costs.


(B.S. JAI PARAMESHWAR)
Member (J)
14.10.97


(R. RANGARAJAN)
Member (A)

Dated: 14th October, 1997.
Dictated in Open Court.

avl/


D.R. (S)

- 5-

OA.1333/97

1. The Sub-Divisional Officer(Phones), Chandrayanagutta, Hyderabad.
2. One copy to Mr. B.P.Vijaya Kumar, Advocate, CAT., Hyd.
3. One copy to Mr. V. Bhimanna, Addl.CGSC., CAT., Hyd.
4. One copy to D.R.(A), CAT., Hyd.
5. One duplicate copy.

srr

83/10/97

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

Dated: 14/10/97

ORDER/JUDGMENT

M.A/R.A/C.A.NO.

in

O.A.NO. 1333/97

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

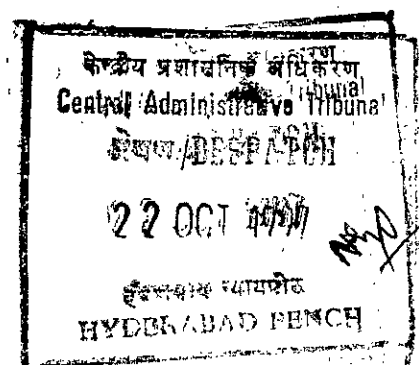
Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

M.A.No.293/98 in OA.1333/97

Between:

Dated:23.4.1998.

1. Sub-Divisional Officer (Phones),
Chandrayanagutta, Hyderabad.
2. Sri K.Krishna, Sub-Divisional Engineer
Installation, Musheerabad Exchange,
Hyderabad.

Respondent/Applicants

And

Mukram Hussain (Ex-Wireman)
S/o Ikram Husain, H.No.20-2-609/6,
Hussaini Alam, Baragali,
Hyderabad.

Applicant/Respondent

Counsel for the Applicants : Mr. V. Rajeswara Rao

Counsel for the Respondent : Mr. Yogendra Singh

CORAM:

THE HON'BLE MR. R.RANGARAJAN : MEMBER (A)

THE HON'BLE MR. B.S.JAI PARAMESWAR : MEMBER (J)

* * *

THE TRIBUNAL MADE THE FOLLOWING ORDER:-

Heard Sri V. Rajeswara Rao for the Applicants and Sri Yogendra Singh for the Respondent.

This M.A., is filed for extension of time for implementing the Order dated 14.10.97. Already six months have elapsed. Hence, it is not possible to give a long extension of time. However, in view of the circumstances referred to in the M.A., time is extended upto 9.6.1998. No further extension will be given. M.A. is allowed.


Deputy Registrar

Copy to:-

1. The Sub Divisional Officer (Phones), Chandrayanagutta, Hyd.
2. Sri K.Krishna, Sub Divisional Engineer, Installation,
Musheerabad Exchange, Hyderabad.
3. One copy to Mr. V. Rajeswara Rao, Addl. CGSC., CAT., Hyd.
4. One copy to Mr. Yogendra Singh, Advocate, CAT., Hyd.
5. One duplicate copy.

srr

5/5/98
(3)

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

DATED: 23/4/98

ORDER/JUDGMENT

M.A/R.A/C.P.NO. 283/98

in

O.A.NO. 1333/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

MA is
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अप्रिकरण
Central Administrative Tribunal
हैदराबाद ब्यायपीठ
HYDERABAD BENCH
27 APR 1998
Despatch
RECEIVED
विभाग/REPPAL SECTION

N.A. No. 203/23 An CA. 1323/97.

Between:

Dated: 23.4.1999.

1. Sub-Divisional Officer (Finance),
Chandrayanpetta, Hyderabad.
2. Sri K. Krishna, Sub-Divisional Engineer
Installation, Richmond Exchange,
Hyderabad.

Respondent/Applicant

And

Shri K. Krishna (Applicant)
S/o Shri K. Krishna, N. No. 53-2-500/
Richmond Exchange, Hyderabad.
Hyderabad.



Applicant/Respondent

Counsel for the Applicant : Mr. V. Rajamohan Rao

Counsel for the Respondent : Mr. Venkatesh Singh

ORDER:

THE PETITION NO. R. 203/23 : ORDER (A)

THE PETITION NO. C.A. 1323/97 : ORDER (3)

o o o

THE TRIBUNAL MADE THE FOLLOWING ORDER:-

Noted Sri V. Rajamohan Rao for the Applicant and Sri Venkatesh Singh for the Respondent.

This N.A. is filed for extension of time for implementing the order dated 14.12.97. Already six months have elapsed. Hence, it is not possible to give a long extension of time. However, in view of the circumstances referred to in the N.A., time is extended upto 9.3.1999. No further extension will be given. N.A. is allowed.

CERTIFIED TO BE TRUE COPY

स्वास्थ्य, व. का. के. उ. रजिस्ट्रार (स्वा. वि.)

Court Officer / Dy. Registrar

के. व. प्र. वि. रजिस्ट्रार

ह. रा. वि. र. व. र.

Copy to:-

1. The Sub-Divisional Officer (Finance), Chandrayanpetta, Hyd.
2. Sri K. Krishna, Sub-Divisional Engineer, Installation,
Richmond Exchange, Hyderabad.
3. One copy to Mr. V. Rajamohan Rao, Adv., Hyd., Hyd.
4. One copy to Mr. Venkatesh Singh, Advocate, Adv., Hyd.
5. One duplicate copy.

Copy - 2 B

CCP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

M.A.No. 283 of 1997

IN

O.A.No. 1333 of 1997

Between:

1. Sub-Divisional Officer(Phones)
Chandrayanagutta, Hyderabad-500 005
2. Sri K.Krishna, Sub-Divisional Engineer
Installation, Musheerabad Exchange,
Hyderabad - 500 020..

... Respondent/Applicant

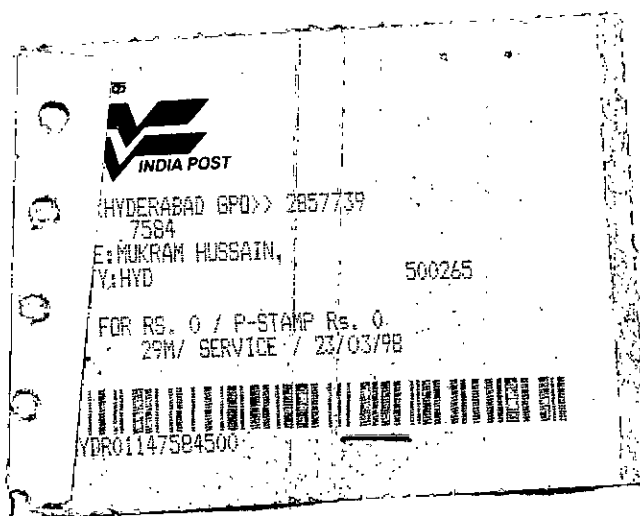
And

Mukram Hussain (Ex-Wireman),
S/o Ikram Husain, aged 49 years,
H.No.20-2-609/6,
Hussaini Alam, Baragali,
HYDERABAD - 500 265.

... Applicant/Respondent

For the reasons submitted in the accompanying affidavit, it is prayed that this Hon'ble Tribunal may be pleased to grant extension of time of 3 months from the date of filing of this MA to implement the order of this Hon'ble Tribunal dated 14.10.1997 in OA 1333/97 and pass such other order or orders as this Hon'ble Tribunal may deem to be fit and proper in this circumstances of the case.

Richard
COUNSEL FOR THE APPLICANTS/RESPONDENTS



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH::AT HYDERABAD.**

**M.A.NO²⁸³ OF 1998
IN
O.A.No. 1333 OF 1997**

BETWEEN

**Sub-divisional Officer(Phones)
Chandrayanagutta & another.**

Applicant/Respondent

AND

Mukram Hussain

Respondent/Applicant

AFFIDAVIT

I, **G.V.R.Setty**, S/o G.Govinda Setty aged 50 years R/o. Hyderabad
solemnly affirm and state on oath as follows.

1. I am working as Assistant General Manager(Legal) in the office of the Chief General Manager Telecom., A.P.Circle,Hyderabad. I am well acquainted with the facts of the case. I am filing this affidavit on behalf of the respondents and I am authorised to do so.
2. At the outset, it is submitted that the applicants herein submit their unconditional apology to this Hon'ble Tribunal for the delay in implementation of the directions of Hon'ble Tribunal because of unavoidable administrative delays. Applicants herein submit that they are having highest regard and respect to this Hon'ble Tribunal and the delay is neither wilful nor deliberate.
3. It is submitted that the respondent here in was issued a charge sheet on 25.6.77 under Rule 14 of CCS(CCA)Rules 1965 for unauthorised absence and an ex-parte inquiry was held and he was removed from service by an order dated 24.1.78. The respondent herein, approached this Hon'ble Tribunal filing OA 857/92 which was dismissed on 13.10.92. The RA 121/92 filed by the respondent herein was also dismissed. He approached the Hon'ble Supreme Court through CA No. 2522/96 and the Hon'ble Supreme Court on 25.1.96 after allowing the appeal has been pleased to remand the OA for disposal on merits.

[Signature]
Attorney
विधि अधिकारी

LAW OFFICER

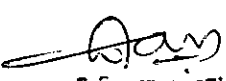
मु. म. प्र. दूरसंचार अ.प्र. का कार्यालय
O/o. Telecom. A. P.
हैदराबाद

[Signature]
DEPONENT 2013
सहयक महानिरीक्षक (विधि)
Asst General Manager (Legal)
मु. म. प्र. दूरसंचार का कार्यालय जा.प्र. हैदराबाद
O/o G.M. Telecom. A.P. हैदराबाद

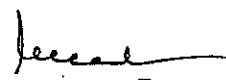
4. It is submitted that the OA 857/92 was reheard and the Hon'ble CAT,HD on 8.7.96 directed to hold fresh enquiry from the stage of issuance of charge sheet. In obedience to the directions of the Hon'ble CAT,HD a charge sheet under Rule 14 of CCS(CCA) Rules 1965 was issued on 18.3.97. The respondent herein approached this Hon'ble Tribunal filing OA 1333/97 praying for a direction to the applicants herein to pay subsistence allowance to him from the date of removal till the disciplinary proceedings are finalised. The Hon'ble Tribunal disposed the OA 1333/97 on 14.10.97 at admission stage with a direction to the applicant therein to submit a detailed representation for the above relief to the respondent authorities and if such a representation is received the same should be disposed of by that authority in accordance within 45 days from the date of receipt of that representation. Copy of the judgement of this Hon'ble Tribunal in OA 1333/97, dated 14.10.97 is enclosed as Annexure R1.

5. It is submitted that the respondent herein had submitted his representation on 31.10.97 (enclosed as Annexure R2) with a request either to reinstate him into service with back wages or for payment of subsistence allowance. The first applicant herein after consideration of the representation issued an order of suspension on dated 27.12.97 under Rule 10(3) of CCS(CCA) Rules 1965 by mistake. When the matter was reported to higher authorities the order was found to be defective and hence the order of suspension was cancelled by the first applicant herein on 4.3.98.

6. It is submitted that in 1977 when the action was initiated against the respondent here in Hyderabad Telecom District where he worked was directly under the control of TCHQ New Delhi and was not part of A.P. circle. During this period of more than 20 years from 1977 to 1998 a lot of structural changes came up. DOT has introduced SSA concept in 1986 and the Hyderabad Telecom District become part of AP Circle. Subsequently, the Hyderabad Telecom District was completely merged with AP Circle in 1991. Even within Hyderabad Telecom District many structural changes took place leading to shifting of records from one office to another. Even, the post of SDOT Chandrayanagutta the 1st applicant in this MA under whom the official now comes never existed then i.e in 1977. In view of the large gap of more than 20 years old records are being procured for taking appropriate decision in this regard.


ATTESTOR
 LAW OFF

मु. म. प्र. दूरसंचार अ.प्र.
 O/o, C.G. M. Tel


DEPENDENT 2013
 मु. म. प्र. दूरसंचार अ.प्र. (विच)

Asst General Manager (Legal)
 मु. म. प्र. दूरसंचार का कार्यालय अ.प्र. हैदराबाद
 O/o C.G.M. Telecom A.P. Circle

7. It is submitted because of the financial year ending, most of the field officers are too much preoccupied in completion of target works and General Manager(South) who is considering the representation of the respondent herein, is also personally involved in these development works. Hence, it may take another three months for implementation of the directions of this Hon'ble Tribunal.

In view of the submissions made above it is prayed that this Hon'ble Tribunal may be pleased to

1) condone the delay in filing this M.A. for extention of time and

2) grant extention of three months time to dispose off the representation dt.

31.10.97 of respondent herein from the date of filing of this MA.

Solemnly sworned and signed
before me on this 20th day
of March, 1998 at Hyderabad.

DEPONENT

G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom, A.P. Hyd.

ATTESTOR

विधि अधिकारी 20/3/98

LAW OFFICER

मु. म. प्र. दूरसंचार आ.प्र. का कार्यालय
O/o. C G. M. Telecom, A. P.
हैदराबाद/Hyderabad-500 001.

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

-- -- --

Heard Sri Patro for Sri P.B.Vijay Kumar, counsel for the applicant and Sri V.Bhimanna, standing counsel for the respondents.

2. The applicant in this CA was removed from service in the year 1978. However on the basis of the directions given by the Apex Court, CA 857/92 was re-heard and was disposed of on 8-7-96.

The operative portion of the judgement in that CA reads as follows :-

(i) subject to observations above, the respondents are directed to hold a fresh enquiry from the stage of issuance of the charge-sheet in accordance with the CCS(CCA) Rules.

(ii) The Disciplinary Authority is directed to re-appoint the Enquiry Officer for holding the fresh enquiry.

(iii) The enquiry shall proceed from the stage of service of charge-sheet.

(iv) To ensure the service of charge-sheet, it is directed that as requested by the learned counsel for the applicant, Sri C.Suryanarayana, a copy of the Charge-sheet may be served upon the applicant through the said learned Advocate. Service upon the said Advocate will be taken as good service upon the applicant. However, all further service thereafter shall be effected upon the applicant directly.

(v) The applicant shall inform the Enquiry Officer his address for future correspondence and the applicant shall ensure that he would be available at the said address till the enquiry is concluded. Any change in the address shall be intimated to the Enquiry Officer.

Dr.

D

...3.

Annexure R

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1333/97

DATE OF ORDER : 14-10-97.



Between :-

Mukram Hussain

And

... Applicant

1. Sub-Divisional Officer (Phones),
Chandrayanagutta, Hyderabad-5.

2. Sri K.Krishna, Sub-Divisional
Engineer (Installation), Enquiry
Officer, Musheerabad Exchange,
Hyderabad-500020.

... Respondents

-- -- --
Counsel for the Applicant : Shri P.B.Vijay Kumar

Counsel for the Respondents : Shri V.Bhimanna, CGSC

-- -- --
CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

R

-- -- --
... 2.

D

and if such a representation is received, the same should be disposed of by that authority in accordance with law within 45 days from the date of receipt of that representation. ✓

5. The OA is ordered accordingly at the admission stage itself. No costs.

STATE OF
CERTIFIED TO BE TRUE COPY

U. i. i.

V. Bhinanna

क्या गया
CASE NUMBER 04-1333/97
निम्न सं. दिनांक
Date of Judgment 14-10-97
प्रति तय्यार किया गया कि
Copy Made Ready on 20-10-97

(vi) The applicant will be given an opportunity in accordance with the rules to submit his statement of defence in answer to the charge and the enquiry shall thereafter be concluded in accordance with the provisions of Rule 14 of CCS(CCA) Rules.

(vii) The applicant shall cooperate with the Enquiry Officer for speedy conduct of the enquiry.

(viii) All the consequential questions as may arise as a result of the enquiry shall be dealt with in accordance with the rules.

(ix) The enquiry to be concluded as expeditiously as practicable.

3. In pursuance of the above directions ~~given as above~~, it is stated by the applicant that a charge-sheet has been given to him by memorandum dt. 18-3-97 (Annexure-II to the OA). He further submits that he has received the charge sheet and he has also submitted explanation to the charge sheet on 24-3-97. However he was not paid the salary for the period he was away from service and he was not taken back to duty after the issue of the charge sheet. He submits that in view of the pendency of the charge sheet he is entitled to re-instatement into service with back-wages or in case if it is decided to keep him under suspension, he is entitled for ^{Subsistence} suspension allowance.

4. This OA is filed with a prayer to pay the suspension allowance to the applicant from the date of removal and continue to pay till the disciplinary proceedings are finalised. The applicant has not submitted a proper representation for the above relief to the respondent authorities. He should submit a detailed representation for the above relief to the respondent authorities.

...4.

(2)

Administrative Tribunal, Hyderabad in O?A.No.1333/97. As such, I request you to bestow anxious thought over the matter and appropriate orders may be passed reinstating me into services forthwith together back wages or atleast direct payment of subsistence allowance, as per the rules from the date of removal and continue to pay the same till final orders are passed on the present charge-sheet. It is needless to submit that without payment of subsistence allowance, as per the decisions of various courts including the Honourable Supreme Court, the disciplinary proceedings May not be proceeded with, as a result in violation of Principles of natural justice.

Yours faithfully,



(MUKARAM HUSSAIN)
Ex-Wiremen.
H.No.20-2-609/6,
Hussaini Alam, Baragalli,
Hyderabad-500265.

Dated: 31-10-97

Annexure 2



To,

1. The Sub-Divisional Officer (Phones)
Chandrayangutta, Hyderabad-500003.
2. The Divisional Engineer (Telephones)(SAX)
Charminar, Hyderabad.

Sub: Reinstatement into services - Consequent
upon the orders dt: 08-07-96 in O.A.857/92
on the file of Central Administrative Tri-
bunal, Hyderabad.

Sir,

I am to submit the following few lines for your kind
consideration:

When O.A.857/92 was filed on the file of Honourable
Central Administrative Tribunal, Hyderabad by a final order
dt: 08-07-96, the CAT, Hyderabad directed for fresh enquiry
from the stage of issuance of charge sheet, in cas the
Department still wishes to hold enquiry, instead of dropping
the charges, Thus, the punishment of suspension by an order
dt:21/24-1-78 has been set aside by the Honourable Tribunal
and when the Department issued a fresh charge Sheet dated:
18-3-1997, the Adinistration has to reinstate him in the
Services by paying all back wages or alternatively has to
give effect to the prvvisions of deemed suspension. I was
neither reinstated by paying all back wages which I am
entitled to, instead at the same time placed under suspension.
When O.A. 1333/97 was filed on the file of Central Administra-
tive Tribunal, the Honourable Tribunal by an order
dt:14-10-1997 directed me to make a representation to your
esteemed authority seeking reinstatement into the service
with back wages or to pay the subsistance allowance from the
date of removal. Though a representation is made to your
esteemed authority on lthese lines, on 11-6-97, still I am
directed to make a fresh and proper representation. Accor-
dingly, this representation is being made duly enclosing with
the order dt:14-10-97 rendered by the Honourable Central

Contd....2/-

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL : AT HYDERABAD

M.A.NO/P. NO.

OF 1998

IN

OA NO: 1333 OF 1997

Extension of time/ ~~Vacate Stay~~
~~applications~~ filed under Rule
8(3) of CAT(P) Rules 1987

Review Application filed under
S 22(3) (f) of CAT Act



FILED ON: 23-3-98

FILED BY:

V. RAJESWARA RAO
S.C. FOR RAILWAYS/
ADDL. CGSC, HYDERABAD.

PH NO: 272585

From govt paper/anti

It is not clear Sir V. Bhimanna has
refused consent.

Submitted for orders.

A.M.
25/3/28.

Am (A:)

To be the
views of both
the Comms and
to join the dept

25/3

no objection

Mannan
27-3-28

Reference enclosed.

Office of the Telecom. wants to file M.A. in
OA 1333/97 for extension of time
and engage Sh. V. Rajeswara Rao,
Addl. C.G. SC. instead of Sh. V. Bhimanna
who appeared for them in the OA.

No doubt, The deptt is at liberty to
engage any ~~a~~ standing Counsel in the panel,
but while there is already a legal practitioner
on record, if they intend to change him, it
can be done only in accordance with Rule 64
of CAT (Rules of Practice). It is pertinent to note
that a M.A. in OA is part of the same
proceedings. Rule 64 ibid prescribes that a legal
practitioner proposing to file a vakalatnama in
any case or proceeding before the Tribunal in which
case there is already a legal practitioner on
record shall do so only with the written consent
of the legal practitioner on record or when such
consent is refused, with the permission of the
Tribunal.

DEPARTMENT OF TELECOMMUNICATIONS
GOVERNMENT OF INDIA**Office of the Chief General Manager, Telecommunications, Andhra Pradesh**

Doorsanchar Bhavan, Nampally Station Road, Hyderabad - 500 001.

To
The Deputy Registrar,
Hon'ble CAT,
Hyderabad.

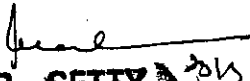
Lr.No. TA/LC/5- /97**Dated at HD the 23.3.98****Sir,**

Sub: Filing of MA for extension of time in OA 1333/97 filed by Shri Mukharam Hussain.

The judgement in the above OA was delivered by the Hon'ble CAT Hyderabad on 14.10.97. For implementation of the judgement the department is filing an MA for extension of time for a period of three months. The OA was argued by Shri V.Bhimanna, Addl. CGSC. The department has now decided to allot this MA to Shri V.Rajeswara Rao, Addl. CGSC. This may please be permitted.

Copy to:

1. Shri V.Bhimanna, Addl. CGSC, Hon'ble CAT HD.
2. Shri V.Rajeswara Rao, Addl. CGSC, Hon'ble CAT HD.


G. V. R. SETTY
A.G.M. (Legal)
for G.G.M. Telecom, A.P. Hyderabad

पूरा/ORIGINAL

M.A.283/98 in C.A.1333/97

23-4-1998.

TELECOM केस/BE CASE
CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

M.A.No. 283 of cf11998

C.A.N. 1333 1997.

Heard Sri V.Rajeswara Rao
for the applicants and Sri Yogendra
Singh for the respondents.

This M.A., is filed for
extension of time for imple-
menting the Order dated 14.10.97
Already six months have elapsed.
Hence, it is not possible to
give a long extension of time.
However, in view of the circum-
stances referred to in the
M.A., time is extended upto
9.6.1998. No further extension
will be given. M.A. is allowed.

Extension of time

an alme
HBSJP
M(J)

D
HRRN
M(A)

SSS.

Mr. [Signature]
COUNSEL FOR THE APPLICANTS.
AND

Mr. V. Rajeswara Rao
Mr. ADDL. STANDING COUNSEL FOR C.G. RLYS.

2

m

CP. 52198 in.

O.A/ T.A OA : 1333/97 1998.

..... Mukram Hussain Applicant (s)

Versus

..... D.D. Rupakaran, SDO, Telephone
 Hyderabad Respondent(s)

INDEX SHEET

Serial No.	Description of documents and dates.	Pages.
Docket orders.		1
Interim orders		
Orders in M.A (s)		
Reply Statement		
Rejoinder		
ORDERS in(Final orders)	7.8-98.	16-19

Arun
20/10/98

Certified that the file is complete in all respects.

Signature of Dealing Hand.
 (In record section)

Signature of S. O.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

CR.No. 52/98M.

O.A.No. 1333 of 1998

Mukkarum Hussain (Applicant(s))

VERSUS

D.D. Kupararam, S.D.O, Phony, And. 4 and 1/2

(Respondent(s))

Date	Office Note	Order
		<p>7/8/98.</p> <p>The C.P. is closed, vide order on separate sheet. No wrs.</p> <p>Dr H.B.S.P MKS)</p> <p>Drw</p> <p>✓ H.B.S.P MKS)</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

C P No. 52/1998
in

O A No. 1333 of 1997

Between:

Mukkaram Hussain
Ex-Wireman Telecom Dist
Hyderabad.

... Applicant

AND

1. Shri D.D.Krupavaram
Sub-Divisional Office Phones
Chandrayanagutta Exchange
Hyderabad - 500 005.

2. Sri K.Krishna
Sub-Divisional Engineer Installation
Musheerabad Exchange
Hyderabad - 500 020.

... Respondents

Petition under Section 17 of the Administrative
Tribunal Act 1985.

For the reasons stated in the affidavit of the applicant enclosed, it is prayed that this Hon'ble Tribunal may be pleased to hold the respondents for committing contempt of Court for taking necessary further action besides ordering revival of suspension orders issued under impugned letter No.E-5/SDOP/CGT/MH dt.27-12-1997 and pass such ~~and~~ other order or orders as deemed fit and proper in the circumstances of the case.

Hyderabad


Counsel for the Petitioner

1/4/1998.

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

AT HYDERABAD.

CP No. 52 | 1998

in

OA No. 1333 of 1997.

BETWEEN:

Mukkram Hussian
S/o. Ikram Hussian
aged about 52 Years,
Ex-Wireman Sub-Divisional Office, Phones
Chandrayangutta, Hyderabad - 5

-- Applicant

A n d

1. Shri D.D. Krupavaram
Sub Divisional Officer, Phones
HYDERABAD - 500 005.
2. Shri K. Krishna
Sub Divisional Engineer Installations
Musheerabad Exchange,
HYDERABAD - 500 020.

-- Respondents

AFFIDAVIT OF THE APPLICANT

I, Mukkaram Hussain, S/o. Ikram Hussian aged 52 Years,
Ex-Wireman, O/O Sub-Divisional Officer, Phones, Chandrayangutta,
Hyderabad - 5, do hereby solemnly affirm and sincerely state on
oath as follows:

1) I submit that I am the applicant herein and the applicant
in the main OA No.1333/97, and as such I am well acquainted with
the facts of the case.

2. I submit that the O.A.1333/97, filed by me was disposed off
on 14-10-97 with the following direction in Para-4, Page-2 of the
Judgement.

" This O.A. is filed with a prayer to pay the
suspension allowance to the applicant from the
date of removal and continue to pay till the disciplinary
proceedings are finalised. The applicant has not submitted
a proper representation for the above reliefs to the
respondent authorities. He should submit a detailed
representation for the above relief to the respondent
authorities and if as such a representation is received
the same should be disposed of by that authority in
accordance with law within 45 days from the date of
receipt of the representation".

Officer

A copy of the Judgement dt.14-10-97 is enclosed as material paper Ann - 1.

3. I submit that in pursuance of the above direction I submitted a detailed representation dt.31-10-97, requesting for sanction of subsistence allowance a copy of the same is enclosed as Ann - 2. after waiting for about two months I got a legal notice dt.22-12-97 issued to the respondents, a copy of the legal notice is enclosed as Ann - 3.

4. I submit that the Second respondent issued an order No.E5/SDOP/CGT/MH, dt.27-12-97, placing me under suspension w.e.f.24-1-1978, under Sub-Rule 3 of Rule 10 of C.C.S. & C.C.A Rules 1965, a copy of the said suspension order dt.27-12-97, is enclosed as Ann - 4.

5. I submit that to my surprise the said suspension order was cancelled under order No.E-5/SDOP/CGT/MH, dt.4-3-1998, without assigning any reasons and in contravention of directions of the Hon'ble Tribunal, vide Judgment dt.14-10-97 to dispose of the representation in accordance with law.

6. I submit that by cancellation of the suspension order on 4-3-98, the respondent No.1 was committed contempt of Court by not adhearing to the direction of the Hon'ble Tribunal to dispose off the same as per law. Since I have already submitted my representation on 31-10-97, in response to the Judgment of the Hon'ble Tribunal dt.14-10-97. Which is required to be disposed off as per law within 45 days, the respondent No.1 failed to take action as per law by cancelling the suspension order earlier issued 27-12-97 on 4-3-98.

I, therefore, pray that the Hon'ble Tribunal may be pleased to hold the respondents for contempt of court besides ordering revival of suspension order dt.27-12-97, which was subsequently cancelled by the respondent on 4-3-98 and

: 3 :

consequently direct the respondents to pay the subsistence allowance from 24-1-1978 to till date pass such other order or orders as deem fit and proper in the interest of Justice.

MA

Solemnly affirm

D E P O N E N T

ans signed before me

on this 1st day of April 1998

R. B. Rao

Advocate Hyderabad.

(Order per Hon'ble Shri R.Rangarajan, Member (A).)

Heard Sri Patro for Sri P.B.Vijay Kumar, counsel for the applicant and Sri V.Bhimanna, standing counsel for the respondents.

2. The applicant in this OA was removed from service in the year 1978. However on the basis of the directions given by the Apex Court, OA 857/92 was re-heard and was disposed of on 8-7-96. The operative portion of the judgement in that OA reads as follows :-

(i) subject to observations above, the respondents are directed to hold a fresh enquiry from the stage of issuance of the charge-sheet in accordance with the CCS(CCA) Rules.

(ii) The Disciplinary Authority is directed to re-appoint the Enquiry Officer for holding the fresh enquiry.

(iii) The enquiry shall proceed from the stage of service of charge-sheet.

(iv) To ensure the service of charge-sheet, it is directed that as requested by the learned counsel for the applicant, Sri C.Suryanarayana, a copy of the Charge-sheet may be served upon the applicant through the said learned Advocate. Service upon the said Advocate will be taken as good service upon the applicant. However, all further service thereafter shall be effected upon the applicant directly.

(v) The applicant shall inform the Enquiry Officer his address for future correspondence and the applicant shall ensure that he would be available at the said address till the enquiry is concluded. Any change in the address shall be intimated to the Enquiry Officer.

Annexure-1

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6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1333/97

DATE OF ORDER : 14-10-97.



Between :-

Mukram Hussain

... Applicant

And

1. Sub-Divisional Officer (Phones),
Chandrayanagutta, Hyderabad-5.

2. Sri K.Krishna, Sub-Divisional
Engineer (Installation), Enquiry
Officer, Musheerabad Exchange,
Hyderabad-500020.

... Respondents

-- -- --

Counsel for the Applicant : Shri P.B.Vijay Kumar

Counsel for the Respondents : Shri V.Bhimanna, CGSC

-- -- --

CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI D.S.JAI PARAMESHWAR . : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

-- -- --

... 2.

1

and if such a representation is received, the same should be disposed of by that authority in accordance with law within 45 days from the date of receipt of that representation.

5. The OA is ordered accordingly at the admission stage itself. No costs.

CERTIFIED TO BE TRUE COPY

5th Nov.
CASE NO. 1333/97
Date of Judgment 10-10-97
Copy Made Ready on 20-10-97
Section Officer (I)

(vi) The applicant will be given an opportunity in accordance with the rules to submit his statement of defence in answer to the charge and the enquiry shall thereafter be concluded in accordance with the provisions of Rule 14 of CCS(CCA) Rules.

(vii) The applicant shall cooperate with the Enquiry Officer for speedy conduct of the enquiry.

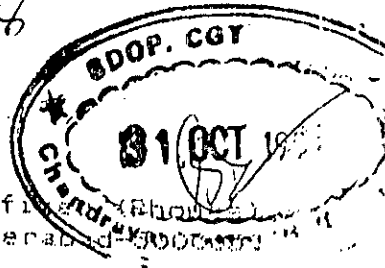
(viii) All the consequential questions as may arise as a result of the enquiry shall be dealt with in accordance with the rules.

(ix) The enquiry to be concluded as expeditiously as practicable.

3. In pursuance of the above directions given as above, it is stated by the applicant that a charge-sheet has been given to him by memorandum dt. 18-3-97 (Annexure-II to the OA). He further submits that he has received the charge sheet and he has also submitted explanation to the charge sheet on 24-3-97. However, he was not paid the salary for the period he was away from service and he was not taken back to duty after the issue of the charge sheet. He submits that in view of the pendency of the charge sheet he is entitled to re-instatement into service with back-wages or in case if it is decided to keep him under suspension, he is entitled for ^{Subsistence} suspension allowance.

4. This OA is filed with a prayer to pay the suspension allowance to the applicant from the date of removal and continue to pay till the disciplinary proceedings are finalised. The applicant has not submitted a proper representation for the above reliefs to the respondent authorities. He should submit a detailed representation for the above relief to the respondent authorities.

Annexure-2 &



1. The Sub-Divisional Officer (Telephones), Chandrayanagutta, Hyderabad.
2. The Divisional Engineer (Telephones), Charminar, Hyderabad.

Sub: Reinstatement into services - consequent upon the orders dt.08.07.96 in O.A. 857/92 on the file of Central Administrative Tribunal, Hyderabad.

Sir,

I am to submit the following few lines for your kind consideration:

When O.A. 857/92 was filed on the file of Honourable Central Administrative Tribunal, Hyderabad, by a final order dt.08.07.96, the CAT, Hyderabad directed for fresh enquiry from the stage of issuance of charge sheet, in case the Department still wishes to hold enquiry, instead of dropping the charges. Thus, the punishment of suspension by an order dt.21/24.1.78 has been set aside by the Honourable Tribunal and when the Department issued a fresh charge sheet dt.18.3.97, the Administration has to reinstate him in the services by paying all back wages or alternatively has to give effect to the provisions of deemed suspension. I was neither reinstated by paying all back wages which I am entitled to, instead at the same time placed under suspension. When O.A. 1333/97 was filed on the file of Central Administrative Tribunal, the Hon'ble Tribunal by an order dt.14.10.97 directed me to make a representation to your esteemed authority seeking reinstatement in to the service with back wages or to pay the subsistence allowance from the date of removal. Though a representation is made to your esteemed authority on these lines, on 11.6.97, still I am directed to make a fresh and proper representation. Accordingly, this representation is being made duly enclosing with the order dt.14.10.97 rendered by the Honourable Central

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:2:

Administrative Tribunal, Hyderabad in O.A. No.1333/97. As such, I request you to bestow anxious thought over the matter and appropriate orders may be passed reinstating me into service forthwith together back wages or atleast direct payment of subsistence allowance, as per the rules from the date of removal and continue to pay the same till final orders are passed on the present charge-sheet. It is needless to submit that without payment of subsistence allowance, as per the decisions of various courts including the Honourable Supreme Court, the disciplinary proceedings may not be proceeded with, as a result in violation of principles of natural justice.

Yours faithfully,

Mukram Hussain

(Mukram Hussain)
(Ex-Wireman),
H.No.20-2-609/6,
Hussaini Alam,
Baragali, Hyderabad-500265.

Date: 31-10-97

It is obvious from the above that the period of 45 days stipulated by the Hon'ble Central Administrative Tribunal, Hyderabad for disposal of the representation dated.31-10-1997 expires on 15-12-1997. but so far he has not been favoured with any reply. Thus, constituting "contempt of the Hon'ble Tribunal's order dated.14-10-1997"

It is therefore impressed upon to arrange payment of subsistence allowance due in accordance with the Tribunal's order, immediately. Failing which my client will be left with no alternative except that of filing a contempt petition for which you will be held responsible for all consequences including costs and losses.

Please treat this as notice served under due process of "contempt law" for compliance of the orders of the Hon'ble Central Administrative Tribunal, Hyderabad in O.A.No.1333 of 1997.


(J.V.LAKSHMAN RAO)

Copy to:-

The Divisional Engineer, Telephones, Charminar, Hyderabad.

Annexure-3 10

(10)

LAKSHMANA RAO
M. A., LL. B.
ADVOCATE

Phone : 7618077
Flat No. 301, Third Floor,
Balaji Towers, New Bakaram,
HYDERABAD - 500 380.

A/22-12-1997

To

The Sub-divisional Officer,
Telephones,
"Chandrayangutta",
HYDERABAD - 500 005.

Sir,

Under instructions from my client named Shri. Mukarram Hussain, Wireman of the Office of the Sub-divl. Officer, Telephones, Chandrayangutta, Hyderabad, I issue the following Legal Notice for immediate compliance.

It is reported by my client that he has filed O.A.No.1333 of 1997 in the Central Administrative Tribunal at Hyderabad and the same was disposed off on 14-10-1997 with the following orders at para-4 and page.3 of the said judgement, which is reproduced below:-

"This O.A. is filed with a prayer to pay the suspension allowance to the applicant from the date of removal and continue to pay till the disciplinary proceedings are finalised. The applicant has not submitted a proper representation for the above reliefs to the respondent-authorities. He should submit a detailed representation for the above relief to the respondent authorities and if such representation is received, the same should be disposed off by that authority in accordance with law within 45 days from the date of receipt of that representation".

It is also reported by my client that he has submitted a representation dated.31-10-1997 for payment of subsistence allowance as per the direction of the Hon'ble Central Administrative Tribunal, Hyderabad. The said representation is required to be disposed off by the authorities concerned in accordance with law within 45 days from the date of receipt of the said representation.

P.T.O.

Annexure-412

(11)

NOEC/SDOP/CGT/MH
Government of India.
Ministry of Communications,
HYDERABAD.

Date : 27-12-1997.

ORDER

Now, therefore, the undersigned (the appointing authority or an authority to which it is subordinate or any other authority empowered by the president in that behalf), in exercise of the powers conferred by sub-rule (3) of Rule 10 of the Central Civil Services (Clarification, Control and appeal) Rules, 1965, hereby place the said Sri. Mukkaram Hussain Ex wireman under suspension with effect from 24-1-78.

It is further ordered that during the period that this order shall remain in force the head quarters of Sri Mukkaram Hussain Ex-Wireman should be at Hyderabad and the said Shri Mukkaram Hussain Ex-Wireman shall not have the head quarters without obtaining the previous permission of the under signed.

(BY ORDER AND IN THE NAME OF THE PRESIDENT)

[Signature]
D. DEVA KRUPAVARAM.
Sub-Divisional Officer, Phone
SDO PHONES, CHANDRAYANAGOTTA.
HYDERABAD.
Chandrayanagutta, Hyd-5
चन्द्रायनगुट्टा, हैदराबाद-5

Copy to :-

1. A.M. South for information Office of GMTD, HYD. (1).
2. D.E. CHARMINAR, EXTERNAL HYDERABAD - 500 002.
3. A.O. PAY SOUTH.

NO: E-5/SDOP/C.G.T./MH

GOVERNMENT OF INDIA
Ministry of Communication
Hyderabad

Dated: 4-3-1998

ORDER

The earlier order issued by the U/S vide No.
E-5/SDOP/C.G.T./M.H. dated 27-12-1997 is stands cancelled.

Copy to:-

- ✓ 1. SSI. Mukkaram Hussain
Ex-wireman.
- ✓ 2. D.E.P. (E) Charminar | for information.
3. A.M. South |

[Signature]
D.D. KRUPAVARAN
SDOP, CGT.

J. V. LAKSHMANA RAO
M. A., LL. B.
ADVOCATE

14
Phone: 7618077

13
Flat No. 301, Third Floor,
Balaji Towers, New Bakaram,
HYDERABAD - 500 380.

12-3-1998

To
The Sub Divisional Officer
Telephones - Chandrayanagutta
HYDERABAD - 500 005.

Sir,

Under instructions of my client named Mukaram Hussain, Wireman Office of the Sub Divisional Officer Telephones, Chandrayanagutta, Hyderabad - 500 005 I issue the following legal notice for compliance.

It is reported by my Client that he was served with order of suspension from service from 24-1-1978 under Rule 10 (3) of CCS (CCA) Rules 1965 in your letter No. NOE5/SDOP/CGT/MH dt. 27-12-1997.

While my client was awaiting payment of subsistence allowance, to his surprise, the said suspension ordered was co without assigning any reasons under your letter No. E5/SDOP/CGT/MH dt. 4-3-1998.

It is reported by my client that he has submitted a Representation dt. 31-10-1997 as per Para 4 of the Judgement dt. 14-10-97 of CAT Hyderabad in OA No. 1333/97 filed by me. The direction in Para 4 of Judgement dt. 14-10-1997 in OA 1333/97 is, that representation submitted by me is required to be disposed off with in 45 days.

Contd...2.

T. Lakshmana Rao

15
14

J.V. LAKSHMANA RAO
M. A., LL. B.
ADVOCATE

Phone : 7618077
Flat No. 301, Third Floor,
Balaji Towers, New Bakaram,
HYDERABAD - 500 380.

: 2 :

Now that the suspension order issued under E-5/
SDOP/CGT/MH dt.27-12-1997 was cancelled by you under
order No. E5/SDOP/CGM/MH dt.4-3-1998, a contempt has
been committed by violating the direction of CAT
Judgement of disposal of my client representation
dt.31-10-1997 within 45 days.

It is therefore informed that unless the suspension
order is restored and payment of subsistence allowance
is paid to my client within 15 days of receipt of the
Notice, a contempt petition will be filed in CAT
Hyderabad holding you liable for contempt action as per
provisions of Rule 17 of CAT Act 1985 read with contempt
of Court Act 1971.

Please treat this as Notice issued under due
process of law for compliance.

J.V. Lakshmana Rao
J.V. LAKSHMANA RAO
ADVOCATE

J.V. Lakshmana Rao
Copy to

1) The DET
Hyderabad for information &
necessary action.

2) The Area Manager (South)
Office of G.M. Telecom Dept. Hyderabad
for necessary action

Contempt Pet
IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL HYDERABAD BENCH:
AT HYDERABAD

C.P. No. 1998

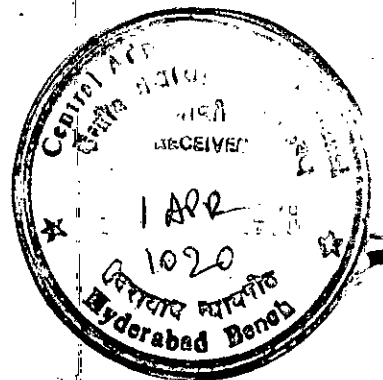
in

O.A. No.1333/97

Petition under Section 17
of the Administrative
Tribunal Act 1985

Filed on:

Filed By:



R.Yogender Singh

Advocate

Flat No.301,
Balaji Towers, New Bakaram,
HYDERABAD - 500 080.

Received
on 1-4-98

LO to do Cart APT
11/4/98
Rajesh
74/98

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL; HYDERABAD BENCH;
AT HYDERABAD

C.P.No.52 OF 1998
in

O.A.No.1333 OF 1997

Date of Order:7-8-1998.

Between:

Mukkam Hussain.

.. Applicant

a n d

1. Shri D.D.Krupavaram,
Sub Divisional Officer, Phones,
Hyderabad-500 005.
2. Shri K.Krishna,
Sub Divisional Engineer Installations,
Musheerabad Exchange,
Hyderabad-500 020.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.R.Yogender Singh

COUNSEL FOR THE RESPONDENTS :: Mr.V.Rajeshwara Rao

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER (AS PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN))

Heard Mr.P.B.Vijay Kumar for Mr.R.Yogender Singh
for the Applicant.
/and Mr.V.Rajeshwara Rao for the Respondents.

.....2

✓

2. The reply has been given to the applicant as ^{directed} asserted in the O.A. However, the learned Counsel for the Applicant submits that the reply given is very perfunctory and it has been issued without application of mind. If so, he can challenge that reply.

3. The learned Counsel for the Applicant submits that he has already challenged that reply by filing another O.A. and in view of that a suitable direction as per rule may be given in that OA while disposing of the same.

4. In view of the above, the C.P. is closed. No order as to costs.


(B.S. JAI PARAMESHWAR)

MEMBER (J)

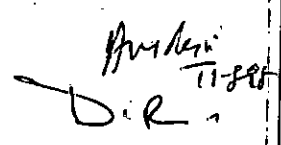
7.8.98


(R. RANGARAJAN)

MEMBER (A)

Dated : this the 7th day of August, 1998

Dictated in the Open Court


D.R.

DSN

18

C.P.52/98
OA.1333/97

Copy to:-

1. Shri D.D.Krupavaram, Sub Divisional Officer, Phones, Hyderabad.
2. Sri.K.Krishna, Sub Divisional Engineer Installations, Musheerabad Exchange, Hyderabad.
3. One copy to Mr. R.Yegender Singh, Advocate, CAT., Hyd.
4. One copy to Mr. V.Rajeswara Rao, Addl.CGSC., CAT., Hyd.
5. One copy to D.R.(A), CAT, Hyd.
6. One duplicate copy.

SRR

18/8/98

(6)

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI S.S. JAI PARAMESHWAR :
M(J)

DATED: 7/8/98

ORDER/JUDGMENT

M.A./R.A/C.P. NO. 52/98

in

C.A. NO. 1333/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP is closed

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
मेषण / DESPATCH

17 AUG 1998

हैदराबाद न्यायपीठ
HYDERABAD BENCH