

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No. 276 of 1999

Date of Order :- 26th February, 1999.

Between :

M. V. BHASKARA RAO,
S/o Late M. Laxminarayana
aged about 59 years,
Retired Chief General Manager,
Telecom. Hyderabad.

... **Applicant**

And

- 1. Union of India, represented by
Chairman, Telecom Commission,
20, Ashoka Road, New Delhi-100001.
- 2. Sri Sarvesh Kumar,
Commissioner for Departmental Inquiries,
O/o Central Vigilance Commission,
Akbar Road, New Delhi- 110001. Respondents

Counsel for Applicant : Mr. J.V. Lakshmana Rao

Counsel for Respondents : Mr. B.N. Sharma, Sr.CGSC.

Coram :

The Honourable Mr. Justice D.H. Nasir, Vice-Chairman.

The Honourable Mr.H. Rajendra Prasad, Member (Admn.).

O R D E R.

(Per Hon'ble Mr. Justice D.H.Nasir, Vice-Chairman)

1. Ordinarily we would have refrained from entertaining this O.A. which seeks intervention of the Tribunal at an interlocutory stage in a departmental inquiry for directing the Inquiry Officer to call upon the respondent-department to produce certain documents and to summon certain witnesses.

...2.

2. The applicant's demand is resisted by the respondent- department on the ground of "relevancy". We are of the opinion that unless "privilege" or "State secret" is claimed, the department should refrain from resisting such demand, because the "State" is not expected to suppress any material fact during the progress of any departmental inquiry. Relevancy factor could be effectively combated only when the documents produced and the contents thereof are examined.

3. Sections 162, 163 and 164 of the Indian Evidence Act throw ample light on this subject. The same are reproduced below for ready reference.

"162. Production of documents.- A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court.

The Court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

Translation of documents.-

x x x x x x

163. Giving, as evidence, of document called for and produced on notice.- When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so.

164. Using, as evidence, of document production of which was refused on notice.- When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the orders of the Court."

4. The Inquiry Officer would do well to keep the above provisions of the Evidence Act in view when the documents are produced by the respondents before him.

(W)

5. No direction need be issued for summoning the witnesses, as prayed for by the applicant in this O.A. The Inquiry Officer has to exercise his discretion judiciously whether or not any witness could be summoned. Witnesses may be summoned at the instance of a party to the proceeding for establishing its case, but no compulsion could be enforced on its adversary to examine a witness so as to belie the adversary's case. While the right of the delinquent to examine any witness for establishing his case and destroying the case of his adversary cannot be denied, no direction could be given to the adversary to examine a witness who may produce any infirmity on his own case. In such circumstances, the delinquent can examine such witness as defence witness or may call upon the Investigating Officer to examine such witness as his (I.O.'s) witness like a Court's witness and the delinquent may take the opportunity to cross-examine such witness if so permitted by the Investigating Officer. But in no case the department could be compelled to examine a witness who may tend to destroy its own case.

6. Bias is also alleged against the Inquiry Officer because the Inquiry Officer refused to allow the delinquent's application for production of documents etc. which, in our opinion, is totally unwarranted. No finding need be recorded on this aspect. We are not inclined to cast any aspersion on the Inquiry ^{Officer} Proceedings on that ground.

7. Before parting with this order, however, we would like to give a word of caution that the Inquiry Officer should not only act justly but seem to be acting in an impeccable manner so as not to appear as if he is

(X)

discharging his function as a representative of the prosecution. Let that function be performed by the Presenting Officer, if any. The Inquiry Officer should function impartially and examine and resolve the issues before him in a judicious manner.

8. The O.A. is, therefore, disposed of with the following directions :-

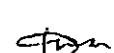
- (1) The documents as called for by the applicant should be produced by the respondents.
- (2) Witnesses may be summoned and examined as stated in para-5 above.

No costs.


(H. Rajendra Prasad)

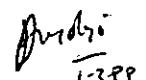
Member (Admn.)

01 MAR 99.


(D.H. Nasir)

Vice-Chairman.

Dated the 26th February, 1999.


1-398.

DJ/

1st and 2nd Court.

23/99

Copy to:

1. HONM
2. HHRP M(A)
3. HSSP M(J)
4. D.R.(A)
5. SPARE

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

THE HON'BLE H. RAJENDRA PRASAD:
MEMBER (A)

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

THE HON'BLE MR. B.S. DAI PARAMESHWAR:
MEMBER (J).

DATED: 26/2/99

ORDER/JUDGMENT

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

IN
R.A. NO: 276/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

7 copies

फेन्डोय प्रशासनिक अधिकारण
Central Administrative Tribunal
प्रेषण / DESPATCH

- 8 MAR 1999

हैदराबाद न्यायालय
HYDERABAD BENCH