

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 805 of 1998

Jabalpur, this the 17th day of October, 2003.

Hon'ble Mr. J.K. Kaushik, Judicial Member

Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Mahesh Chandra Gupta
S/o Shri B.R. Gupta,
aged about 33 years,
T.O.A (Genl) Grade-I,
Office of the Executive Engineer
(Civil), Telecom Civil Division,
No.1, G.T.B. Complex (Third Floor),
Central T.T. Nagar,
Bhopal - 462003.

APPLICANT

(By Advocate - Shri V. Tripathi)

VERSUS

1. Union of India
through the Secretary,
Ministry of Communications,
Department of Telecom,
New Delhi.
2. The Chief General Manager,
Telecom, M.P. Telecom Circle,
Hoshangabad Road,
Bhopal.
3. The Superintending Engineer
(Civil), Telecom Civil Circle,
1st Floor, G.T.B. Complex,
Central T.T. Nagar,
Bhopal - 462003 (M.P.)

RESPONDENTS

(By Advocate - Shri B. da.Silva)

O R D E R

By J.K. Kaushik, Judicial Member -

Mahesh Chandra Gupta has filed this Original Application assailing the order dated 15.4.1997 and for seeking a declaration that the disciplinary proceedings continued in derogation of the Tribunal's order dated 30.4.1998 are without authority and jurisdiction, and set aside the same. He has also sought for further direction to the respondents to reinstate him with full back wages, seniority and other consequential benefits.

2.

The undisputed material facts leading to filing

of this Original Application are at a very narrow compass. The applicant was issued with a termination order dated 15.4.1997 which was challenged before this Bench of the Tribunal in O.A.No.360 of 1997. The same came to be decided by judgment dated 19.2.1998 wherein the respondents were directed to hold an enquiry within a period of six months. The respondents filed an MA No.551/1998 for extension of time for implementation of the said order. The time was extended by six weeks vide order dated 11.8.1998, with a further direction that no further extension shall be granted. It is only on 29.9.1998 the applicant was issued with a notice that enquiry officer has fixed the next date as 15.10.1998 to conduct the enquiry. Before that only one show cause was issued on 17.9.1998 and no charge sheet was served to him. The Original Application has been filed primarily on the ground that the respondents have no authority to continue the enquiry after 30.9.1998. The termination is bad in law and he should have been placed under suspension during the pendency of the criminal case, etc. etc.

3. The respondents have contested the case and filed a counter reply to the Original Application and have submitted certain details regarding giving full opportunity to the applicant. They have also submitted that there was no delay which could be said to be attributable to the respondents. There were four persons charge-sheeted along with the applicant and it is only in case of the applicant, the enquiry is still pending. Certain other details have been given regarding the show cause notice.

4. We have heard the learned counsel of parties and considered the contentions raised and submissions made on behalf of both the parties.

5. The material facts are not in dispute. There is no dispute that the applicant filed the OA No.360/1997 which came to be disposed of vide order dated 19.2.1998

wherein a time was given to hold the enquiry within a period of six months. The same was extended by six weeks. Thus, the time available for the respondents for implementing the order of this Tribunal was approximately up to 5.10.1998. It is also borne out from the records as well as the pleadings that the applicant had not even been issued the charge-sheet and the proceedings were not started by the date the time expired. The question of completion of enquiry does not arise. In any case the admitted position of the case is that the enquiry proceeding was not completed during the time which was granted/extended by the Tribunal. Now, the primary question which boils down in the instant case is as to whether any action which may be taken or is taken beyond the period which has been fixed by the Tribunal/Court would be valid or invalid. In this connection a heavy reliance has been placed on a ^{decision of a} co-ordinate Bench of the Tribunal in K.B.Bhardwaj Vs. Union of India and others, 2003(1)SLJ (CAT) 160 by the learned counsel for the applicant. We have perused the same. It has been categorically held in paragraph 11 of the said decision in reference to a decision of the Hon'ble Supreme Court that the order of compulsory retirement passed in that case was without jurisdiction having been passed much beyond the time granted by the Hon'ble High Court. The extract of said paragraph is reproduced below-


"We have considered the submissions made on behalf of the parties and we are of the opinion that the O.A. deserves to be allowed. As regards the contention raised on behalf of the respondents that the O.A. deserves to be dismissed on the ground that the alternative remedy of appeal has not been availed by the applicant as provided in Section 20 of the AT Act, 1985, reference may be made to the decision of the Hon'ble Supreme Court in the case of Whirlpool Corporation Vs. Registrar of Trade Marks, 1999(17)LCD page 219. In this case it was held by the Apex Court that the plea of alternative remedy will not be acceptable in cases where a W.P. has been filed for enforcement of a fundamental right or where there has been a violation of Principles of Natural Justice or where the order under challenge is wholly without

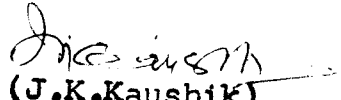


jurisdiction. The case of the applicant in the present O.A. is wholly covered by the decision of the Apex Court in as much as the order of compulsory retirement dated 21.11.2001 was without jurisdiction having been passed much beyond the time granted by the Hon'ble High Court in its interim order dated 30.4.2001. We are, therefore, of the view that it was not necessary for the applicant to exhaust the alternative remedy of appeal against the impugned order dated 21.11.2001."

The said judgment is quite exhaustive and squarely covers the controversy involved in the present case. Otherwise also independent of the aforesaid judgment if we were to examine the controversy afresh we must say that we would have also reached to the same conclusion. It would be pertinent to observe that once a Court passes certain orders it has to be given appropriate sanctity. If the action is not done within the time frame fixed by a Court of law and the authorities are permitted to act in their own fashion, even beyond the period which is so fixed, it will undermine the very dignity of the judicial system and will also undermine the public confidence. Not only this, the significance of seeking permission of the Courts for extension of time in implementation of the judgments would also become a futile exercise. In this view of the matter also, we hasten to add further that we have absolutely no hesitation in following the aforesaid decision of the co-ordinate Bench.

6. In the premises, the Original Application is allowed and the impugned order dated 15.4.1997(Annexure-A-1) is quashed. Any continuance of disciplinary proceeding subsequent to the time frame fixed by the Tribunal is declared as a nullity. The respondents are directed to reinstate the applicant forthwith and he shall be allowed all consequential benefits except monetary arrears. No costs.


(Anand Kumar Bhatt)
Administrative Member


(J.K. Kaushik)
Judicial Member