

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.67/2018.

Date of Decision: 23.01.2018.

CORAM: HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)
HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)

Mr. Sushil Baban Kadam,
 Occup. Service.
 R/at C/76, Tarang Vihar (P&T)
 Colony, R.A. Kidwai Road,
 Wadala (W), Mumbai 400 031. ... *Applicant.*
(Advocate by Shri MA. Ingole)

Versus

1. Chief Managing Director of MTNL,
 Corporate Office, Mahanagar,
 Door Sanchar Sadan, Room No.4213,
 Lobby No.2, 4th Floor,
 (Opp. Gate No.13, JLN Stadium)
 9 CGO Complex, Lodhi Road,
 Delhi – 110 003.

2. Mr. Pravin Kumar Punj,
 Executive Director (ED), MTNL,
 Dadar Telephone House,
 15th Floor, V.S. Marg, Dadar (W),
 Mumbai 400 028.

3. The Liaisoning Officer of the MTNL
 East – 1, Nityanand Nagar, Telephone
 Exchange Building, Ghatkopar (W),
 Mumbai 400 086.

4. General Manager of MTNL,
 (RF) MS, MTNL, 5th Floor,
 BKC, Telephone Exchange,
 Kurla (W), Mumbai 400 098.

5. General Manager of MTNL,
 Mumbai (NM) 3rd Floor,
 New Administrative Building,
 Vashi Telephone Exchange
 Compound, Sector 16-A, Vashi
 Navi Mumbai 400 703. ... *Respondent*

ORDER (Oral)
Per : Shri A.J. Rohee, Member (J)

Today when the matter is called out for admission, heard Shri M.A. Ingole, learned Advocate for the Applicant. We have carefully perused the case record.

2. The Applicant was working as Telecom Mechanic with the Respondent No.5. He was served with the Memorandum of charge alleging mis-conduct on his part since he forcefully entered the cabin of Respondent No.5 and indulged in misbehaviour. Inquiry was held and the Respondent No.4 issued impugned order dated 15.12.2017 by which the applicant is compulsorily retired with immediate effect. The Applicant has challenged the said order before the Executive Director (ED), MTNL, Mumbai – Respondent No.2 on 22.12.2017 (Annexure A-12) which is still pending.

3. In view of the fact that the statutory remedy of appeal is not fully exhausted by the applicant inasmuch as there is no adverse order passed by the Appellate Authority, in one sense we can say that the OA is premature since the order passed by

the Disciplinary Authority alone cannot be challenged in the OA. However, considering the fact that penalty of compulsory retirement is imposed in a disciplinary proceeding, a direction can still be issued to the Appellate Authority to decide the pending appeal expeditiously.

4. Perusal of the title of the OA shows that the Appellate Authority has been joined in his personal capacity as Mr. Pravin Kumar Punj, when no order has been passed by the said authority and when no *mala fide* is alleged against him. In view of this, leave is granted to the learned Advocate for the applicant to delete the name "Mr. Pravin Kumar Punj" from description of Respondent No.2. So also the Respondent No.3 the Liaison officer of MTNL and Respondent No.5 - General Manager of MTNL are also found to be not necessary parties. In view of this, learned Advocate for the applicant is directed to delete the names of Respondent Nos.3 and 5 from the array of parties.

5. Respondent No.2 - Executive Director (ED) MTNL, Mumbai is hereby directed to consider and pass a reasoned and speaking

order on the pending statutory appeal dated 22.12.2017 (Annexure A-12) of the applicant, in accordance with law, within a period of eight weeks from the date of receipt of a certified copy of this order.

6. The order so passed shall then be communicated to the applicant at the earliest, who will be at liberty to approach the appropriate forum, in case his grievance still persists.

7. The OA stands disposed of with the above directions at the admission stage, without issuing notice to the respondents and without making any comments on merits of the claim.

8. Registry is directed to forward certified copy of this order to both the parties at the earliest for taking appropriate steps in the matter.

(R. Vijaykumar)
Member (A)

(A.J. Rohee)
Member (J)

dm.