

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00457/2017

DATED THIS THE 13TH DAY OF FEBRUARY, 2019

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

1. Puttaswamy,
S/o Shankarappa,
Aged about: 58 years,
Working as Telephone Mechanic,
Telephone exchange,
Tavarekere post,
Chennagiri Taluk,
Davanagere District – 577 001

2. Anand S. Pawar,
S/o Siddappa,
Age: 57 years,
Working as T.M.B.S.N.L.
Telephone exchange,
Sorab – 577 429
Shimoga District

(By Advocate Shri M.R. Achar)

.....Applicants

Vs.

1. The Chairman and Managing Director,
Sanchara Bhavan,
Bharath Sanchara Nigama Limited,
R.S. Mathur Lane,
New Delhi – 110 001.

2. The General Manager,
Telecom,
BSNL, Shimoga – 577 202

....Respondents

(By Shri Vishnu Bhat, Counsel for the Respondents)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. Fraud will defeat every aspect of adjudication. This is a case wherein the applicants have been accused of stealing property belonging to the department. A police case was also lodged against the applicants and others. Section 27 recovery was made of the stolen articles and panch witnesses were also examined. Apparently, cross-examination of these witnesses is not seen assailed, therefore, under the Evidence Act, the matter of theft and the matter of interim possession by the applicants, as the information according to the concerned witnesses have been obtained only through the applicants, has been established. However, for reasons unknown, as the owner of the property or alleged property has not claimed it, the learned Magistrate seems to have acquitted. He would also say that there is no consistency in the evidence of P.W.2. The alleged purchaser of the property P.W.2 Syed Ibrahim says that 2 years ago the police brought accused No. 3 to his shop and asked whether he had given ½ kg of copper

wire to him. He would say that the police took some copper wire from his shop and explained away his juncture. Therefore, the prosecution treated him as a hostile witness. Some of the other witnesses also turned hostile. So, the Magistrate held that the evidence of record is not at all sufficient to attract the essential ingredients of offence under Section 98 of Karnataka Police Act. Therefore, the applicants and others were acquitted under Section 255 (1) of the CrPC. It is to be noted that material objects were confiscated to the State. Even at that point of time, the department did not see it appropriate to seek for either interim custody or final custody of their alleged articles. As to why they had given regular appointment to the applicants and another is a matter available only in their realm of imagination or otherwise.

2. The allegation is pure theft. Why a charge under Section 98 of the Karnataka Police Act has been alleged is not clear as the police personnel were on patrolling duty and they came to know that accused No. 4 Dakshinamurthy was caught by the villagers when apparently the accused committed theft of telephone drop wires of two span. Therefore, elements are present in this case to believe that there seems to be incompatibility in approach even in the department itself. Apparently the effort of the police were in vain. It is to be noted that Keshava, one of the witnesses, had stated that he himself and others had caught the accused No.4 when he tried to run away by covering his face after committing theft. Because of the cloud raised by the hostile attitude of some of the witnesses, this became submerged. But even at this point of time the department did not think it appropriate or feasible to take an action atleast to recover the stolen articles

which were admitted by the applicants and others to be the property of the department. At least during trial this matter would have come to their notice. It is to be noted with some regret that the respondents have failed in their duty. Therefore, before further proceeding with the matter, a copy of this judgment to be forwarded to the Chairman, BSNL with a specific direction to him with co-ordination from Secretary, DoT to commence proceedings against the applicants as also the concerned officials at that point of time who were deficient in their duties.

3. Since we have discovered fraud on the part of the applicants as well as the department, we will now proceed to dispose off this matter by imposing a cost of Rs. 50,000/- on the applicants which is to be recovered by the concerned Deputy Commissioner under coercive process within the next two months and remitted to the Karnataka Legal Services Authority. The same amount of cost is imposed on BSNL for their failure as well as cover up action which resulted in this loss to the department. This also will be recovered within the next two months by the concerned Deputy Commissioner and remitted to the Karnataka Legal Services Authority.

4. The OA is therefore disposed off as above with the cost of Rs.1,00,000/-.

(C.V. SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00457/2017

Annexure-A1: Copy of the list indicating granting increments

Annexure-A2: Copy of the lists granting temporary status to other employees

Annexure-A3: Copy of the judgment in CC No. 1865/94

Annexure-A4: Copy of the order granting temporary status dated 16.10.2000

Annexure-A5: Copy of the order granting temporary status dated 10.08.1999

Annexure-A6: Copy of the representation dated 04.02.2016 by the 1st applicant

Annexure-A7: Copy of the representation dated 04.02.2016 by the 2nd applicant

Annexures with reply statement

Nil

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