

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI

OA No.582/2017

Dated this Wednesday the 12th day of June, 2019

Coram: R. Vijaykumar, Member (A).
Ravinder Kaur, Member (J).

Sunil S/o. Rajabhau Suryawanshi
Age 47 years, Occu.Nil,
R/o. Flat No.2,
Gauri Apartment, Kokare
Nagar, Latur, Tq. &
Dist. Latur.

...Applicant.

(By Advocate Shri S. P. Urgunde).

Versus

1. The Union of India
Through its Secretary,
Telecommunication Department,
New Delhi-110001.
2. Pr. General Manager,
Telecom, Aurangabad &
Disciplinary Authority,
Aurangabad- 431 001.
3. The Chief General Manager,
Telecom office at CGMD,
Mumbai-400 088.
4. General Manager,
Telecom & Disciplinary Authority,
BSNL, Latur, Dist. Latur-431512.
5. The Deputy General Manager,
Telecom BSNL, Latur,
Tq. & Dist. Latur-431512.

... Respondents.

(By Advocate Shri V. S. Masurkar).

O R D E R (O R A L)

Per : R. Vijaykumar, Member (Administrative)

1. Today when the case is called out, heard Sh. S. P. Urgunde, learned counsel for the applicant and Sh. V. S. Masurkar, learned counsel for the respondents.

2. This application has been filed on 21.02.2012 under Section 19 of the Administrative Tribunal's Act, 1985 seeking the following reliefs:

"(a) The original application may kindly be allowed and the impugned termination order dated 12.05.2017 passed by the respondent no.2 authority may kindly be quashed and set-aside and the present applicant be reinstated on his original post as a Junior Telecom Officer, in the interest of justice.

(b) Any other suitable and equitable relief may kindly be granted in favour of the present applicant."

3. The impugned orders of the Disciplinary Authority passed in order no. GMT-LTR/ACB/SRS/2002-17/76 dated 12.05.2017 are based on the conviction of the applicant in a special case no.2/2005 dated 14.01.2005 and in the judgment dated 15.06.2011 following conviction, the applicant was sentenced to undergo rigorous imprisonment for one year and pay fine. The

applicant has challenged the orders before the Hon'ble High Court which suspended the sentence but the conviction continues to be in force pending disposal of the appeal by the Hon'ble High Court. The respondents have exercised their powers and followed the procedure prescribed under Rule 40(a) read with Rule 33 of BSNL CBA Rule 2006 to impose the penalty of removal from service based on the extant conviction.

4. The learned counsel for the applicant was heard at length. In this matter, the law is settled that when the conviction continues to be in place and pending disposal of the applicant's appeal, the respondents have power under the relevant sections of their Disciplinary Rules to issue such orders. In case the appeal before the Hon'ble High Court results in setting aside the order of the Criminal Court, the orders of the respondents will lose their basis in the conviction which they had adopted for passing such orders.

5. In such a case, the applicant may move a representation along with a copy of the relevant

final orders of the Court to the respondents to consider and pass orders.

6. Therefore, the present OA is not maintainable at the present stage and is clearly premature and the same is dismissed without any order as to costs.

(Ravinder Kaur)
Member (J)

(R. Vijaykumar)
Member (A)

v.

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