

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 117 OF 2013

Union of India	.. Petitioner.
vs.	
William B. Miranda and ors.	.. Respondents.

AND

WRIT PETITION NO. 3058 OF 2015

The Chairman/Managing Director Bharat Sanchar Nigam Ltd. and anr.	.. Petitioners.
vs.	
William B. Miranda and anr.	.. Respondents.

Mrs. Neeta V. Masurkar a/w. V.S. Masurkar and Mr. Vinod Joshi for the petitioners in both petitions.
Mr. A.I. Bhatkar for respondent no.1 in both petitions.

**CORAM: D.H. WAGHELA, C.J. AND
M.S.SONAK, J.
DATE : 30 MARCH 2016.**

P.C.:

1] Writ Petition No. 3058 of 2015 is not on board. Upon mentioning taken on board for disposal alongwith Writ Petition No. 117 of 2013.

2] The challenge in both these petition is to the order dated 26 July 2012 in Original Application No. 614 of 2011 made by the Central Administrative Tribunal (CAT), by which, the CAT

has set aside the orders placing the respondent – William Miranda under suspension about five days prior to the date of respondent no.1's retirement upon attaining the age of superannuation.

3] The respondent – William Miranda , at the relevant time was an employee of the Department of Telecommunication (D.O.T.), but had proceeded on “*deemed deputation*” to the Bharat Sanchar Nigam Ltd. (BSNL) when the impugned suspension order was served upon him. The CAT, relying upon the written statement filed by and on behalf of D.O.T. has held that the BSNL or its officers had no authority to issue the impugned suspension order upon the respondent- William Miranda. Further, the CAT has also interfered with the suspension order, on the ground that the same relates to incident which had allegedly taken place during the year 2001-2003 and the suspension order was issued after inordinate delay of over ten years, on the eve of the respondent no.1's William Miranda retirement.

4] We have heard Mrs. Masurkar, learned counsel for the Union of India as well as BSNL. We have also perused the impugned order dated 26 July 2012 made by the CAT and the records. We are satisfied that this is not a fit case to interfere with the impugned order in the exercise of extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India.

5] The D.O.T. itself filed a reply before the CAT stating that the respondent-William Miranda was an employee of D.O.T.

and therefore, the BSNL or its officers had no authority to suspend the respondent-William Miranda. The CAT, has accepted this position and set aside the suspension order, *inter alia*, on the ground that it was issued by an incompetent authority. In these circumstances, we fail to understand as to how, the D.O.T. can question the impugned order dated 26 July 2012 made by the CAT by institution of Writ Petition No. 117 of 2013. Mrs. Masurkar faintly submitted that the statement made in the written statement filed on behalf of D.O.T. was not right and therefore, the CAT ought not to have relied upon the same. Mrs. Masurkar has, however, not pointed out why the CAT was not right in relying upon the statement solemnly made by the D.O.T. in its written statement. In fact, the records indicate that respondent no.1 continued in substantive employment of D.O.T. and therefore, the CAT cannot be faulted for interfering with the suspension order issued by BSNL.

6] That apart, the suspension order dated 25 May 2011 states that the same has been issued in contemplation of departmental proceedings with regard to incident , which is alleged to have taken place during the year 2001-2003. There is no reasonable explanation with regard to such unreasonable delay. The suspension order was issued after delay of over ten years and hardly five days prior to respondent no.1 attaining the age of superannuation.

7] Mrs. Masurkar, in the petition filed on behalf of BSNL submitted that the BSNL had authority to issue suspension order to an employee on deputation from the Central Government. The terms of so called deputation of respondent no.1 are by no means clear in the present case. The D.O.T., in its petition, has referred to respondent no.1 being a “ *deemed deputation*” with BSNL. In such circumstances, the CAT cannot be faulted for relying upon the categorical statement made in the reply filed for and on behalf of D.O.T. that BSNL had no authority to issue the suspension order. In any case, the aspect of unreasonable and unexplained delay, applies equally to BSNL as well, assuming that BSNL had the authority to issue the suspension order.

8] By now, over five years have elapsed since retirement of respondent no.1. In the facts and circumstances of the present case, no purpose would be served by permitting any revival of the suspension order, which, the CAT has held, was issued by an authority, which was not competent to issue the same.

9] For all the aforesaid reasons, we are satisfied that these are not fit cases to interfere with the impugned order in the exercise of extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India. These petitions are therefore, dismissed. There shall be no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)