

BEFORE THE CENTRAL ADMINISTRATION TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 31ST OCTOBER 1986

Present: Hon'ble Shri Ch.Ramakrishna Rao, Member (J)
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NO. 127/86(F)

B.S. Shiva Kumar,
1265, 8th Cross,
Sunnadakeri,
Mysore - 570 024.

Applicant

(Shri M.R. Achar, Advocate)

Vs.

1. The Post Master General,
Karnataka Circle,
Bangalore - 560 001.
2. The Senior Superintendent,
of Post Offices,
Mysore Division,
Mysore - 570 020.
3. The Senior Postmaster,
Mysore Headpostoffice,
Mysore - 570 001.

Respondents

(Shri M.V. Rao, Advocate)

The application has come up for hearing before this Tribunal today, Member(J) and Member(A) made the following:

O R D E R

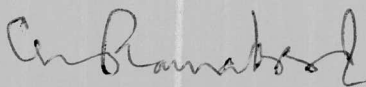
The challenge to the order of compulsory retirement of the applicant passed by the Post Master, Mysore Head Post Office, Mysore, in his Memo dated 31-8-1984 is on the ground that the applicant was promoted to higher grade by the Senior Superintendent of Post Offices, Mysore Division (Respondent 2) whereas the order of compulsory retirement was passed by the Post Master, Mysore Head Post Office. This fact is not disputed in the reply filed on behalf of the respondents wherein it has been stated that "The fact that


the applicant was promoted under Time Bound One Promotion Scheme was inadvertently not noticed by the Disciplinary Authority". The explanation furnished by the respondents was passed inadvertently by the Post Master instead of the Senior Supdt. of Post Offices. In our view, whether the order was passed inadvertently or otherwise will not in any way effect the constitutional position under Article 311(1) of the Constitution of India which in clear terms states:

"(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or held a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed."

In view of the above, we are constrained to set aside the order of compulsory retirement. This, however, will not debar respondents from initiating de novo proceedings, if deemed necessary.

In the result the application is allowed. There will be no order as to costs.


(CH. Ramakrishna Rao)
Member (J)


(L.H.A. Rego)
Member (A)