

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE.

DATED THIS THE TWENTIETH DAY OF JANUARY, 1987.

APPLICATION No. 2048/86

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman,
and
Hon'ble Shri L.H.A. Rego, Member (Administration).

Between:

Puttannaiah,
E.D.D.A.,
Ankanayakanahalli Kaval P.O.,
Arakalgud Taluk,
Hassan District.

.....Applicant.

(Shri Raghavendrachar, Advocate)

and

1. Assistant Superintendent
of Post Offices,
Incharge, Hassan North Sub-Divn.,
Hassan.

2. Superintendent of Post Offices,
Hassan Division,
Hassan.


.....Respondents.

(Shri M. Vasudeva Rao, Addl. CGSC)

This application having come up for hearing today
before this Tribunal, the Hon'ble Vice-Chairman made the
following:

O R D E R

In this application made under Section 19 of the
Administrative Tribunals Act, 1985 ('the Act'), the
applicant has challenged Orders dated 14.4.1986 and




5.5.1986 (Annexures C & D) of the Superintendent of Post Offices, Hassan Division, Hassan ('SPO'), and Assistant Superintendent of Post Offices, Holenarasipur Sub-Division, Hassan Division, Hassan ('ASPO'), respectively.


2. Prior to 12.5.1983, the applicant was working as an Extra-Departmental Delivery Agent ('EDDA') at the Gorur Post Office of Hassan District. On 12.5.1983, he was 'kept off' from duty by the ASPO and from that day, he was not functioning as EDDA of Gorur.

3. On 18.5.1983, the applicant addressed a letter to the ASPO in Kannada tendering his resignation to the post of EDDA on the ground that he was unable to perform his duties. On that application, the ASPO regretfully did not act with the necessary speed and despatch, but delayed the same till 30.11.1983, on which day he made an order accepting the same from that date in these words:

"The ED Agent was put off duty w.e.f. 12.5.83. Past work verification carried out through the area mail Overseer was satisfactory. No further cases came to light. Rs. 80/-, the amounts of 2 MOs that were wrongly paid were recovered from the wrong payee. The resignation dtd 18.5.83 of the ED Agent is accepted w.e.f. today."

On making this order, the ASPO again slept over the matter and did not communicate the same to the applicant as he should have done.




3. As late as on 23.4.1986, the applicant addressed the ASPO inquiring him as to what had happened to his resignation tendered on 18.5.1983. On receipt of the same, the ASPO by his communication dated 14.4.1986 informed the applicant that the SPO had accepted his resignation, which has been reiterated by that officer also in his communication dated 5.5.1986. Hence this application.
4. Shri M. Raghavendrachar, learned counsel for the applicant, contends that in the absence of communication accepting the resignation of his client on 30.11.1983, such acceptance by itself had not become complete and full, and therefore the applicant should be deemed and declared to be in service at all times. In support of his contention, Shri Achar strongly relies on the rulings of the Supreme Court in *STATE OF PUNJAB v. BALBIR SINGH* (1976 SCC (L&S) page 411) and *UNION OF INDIA v. GOPALA CHANDRA MISHRA* (1978 SCC (L&S) page 303).
5. Shri M. Vasudeva Rao, learned Additional Standing Counsel for the Central Government, appearing for the respondents, at our direction, contends that notwithstanding the illegalities and the irregularities in the performance of their duties, if any, this is a fit case in which this Tribunal should decline to interfere with the action of the authorities. In the very nature of things, we consider it proper to examine this later submission of Shri Rao first, and then examine the merits, if that becomes necessary.
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6. We have examined the papers made available by Shri Rao.

7. We are satisfied that the applicant had voluntarily tendered his resignation to the post of EDDA on 18.5.1983 on domestic and other grounds. We see no merit in the latter vague and belated claim of the applicant that the same had been obtained by the ASPO by coercion, fraud and misrepresentation.

8. We have earlier noticed that on 30.11.1983, the ASPO made an order accepting the resignation of the applicant which he was competent to make. Unfortunately, the only infirmity, if any, that the ASPO committed was in the non-communication of that order to the applicant. But notwithstanding this infirmity, on an examination of all the facts and circumstances, we are of the view that the applicant was aware of the acceptance of the resignation made by the ASPO on 30.11.1983, either on that very day itself, or atleast a few days thereafter. If that is so, then we will not be justified in interfering with the acceptance of the resignation, solely on the technical ground of its non-communication.

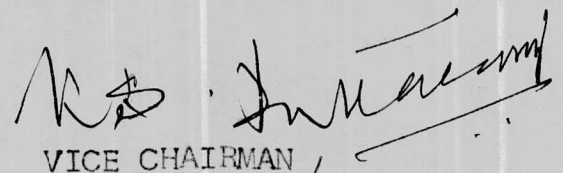
9. Even otherwise, we are of the view that on the facts and circumstances, this is a fit case in which we should decline to interfere on grounds of delay, laches and acquiescence.

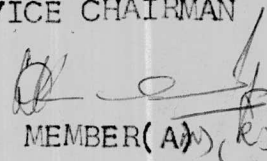



10. On the view we have taken, we decline to examine the merits of the case.

11. Before parting with this case, it is appropriate to notice that as and when a fresh vacancy arises in that village or any other adjoining village, and if the applicant makes a proper application for the post, the authorities are bound to consider his case for a fresh appointment, without reference to the events that have happened. We have no doubt that the authorities will do so.

12. In the light of our above discussion, we hold that the application is liable to be dismissed. We, therefore, dismiss the application. But in the circumstances of the case, we direct the parties to bear their own costs.


VICE CHAIRMAN


MEMBER (A)  20.1.87

dms.