

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex (BDA),
Indiranagar,
Bangalore - 560 038

Dated : 21/8/87

APPLICATION NO 807 / 86 (F)

W.P. NO _____

Applicant

Shri N. Shivarudrappa

v/s The Sub Post Master (LSG), Harihar
& another

To

1. Shri N. Shivarudrappa
C/o Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050

2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050

3. The Sub Post Master (LSG)
Harihar - 577 501
Chitradurga District

4. The Superintendent of
Post Offices
Chitradurga Division
Chitradurga - 577 501

5. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~XXXXXX~~

~~XXXXXX~~ passed by this Tribunal in the above said

application on 17-8-87.

B.V. Venkatesh
DEPUTY REGISTRAR
~~SECTION OFFICER~~
(JUDICIAL)

Encl : as above

RECEIVED 24/08/87

Diary No. 1047/8/87

Date: 25/8/87 *B.V. Venkatesh*

RECEIVED 24/08/87

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH, BANGALORE

DATED THIS THE 17th AUGUST, 1987

Present: Hon'ble Justice Shri K.S. Puttaswamy, Vice-Chairman
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION No. 807/86

N.SHIVARUDRAPPA,
C/o Sri M. Raghavendra Achar,
Advocate,
No. 1074 and 1075,
Banashankari Ist Stage,
Sreenivasa Nagar II Phase,
BANGALORE.

Applicant

(Sri M. Raghavendrachar,..... Advocate)

1. Sub Post Master (LSG),
Harihar - 577 601.
2. Superintendent of Post
Offices,
Chitradurg Division,
CHITRADURGA - 577 501.

Respondents

(Sri M.S. Padmarajaiah,..... Advocate)

This application has come up for hearing before
this Tribunal to-day, Hon'ble Member (A) made the
following :

O R D E R

In this application, the applicant who was
appointed as a temporary Group-D servant in the
postal department with effect from 1.10.1983 is
aggrieved with order dated 8-4-1984 (Annexure-D)
by which his services were terminated by the Sub
Post Master (L.S.G.) Harihar.

2. The first objection raised by Sri M.
Raghavendrachar, learned counsel for the
applicant was that the Sub-Post Master was
not the competent authority to terminate the



services of the applicant, since the applicant had been appointed to the Group-D post by a higher authority viz., the Superintendent of Post Offices, Chitradurga.

3. Sri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the respondents strongly refutes the contention of Sri Achar. The applicant's services were terminated under sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965. It has been held in a line of decisions of the Supreme Court that termination simpliciter of the services of a temporary Government servant under the Rules governing him does not constitute dismissal or removal from service and, therefore, the provisions of Article 311 of the Constitution do not apply. Since Article 311 of the Constitution does not apply, the termination simpliciter of the services of a temporary Government servant is governed by the Central Civil Services (Temporary) Services Rules. Under Rule 5(1) of the said Rules, the services of a temporary Government servant who is not in quasi permanent service shall be liable for termination by notice in writing given by the "appointing authority" to the Government servant. The expression "appointing authority" has been defined in Rule 2 of the said Rules as meaning 'the authority declared as such under the Central Civil Services (Classification, Control and A



Rules, 1965" ('CCA Rules'). Under the CCA Rules the Sub-Post Master (LSG) is also an appointing authority in respect of Group-D servants of a Post Office. Here the services of the applicant were terminated by a Sub-Post Master (LSG). Therefore, the authority who terminated the service of the applicant was competent to do so.

4. In reply to Sri Padmarajaiah, Sri Achar contended that this is not a case of termination of service simpliciter and that it was by way of punishment and, therefore the provisions of Article 311 of the Constitution became applicable.

5. We have perused the records produced on behalf of the respondents. We find that ever since the applicant was appointed, he was absent from duty on leave, extraordinary leave and otherwise for long stretches of time and he insisted that only duties of a particular kind should be assigned to him which he had no right to do. From these facts, we are satisfied that the services of the applicant were terminated only because he was found unsuitable for being continued in service. Thus after "piercing the veil" we find that this is still a case of termination 'simpliciter'. That being so, we agree with Sri Padmarajaiah that Article 311 of the Constitution does not apply to this case. We may here faithfully quote the following passage from the Judgment of a Constitution bench of the Supreme Court in P. BALAKOTIAH



v. UNION OF INDIA AND OTHERS (AIR 1958 SC 232 in para 18 at page 238);

"Now, this Court has held in a series of decisions that it is not every termination of the services of an employee that falls within the operation of Art.311, and that it is only when the order is by way of punishment that it is one of dismissal or removal under that Article"

As mentioned earlier, we are satisfied that the termination of the service of the applicant in this case was not by way of punishment and so was not dismissal or removal from service as the expression in Article 311 of the Constitution has been understood by the Supreme Court.

Therefore, we are also satisfied that the authority who terminated the services of the applicant was competent to do so under the Rules governing his service.

In the result, the application is dismissed.

Parties to bear their own costs.



sd/-

sd/-

(K.S. PUPPASWAMY)
VICE-CHAIRMAN

(P. SRINIVASAN)
MEMBER

sb.

- TRUE COPY -

B.V. Venkatesh, D.L.
DEPUTY REGISTRAR - 2118
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE