

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH : BANGALORE.

Present: Hon'ble Mr. K.S. Puttaswamy, Vice-Chairman,
and
Hon'ble Mr. P. Srinivasan, Member (AM).

DATED THIS THE SEVENTEENTH DAY OF FEBRUARY, 1987.

Application No. 1009 of 1986

Sharanappa,
Halemani, Son of Doddanagouda,
resident of Siddapur,
Taluk Gangavathi,
Raichur District.Applicant.

(Shri M. Raghavendrachar, Advocate)

vs.

1. The Director General of P&T,
New Delhi.
2. The Superintendent of Post Offices,
Raichur Division,
Raichur.Respondents.

(Shri M.S. Padmarajaiah, Senior CGSC)

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

O R D E R

In this transferred application received from
the High Court of Karnataka under Section 29 of the
Administrative Tribunals Act, 1985, the applicant has

challenged Memo No. F7/1/83-84 dated 4.7.1983 (Annexure-E) of the Superintendent of Post Offices ('SPO'), Raichur Division, Raichur.

2. On 4.10.1980, the applicant joined service as a time-scale Postal Assistant in the Postal Department of the Government of India and had also passed the examination prescribed for confirmation to that post. Before his confirmation, there were various proceedings against the applicant and a detailed narration of them is not very necessary for the disposal of the case. But ultimately, on 4.7.1980, the SPO terminated the services of the applicant under rule 5(1) of the Central Government (Temporary) Servants Service Rules, 1965, giving him one month's pay in lieu of one month's notice under the said rules, the validity of which was challenged ⁴ *by him* before the High Court in W.P. No. 18897 of 1983, principally on the ground that the same had been made against him only as a measure of punishment and that in any event, the same casts a stigma against him *without* ⁴ an inquiry. On transfer, the same has been registered as Application No. 1009/86. In their reply, the respondents have justified the impugned order as a termination simplicitor, legal and valid.

3. Shri M. Raghavendra Achar, learned counsel for the applicant, contends that the order, though innocuous, was made only as a measure of punishment, and that in any

event casts a stigma against his client without an inquiry, and was therefore illegal and invalid.

4. Shri M.S. Padmarajaiah, learned Senior Standing Counsel for the Central Government, appearing for the respondents, contends that the termination of the applicant was termination simplicitor, in terms of his appointment and the Rules, and hence legal and valid.

5. The impugned order of termination made against the applicant was undoubtedly a termination simplicitor. But, as has been declared by the Supreme Court in more than one case, the Courts or Tribunals must always pierce the veil and examine all the circumstances and the material leading to the order to decide whether the termination was a termination simplicitor, or whether the same was made as a measure of punishment or casts a stigma against an employee without an inquiry, and decide the particular case, for which purpose, we have examined all the circumstances and the records leading to the termination of the applicant.

6. On such an examination of all the circumstances and the records, we are satisfied that the termination of the applicant is not a termination simplicitor, but was made as a measure of punishment and casts a stigma against him without an inquiry thereto. On this view, we cannot uphold the impugned order of termination.



7. Shri Achar then urges for a direction to the respondents to reinstate the applicant into service with all backwages from the date of his termination to the date of his reinstatement.

8. On our conclusion, the claim of the applicant for reinstatement must necessarily be granted.

9. We have examined the claim of the applicant for **backwages** till his reinstatement. We are of the view that all the facts and circumstances justifies us to deny backwages to the applicant till his reinstatement to service.

10. In the light of our above discussion, we make the following orders and directions:

(1) we quash the impugned order made by the SPO on 4.7.1983 (Annexure-E) and direct him to restore the applicant to his original service and give him an order of posting and take him to duty when he reports for duty, from which date he will be entitled for salary attached to the post, which, however, does not prevent the authorities from proceeding against the applicant for any alleged misdemeanour in accordance with law;

(2) we, however, deny the claim of the applicant for backwages from the date of his termination to the date of his reporting for duty.

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11. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.
12. Let this order be communicated to the parties within a week from this day.

As. J. Murray
VICE CHAIRMAN
17/2/87.

P. J. T.
17/2/87.
MEMBER(AM)

dms/19287.