

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 5TH SEPTEMBER, 1986

Present: Justice K.S. Puttaswamy Vice-Chairman
Shri P. Srinivasan Member(AM)

Application No. 1012/86(T)

Kumari Pushpa R. Hegde,
Kodanagadde Village,
Sirsi Taluk,
Karwar District.

.... Applicant

(Shri M. Ramesh Rao ... Advocate)

Vs.

1. The Director of Postal Services,
Dharwar Region,
Dharwar 1.
2. The Superintendent of Post Offices,
Sirsi Division,
Sirsi 581401.
3. The Post Master General in
Karnataka, Bangalore 1.
4. The Sub-Divisional Inspector,
Sirsi, North Postal Sub-Division,
Sirsi 581 401. ... Respondents

(Shri M.S. Padmarajaiah ... Advocate)

The application has come up for hearing
before Court today. Vice-Chairman made the
following:


ORDER

In this Transferred Application from the
High Court of Karnataka, the applicant has challenged
order no./BPM-DP/PRM/Kodanagadda dt 17.3.83
(Annexure 'G') of the Sub-Divisional Inspector,

had been removed by an authority lower to the appointing authority which is illegal and impermissible.

Shri M.S.Padmarajaiah, learned Senior Standing Counsel for the Central Government appearing for the Respondents refuting the contention of Shri Ramesh Rao, contends that the very authority that had appointed the applicant had removed her.

In her application, the applicant except asserting that she had been appointed by a higher authority and that higher authority had not removed her and the authority that had removed her was not the appointing authority had not produced the very or any appointment order issued in her favour. In their reply, the Respondents have asserted that the applicant had been appointed only by the SDI and that very authority had removed her from service. In the absence of an appointment order produced by the applicant, that shows that she had been appointed by a higher authority than the SDI, we must necessarily accept the plea of the Respondents and hold that she had been appointed only by the SDI and not by any authority higher to that authority. When once we hold that the applicant had been appointed by the SDI, it follows from the same, that the SDI was competent to remove her from service. For these reasons, we see no merit in this contention of Shri Ramesh Rao and we reject the same.




Shri Ramesh Rao next contends that the applicant should have been afforded a reasonable opportunity of hearing before her removal.

We have earlier noticed that the applicant had been appointed purely on a temporary basis and the SDI, on making a regular selection, had posted the person selected against the advertised post. In the order of termination also, the SDI had set out the same though not in very clear terms. In their reply also the Respondents have asserted the same.

When a person is appointed on a purely temporary basis and the removal of such person becomes necessary to accommodate a regularly selected person, the Constitution and the laws or the principles of natural justice, do not provide for an opportunity of hearing before removal of the person appointed on a temporary basis. We see no merit in this contention of Shri Ramesh Rao and we reject the same.

Shri Ramesh Rao next contends that the termination order does not give reasons much less any valid reasons and the same is illegal.

In the order of termination, the SDI had set out the reasons to which we have earlier alluded. We are of the view that the order of termination, contains necessary reasons and the same has also been elaborated in the reply filed by the Respondents. We are satisfied that the termination of the applicant, does not suffer




from any infirmity justifying our interference. We see no merit in this contention of Shri Ramesh Rao and we reject the same.

Shri Ramesh Rao lastly contends that Smt. Sunanda S. Bhat who had been posted in the place of the Applicant, had left the job and that post is now vacant, and the authorities may be directed to consider the case of the applicant for a fresh appointment with due regard to her qualifications and other relevant factors. Shri Padmarajaiah is not able to vouchsafe to the correctness of this submission made by Shri Ramesh Rao.

If what is stated by Shri Ramesh Rao is true and correct, we have no doubt that the authorities will sympathetically consider the case of the applicant and accommodate her if that is permissible and feasible under the Rules. We have also no doubt that the authorities will take a sympathetic view of the matter and accommodate the applicant to the extent that it is permissible by law.

On the foregoing discussion we hold that this application is liable to be dismissed. We therefore dismiss this application. But in the circumstances of the case, we direct the parties to bear the costs.


Vice Chairman


Member

Sirsi North Postal Sub-Division, Sirsi (SDI).

On 22.6.82, the applicant, with the qualification of 7th standard, was appointed as EPDM(DP) Kodanagadda by the SDI on a temporary or ad-hoc basis. In accordance with the Posts and Telegraphs Extra Departmental Agents, (Conduct and Service) Rules, 1964, (Rules) the SDI called for applications to the said post, selected one Smt. Sunanda S. Bhat, as regular EPDM(DP) and by his order dt 17.3.83 (Annexure 'G') had posted her in the place of the applicant. On such posting, the applicant has been removed from service.

The applicant has challenged her removal on three grounds and they are (i) that she has been removed by an authority lower to the appointing authority (ii) that she was not afforded a reasonable opportunity of hearing before her removal and (iii) that the termination order which was bereft of reasons was illegal.

In justification of the impugned action, the Respondents have filed their statement of objections before the High Court of Karnataka which has to be treated as their reply before this Tribunal.

In their reply, the Respondents have asserted that the applicant was appointed on a purely temporary basis and on making a regular selection, she has been displaced, posting the regularly selected person.

Shri M. Ramesh Rao, learned counsel for the applicant contends that his client had not been removed by the very authority that appointed her and

