

**IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL ADDITIONAL BENCH,
BANGALORE**

ORDER SHEET

Application No -4- of 198

Applicant

Respondent

Advocate for Applicant

Advocate for Respondent

A.N.O. 1017/86 (T)
w.p. 19810/83

Date	Office Notes	Orders of Tribunal
10-2-87	<p>order dt. 2-12-86 issued to all the Parties Concerned & o/c added to the file. TRB</p> <p>Recently, Hon'ble M(J) directed that order in A.N.O. 1017/86(T) dt. 2.12.86 be issued for reporting. Discussed with Registrar & DR(J). We may send Copies of order to Journals etc. We need not send Copies to other Benches at this stage. Fair letter spl.</p> <p style="text-align: right;">AS Any 25/4/87</p> <p>Kum.R.</p>	
5-10-87	<p>order dt. 2-12-86 issued to all the Parties Journals Concerned & o/c added to the file. TRB</p>	

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

TODAY THE SECOND DECEMBER, 1986

Present: Hon'ble Shri Ch. Ramakrishna Rao - Member(J)
Hon'ble Shri P.Srinivasan - Member(A)

APPLICATION NO. 1017/86

C. Pandu,
S/o Chikkappa,
Major,
R/o Basavanahalli,
Hosakere Post,
Madhugiri Taluk,
Tumkur District

... Applicant

(Shri N.Y.Hanumanthappa ... Advocate)

Vs.

1. The Superintendent of Post
Offices,
Tumkur Division,
Tumkur 572102.

2. The Postmaster, K.R. Extention
Postoffice,
P&T Department,
Tiptur.

... Respondents

(Shri N.Basavaraju ... Advocate)

This application has come up before Court
today. Member(J) made the following:-

.....2/-

ORDER

This application was initially filed as a writ petition in the High Court of Karnataka and subsequently transferred to this Tribunal. The facts giving rise to the application are as follows:-

2. The applicant was appointed to the cadre of Postal Assistant against the quota reserved for Scheduled Tribes (STs) in Tumkur Division during 1982. While he was working in that post, a communication was issued by the Superintendent of Postoffices, Tumkur Division (Annexure F) (SPO) calling upon him to explain why disciplinary action should not be taken against him for producing a false caste certificate. The applicant replied to the aforesaid communication (Annexure G). His services were however terminated under Rule 5 of Central Civil Services (Temporary Services) Rules, 1965 on 8.11.1983 (Annexure H). Aggrieved by the order terminating his services, the applicant has filed this application.

3. Shri N.Y. Hanumanthappa, learned counsel for the applicant, submits that an explanation having been called from his client for producing a false caste certificate and the explanation having been furnished by his client, it was incumbent on the respondents to have held an enquiry if they were not satisfied with the explanation. Without such an

enquiry being held under the Central Civil Services (Control, Classification and Appeal) Rules, 1965 which are applicable both to permanent and temporary Government servants, the order at Annexure H is illegal.

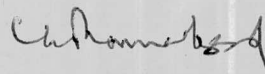
4. Shri N.Basavaraju, learned counsel for the respondents, submits that the order at Annexure H is an innocuous order which does not cast an aspersion on the character of the applicant and the respondents were justified in invoking Rule 5 of CCS(Temporary Service) Rules, 1965 for the purpose of terminating the services of the applicant.

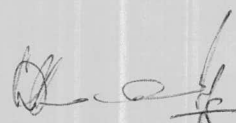
5. We have considered the rival contentions carefully. True, the respondents had the right to resort to Rule 5 of CCS(Temporary Service) Rules, 1965, but in the present case, the said rule could not be invoked because it was preceded by a communication issued to the applicant calling upon him to explain why disciplinary action should not be taken against him for producing a false caste certificate and the same was replied to suitably by the applicant. In view of this, it is open to us to pierce the veil with a view to finding out whether the impugned order is an innocuous order or is one casting any stigma on the character of the applicant. In other words, the respondents having

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called for an explanation with which they were obviously not satisfied, they should have held an enquiry under the CCS (CCA) Rules, 1965 if they really wanted to ascertain the truth. If that was not the intention, they should have passed an order cancelling the communication under which explanation of the applicant was called for and thereafter passed the order under Rule 15 of the CCS (Temporary Service) Rules, 1965. This not having been done, the impugned order is legally unsustainable, and we therefore set aside the same. Respondents are however at liberty to probe ^{the matter,} further into ^{the matter,} if they so desire, against the applicant on the charge of furnishing a false certificate in the light of the foregoing.

6. In the result, the application is allowed.
No order as to costs.


MEMBER (J)


MEMBER (A) 2nd 30

SR