

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THE FIFTEENTH DAY OF OCTOBER, 1986

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

APPLICATION NO.16/86

B.S. Padmanabha
S/o B. Suryanarayana Rao
Upper Division Clerk,
Office of the Provident Fund Inspector,
Chickkamagalur District,
Chickkamagalur. ... Applicant

(Shri Ranganatha Jois .. Advocate)

V.

The Regional Provident Fund
Commissioner, Rammohan Rai Road,
Bangalore-25.

The Provident Fund Inspector,
Chikkamagalur,
Chikkamagalur District. ... Respondents

(Shri M.S. Padmarajaiah .. Advocate)

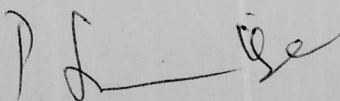
This application came up before Court today, Hon'ble
Member (A) made the following:

O R D E R

This is a transferred application received from the High
Court of Karnataka.

2. Learned counsel for the applicant, Shri Ranganath Jois
and learned counsel for respondents, Shri M.S. Padmarajaiah,
have been heard.

3. The facts of this application are somewhat peculiar. It
appears that by an order dated 26/27.6.1985 the Office of the
Regional Provident Fund Commissioner (RPF Commissioner) at
Bangalore transferred the applicant who was working as Upper
Division Clerk (UDC) in that office and posted him to the



Chickkamagalur Inspectorate in place of Shri J.C.Sashidhar Kumar, ^UDC. The order further stated that "they are relieved of their duties in the Regional Office, Bangalore, with effect from 29.6.1986 (AN) with a direction to report for duty at the place of their postings." The plural 'they' and 'their' were used in the said order because other postings were also made in addition to that of the applicant. It appears that on the date of the order i.e, on 26 and 27.6.1986 as also on 29.6.1985 the applicant was absent from the office. His absence was for a period of 32 days from 3.6.1985 to 4.7.1985 and this absence was regularised by grant of commuted leave, earned leave, and extra ordinary leave by a subsequent office order dated 11/15.7.1985. Since the applicant was absent from the office, the order of transfer dated 26/27.6.85 was not served on him at the time. However, the applicant seems to have come to know of the order and proceeded from Shimoga where he was staying at the time to Chikkamagalur and reported for duty there on 5.7.1985. As already stated, his absence from duty upto 4.7.1985 was regularised by the grant of various kinds of leave by order dated 11/15.7.1985 to which we have referred to earlier in this order. Shri Padmarajaiah informs us that the report of his joining duty on 5.7.1985 was forwarded to the Regional Office at Bangalore, which refused to accept the said report and directed the applicant to report at Regional Office and hand over charge.

3. After the applicant had joined at Chickkamagalur, the Regional Office at Bangalore asked him to return to Bangalore and "hand over charge". He represented by letter dated 24.7.1985 that he was suffering from heavy rheumatic pain and he would hand over charge as soon as he recovered from the rheumatic pain. He also requested that his duty report at Chickkamagalur be accepted (Annexure D). Thereafter, the office of the RPF Commissioner at Bangalore, passed an order on 2/5.8.1985

P. S. S. S.

(Annexure E) stating that the applicant had proceeded to Chikkamagalur without handing over charge; that he had represented that he would hand over charge when his health improved and described this action as highly irregular.

"Under the circumstances", the order said, "it is decided to cancel the transfer order issued vide the Office Part II Office Order No.97 of 1985 dated 27.6.1985 in respect of Shri Padmanabha, UDC, and he is directed to report at the Regional Office at Bangalore forthwith." It is this last mentioned order with which the applicant is aggrieved.

4. Shri Jois, on behalf of the applicant, submits that the action of the applicant in proceeding to join duty at Chickkamagalur from Shimoga where he was staying was in accordance with the order of transfer dated 26/27.6.1985 (Annexure B), the relevant portion from which has been extracted above in this order. The order had stated that he would stand relieved of his duties with effect from 29.6.1985 and directed him to report for duty at the place of his posting. All that the applicant had to do was to report for duty at Chickkamagalur and he did so. Shri Jois contended the transfer was in effect a punishment as the reason for the punishment given in the order is that he had not handed over the charge before proceeding to Chickkamagalur.

5. Shri Padmarajaiah, on behalf of the respondents, strongly contends that the order of transfer not having been served on the applicant was ineffective so far as he was concerned and he should not have, therefore, proceeded to Chikkamagalur without handing over charge at Bangalore. He had aggravated matters further by not responding to the order of the respondents that he should return to Bangalore to hand over charge. The transfer order so far as the applicant was concerned having become non est

P. S. Jois

because it had not been served on him it was his duty to report at Bangalore before proceeding to Chickkamagalur and he not having done so, the respondents rightly cancelled the transfer order. He also added that the applicant's report joining duty at Chickkamagalur had not been accepted by respondents and so he cannot be said to have validly joined duty at Chickkamagalur.

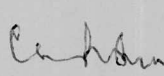
6. We have considered the matter carefully. On perusing the order dated 2/5.8.85 (Annexure E) by which the transfer of the applicant was cancelled, we find the reason for cancellation was the action of the applicant in reporting at Chickkamagalur without handing over charge at Bangalore. Another reason is that in spite of directions issued from the Regional Office he had failed to report at the Regional Office to hand over charge. Here we are inclined to agree with the learned counsel for the applicant that the action of the applicant in joining at Chickkamagalur was in accordance with the order of transfer issued by the respondents, because the order clearly said that he would stand relieved on 29.6.1985 and that he should report at the place to which he had been transferred. We do not agree that the transfer order did not become effective so far as the applicant is concerned till it was served on him. First of all an order comes into force immediately it is passed. Communication to the concerned parties is made only to ensure that the order is carried out. Further in this case the transfer order involved other persons also besides the applicant and it is admitted ^{that} the order was served on them. Copies of the order were also communicated to different sections in the office of the respondent. The applicant may have come to know of the order through somebody else and acted upon it. In doing so he was only carrying out an order validly issued even though he may not have been formally served with ^{a copy} ~~an order~~. *of*


P. S. - 1

7. Incidentally, we cannot help observing that the applicant has also behaved in a curious manner. When he was asked to come to Bangalore from Chickkamagalur to "hand over charge", whatever that expression meant, it was his duty to come to Bangalore but he pleaded that he was not well. We have gone through the representation made in this connection where he has stated that he was suffering from rheumatic pain. We do not consider this to be adequate reason for not obeying the order because he was well enough to travel from Shimoga where he spent his leave to Chickkamagalur where he reported for duty. For this action of the applicant the respondents will be free to take such action as they may deem fit.

8. For reasons stated earlier the impugned order dated 2/5.8.1985 (Annexure E) cancelling the earlier transfer will have to be quashed and is, therefore, hereby quashed.

9. In the result the application is allowed. There will be no order as to the costs.


MEMBER (J)
17.12.1986


MEMBER (A)
17.12.1986

bsv