

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 5th DAY OF FEBRUARY 1987

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)

Hon'ble Sri L.H.A. Rego - Member (A)

APPLICATION No. 1405/86

B.V. Navgaraj
Sub Office Post & Telegraphs
Belakavadi, Malavadi Taluk
Mandya District - Applicant

(Sri M.R. Achar, Advocate)

and

1. Superintendent of Post Offices,
Mandya Division
Mandya

2. The Sub-Divisional Inspector
Srirangapatna & Enquiring Authority
Mandya District, Mandra - Respondents

(Sri N. Basavaraju, Advocate)

This application came up for hearing
before this Tribunal and Hon'ble Sri Ch. Ramakrishna
Rao to-day made the following

O R D E R

This application was initially filed in the High
Court of Karnataka and subsequently transferred to
this Tribunal.

2. Sri M.R. Achar, learned counsel for the applicant,
submits that his client was working as Extra Departmental
Delivery Agent ('EDDA') since 1971 at Belakavadi Sub
Post Office; that a charge sheet was issued to his

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client by the Enquiry Officer ('EO') on 14.12.82 and disciplinary proceedings were held against him on the ground that he continued to be on leave even after the expiry of the leave granted to him, without permission of the competent authority; that while the proceedings were in progress, the post of EDDA held by him was upgraded to the post of a regular Post Master ('PM') and in view thereof, the proceedings were dropped but his client was not taken back into service. Hence this application.

3. Sri N. Basavaraju, learned counsel for the respondents, maintains that the post of EDDA having been abolished and a post of PM having been created in its place, the applicant has no right to be re-instated nor was it obligatory on the part of the respondents to complete the proceedings since the disciplinary authority had dropped the enquiry (u) as a sequel ^{to} of the upgradation of the EDDA.

4. We have considered the rival contentions carefully. In our view, the disciplinary proceedings having been dropped the respondents were under an obligation to consider whether he was entitled to be ~~treated~~ considered for the upgraded post if he possessed the requisite qualification after an offer ~~was~~ being made to him in that behalf. It is only when the applicant declines the offer or is found ineligible that the right of the respondents to offer to someone else in his place would arise. This procedure could not be followed because the disciplinary proceedings were

pending against the applicant on the date when the post of EDDA was upgraded. The respondents should also have examined whether the applicant could be fitted in any other post of EDDA proximous to the station where he was working. We, therefore, direct the respondents to consider the case of the applicant in the light of our above observations within two months from the date of receipt of this order and issue suitable communication to the applicant. If he is still aggrieved, he is at liberty to move this Tribunal for appropriate relief.

5. In the result the application is disposed of subject to the directions given above. No order as to costs.

Chandrasekhar

Member (J)

Chandrasekhar

Member (A)

5.2.1987