REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
****

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : -9 JAN 1987

Application No. 1406, 1437, 1438/86( )
1499, 1507 & 08, 1509-12, 1515 and 1516/86 (T)
W.P. No 4171/84, 5271 & 72/85, 12707/85
13402 and 03/85, 13778 to 81/85, 14548 & 49/85

Applicant Dayananda Hebber & others

To 1) Sri. Munir Ahmed, Advocate. No.581, 3rd. Main Road Sadashiva nagar Bangalore 560080.
2) Sri. H. Subramanya 1st. No. 150/36, National High School Road. Vishveshwarapuram. Bangalore-4.
3. Sri. N. Basavaraju, central Govt Standing Counsel, High court Building Bangalore.
4. Sri. M.V Vasudeva Rao, central Govt Standing Counsel High Court Building Bangalore
5. The Post Master General, Karnataka, Bangalore-1
6. Kogga Naik, LSG. Official, Puttur Division, Puttur D.K. Dist.
7. Director of Postal Services North Karnataka Div. Dharwar

Sublect: SENDING COPIES OF ORDER PASSED BY THE BENCH IN APPLICATION NO. 1406/1437 & 38/86. 1499, 1507 & 08, 1509-12 1515 and 1516/86 CT

Please find enclosed herewith the copy of the Order/Interim Order passed by this Tribunal in the above said Application on 19-12-86.

Encl : as above.

SECTION OFFICER
(JUDICIAL)

8. K.P. Keshava Naik, Post Master Badakote.
9. N. Dasu Naik, Post master Ranebennur.
10. A. Narayana Naik, Post Master, Indi, Bijapur Dist
11 Director of Postal Services Office of Post Master General Bangalore.
12 Asst Post Master General (Staff) Office of Post Master General Karnataka Bangalore

P.T.O.

13) Union of India by Secretary, Ministry of Communications North Block, New Delhi-1.

14) S. Dayand Hebbar, LSG Clerk, Postal and Telegraphs Department, Kodagu Division, Madakeri

15) K.M.Lakshminarayana, Supervisor, Bangalore G.P.O., Bangalore-1.

16. K.N.Vasudeva Rao, Supervisor, Bangalore G.P.O.B'Lore-1.

17. S.S.Chandrasekhar, Sorting Asstt, R.M.S.' Q' Division, Mangalore, Dakshina Kannada.

18. Sri K.R.Sreekanta, Supervisor, General Post Office, B'Lore.

19. Sri A.N.Sachidananda, resident of No.109, Postal Colony, Sanjaya Nagar, B'Lore-24.

20. H.K.Chandrasekhar, LSG Postal A sstt., Bhadravathi, Shimoga Dist.

21. Subramanya Sub Post Master(LSG), Mudigere Taluk, Chickmagalur Dist

22. M.R.Sreedhara Rao Sub Post Master, Balehole, Mudigere Taluk, Chickmagalur Dist.

23. G.Muralidhar, Sub Divisional Inspector(Postal), Mudigere Sub Divn, Mudigere, Chickmagalur Dist.

24. M.V.Gopalakrishna Postal Asstt., Science Institute, Post Office, Bangalore 12.

25. Miss Asha Latha, L.A., Postal A ssistant, Mahalakshmi Layout Post Office, Bangalore 86.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

TODAY THE NINETEENTH DECEMBER, 1986

Present: Hon'ble Mr Justice K.S.Puttaswamy Vice Chairman

Hon'ble Mr L.H.A. Rego Member(A)

APPLICATION NOS. 1406/86, 1437/86, 1438/86, 1499/86, 1507 & 1508/86, 1509-1512/86 1515/86 & 1516/86

1) S. Dayanand Hebbar, aged 42 years LSG Clerk, Postal and Telegraphs Department, Kodagu Division, Madakeri (Applicant in A.No. 1406/86)

2) K.M.Lakshminarayana s/o Manjunathaiah, Aged 46 years, Supervisor, Bangalore G.P.O., Bangalore-1. (Applicant in A.No. 1437/86)

3) K.N. Vasudeva Rao S/o Narasimhaiah, aged 47 years, Supervisor, Bangalore G.P.O. Bangalore - 1. (Applicant in A.No. 1438/86)

4) S.S.Chandrasekhar, son of late S.K.Subba Rao, 39 years, Sorting Assistant, R.M.S.'Q' Division, Mangalore, Dakshina Kannada. (Applicant in A.No 1499/86)

5) Sri K.R.Sreekanta, S/o G. Raghunathaiah (Late) aged about 37 years, Supervisor, General Post Office, Bangalore. (Applicant in A.No 1507/86)

6) Sri A.N.Sachidananda, S/o. M.Nagendraiah, aged about 46 years, resident of No. 109, Postal Colony, Sanjaya Nagar, Bangalore-24. (Applicant in A.No. 1508/86)

7) H.K.Chandrasekhar S/o Kadaiah, Aged about 34 years, LSG Postal Asst. Bhadravathi, Shimoga Dist. (Applicant in A.No. 1509/86)

8) Subramanya S/o late BS Narasimha Murthy, Aged about 38 years, Sub Post Master (LSG), Mudigere Taluk Chickmagalur District (Applicant in A.No. 1510/86)

9) MR Sreedhara Rao S/o late M.Ramakrishnaiah, Aged about 42 years, Sub Post Master, Balehole, Mudigere Taluk Chickmagalur District (Applicant in A.No 1511/86).

...2/-

10) G. Muralidhar S/o M. Ganeshaiah,
Aged about 31 years, Sub Divisional
Inspector(Postal), Mudigere Sub (Applicant in A.No
Division, Mudigere, Chickmagalur Dist 1512/86)

11) M.V.Gopalakrishna S/o late
Venkataramaiah, Major,
Postal Assistant, Science Institute, (Applicant in A.No
Post Office, Bangalore 12. 1515/86)

12) Miss Asha Latha, L.A.,
D/o Shri Ananda Rao, Major,
Postal Assista t, Mahalakshmi Layout(Applicant in A.No.
Post Office, Bangalore 86. 1516/86)

(Shri Munir Ahmed - A. No. 1499/86)
(Shri H.S. Joise - all applications
except in A.No.
1499/86)

Vs.

1) The Post Master General,
Karnataka, Bangalore 1.

2) Sri Kogga Naik, Major, LSG
Official, Puttur Division,
Puttur, D.K.District. (Respondent 1 & 2 in
A.No. 1406/86)

3) The Director of Postal Services, (Respondent 1 in A.No.
North Karnataka Region, Dharwar. 1437 & 1438/86)

4) The PMG in Karnataka, (Respondent 2 in A.No.
Karnataka Circle, Bangalore 1. 1437 & 1438/86)

5) Sri K.P.Keshava Naik, Major, (Respondent 3 in A.No.
Post Master, Bagalkote. 1437 & 1438/86)

6) Sri N.Danu Naik, Major, (Respondent 4 in A.No.
Postmaster, Ranebennur 1437 & 1438/86)

7) Sri A. Narayana Naik, (Respondent 5 in A.No.
Postmaster, Indi Bijapur Dist. 1437 & 1438/86)

8) The Director of Postal Services, (Respondent 1 in A.No.
Office of the Postmaster General, 1499/86)
Bangalore.

9) The Postmaster General, Karnataka (Respondent 2 in A.No.
Circle, Bangalore 1499/86)

10) The Assistant Postmaster General
(Staff), Office of the Postmaster (Respondent no. 3 in
General, Karnataka Circle, Bangalore A.No. 1499/86)

11) The Union of India by its
Secretary, Ministry of Communications (Respondent no. 1 in
North Block, New Delhi. A.No. 1507&8/86 &
1509-12/86 & 1515 &
1516/86

12) The Post Master General, Karnataka Circle, Bangalore 1. (Respondent 2 in A.Nos 1507&8/86 & 1509-12/86, & 1515 & 1516/86)

These applications have come up for hearing before Court today. Vice-Chairman made the following:-

ORDER

As the questions that arise for determination in these cases are either common or inter-connected we propose to dispose them by a common order.

2. All the applicants, claim to be members of a Scheduled Tribe (ST) called Maleru. On that basis, the applicants have secured appointments and in some cases promotions also from out of the quota reserved to members of STs. But the Director of Postal Services, Bangalore (Director) on the view that they were members of a caste called Mãleru which was different to Maleru and were members of another caste (OC) had initiated diverse proceedings against the applicants and had made orders declaring that they were not members of a ST called Maleru, the validity of which were challenged by them in separate Writ Petitions under Article 226 of the Constitution before the High Court of Karnataka which on transfer under Section 29 of the Administrative Tribunals Act of 1985, have come up before us.

3. Learned counsels for the applicants contend that the orders made by the Director against their respective clients without examining the truth or otherwise of their claims under the Central Civil Service (Classification, Control and Appeal) Rules (the Rules) were illegal.

...4/-

4. Learned Counsel for the respondents, without disputing that the orders made by the Director were not in conformity with the Rules however sought to support them.

5. When an authority has accepted the claim of an individual that he was a member of a Scheduled Caste or Scheduled Tribe, it is undoubtedly open to that authority or other higher authority to hold otherwise (vide Shivappa Sangappa Barkar Vs. Director of Postal Services Application No. 279 decided on 14.10.86) (Barkar's case). But before doing so, as pointed by us in Barkar's case, the authority is required to afford a reasonable opportunity to such a person which can be properly done under the Rules. In a case arising from the Central Excise Department viz. Application No. 245/86, H.Ramakrishna Vs. The Assistant Collector of Central Excise & others, which was decided on 18/12/86, that department had followed such a procedure. We do not see as to why the Director should not have followed the same against the applicants. On the principles enunciated in Barkar's case reiterated in Ramakrishna's case, we must necessarily hold that the orders made by the Director against the applicants which was not proceeded by an inquiry under the Rules, were illegal and call for our interference.

6. On the claims of the applicants and others as to whether they are members of a ST or not, the High Court in Writ Appeal Nos. 1150, 1151, 1152 and 1154 of 1981 and the Supreme Court in Writ Petition No. 11894 of 1985 are also seized of the same. In the case before it, the Supreme Court had made the following interim order:

> "Issue Rule. Pending Writ Petition there will be stay of criminal proceedings against the petitioners."

....5/-

On the terms of this order prosecutions cannot be laid against the applicants. But this order does not prevent the authorities from initiating and completing proceedings under the Rules.

7. While quashing the orders made by the Director, challenged in these cases, we must necessarily reserve liberty to him and other competent authorities to initiate and complete proceedings under the Rules.

8. On the view we have taken, we have not examined the merits of the contentions urged by either of the parties in these cases and they are free to urge them before the appropriate forum.

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

(i) We quash the orders made by the Director, challenged in these cases by each of the applicants. But this order does not prevent the Director or other competent authority from initiating departmental proceedings and completing them under the Rules.

(ii) We direct the respondents not to prosecute the applicants till the order made by the Supreme Court in W.P. No. 11984/1985 is in force.

10. Applications are disposed of in the above terms. But in the circumstances of the cases, we direct the parties to bear their own costs.

Sd/- Sd/-

VICE-CHAIRMAN MEMBER(A)(R)

SR

-True Copy-

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE