

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

DATED THIS THE 18TH DAY OF DECEMBER, 1986.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy, .. Vice-Chairman.  
And.

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

APPLICATION NUMBER 1581 OF 1986.

1. Union of India,  
by its Secretary, Ministry of  
Communication, New Delhi.

2. Superintendent of Post Offices,  
Tumkur District, Tumkur.

.. Applicants.

(By Sri M. Vasudeva Rao, Standing Counsel)

v.

C. Mallikarjunaiah,  
S/o Chandrashekaraiah, Major,  
Branch Post office,  
Kodlapura, Puravara Hobli,  
Madhugiri Taluk.

.. Respondent.

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This application coming on for hearing this day, Vice-Chairman made the following order:

ORDER

This is a transferred application and is received from the Court of the Civil Judge, Madhugiri in which Court it was registered as R.A.No.24 of 1983. The applicants who were the appellants in R.A. No.24/1983 were the defendants in O.S.No.106 of 1978 filed by the respondent herein who was the plaintiff in the Court of the Munsiff, Madhugiri.

2. The respondent was working as an Extra-Departmental Postman ('EDP') of Kodlapura Branch Post Office attached to the Madhugiri Head Post Office which is now attached to Puravara Post office.


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When he was so working, he was arrested on 24-12-1975 and was also prosecuted under the Karnataka Police Act before a criminal Court which ultimately acquitted him holding that he was not guilty of the charge levelled against him.

3. On the police launching the criminal case against the respondent, the Superintendent of Post Offices, Tumkur Division, Tumkur (Superintendent) exercising the powers conferred on him by Rule 9(1) and 9(3) of the Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964 ('the Rules') kept off the respondent from duty from 30-1-1976 to 2-6-1977 and then reinstated him to duty on 3-6-1977 afternoon from which day he is again working as an EDP. For the period from 30-1-1976 to 2-6-1977, the Superintendent refused to make any payment to the respondent. Hence, on 22-3-79 the respondent instituted O.S.No.106 of 1979 in the Munsiff's Court for a decree for a sum of Rs.1589-94 being the arrears of salary of Rs.1568-14 for the aforesaid period and notice charges of Rs.21-80 which was resisted by the applicants on a large number of grounds.

4. On a consideration of the pleadings and the evidence placed by the parties, the learned Munsiff on 18-12-1982 decreed the said suit with costs. Aggrieved by the decree of the learned Munsiff, the defendants filed R.A.No.24/83 in the Court of the Civil Judge, Madhugiri on 23-2-1983 who on 5-2-1986 has transferred the same to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985 and the same is now registered as Application No.1581 of 1986.

5. Sri M.Vasudevarao, learned Central Government Additional Standing Counsel appearing for the applicants contends that so long as the respondent had not challenged the validity of Rule 9(3) of the Rules that expressly prohibited the payment of any pay and allow-



allowance for the period an EDP was kept off from duty, he was not entitled for pay and allowance and the judgment and decree of the learned Munsiff which was contrary to that Rule was illegal and unsustainable.

6. Sri C.Malikarjunaiah who is the respondent appeared in person and opposes the application. He urges that this is a fit case in which this Tribunal should decline to exercise its power of judicial review.

7. On the period for which the respondent was kept off from duty and the non-payment of allowances for that period aggregating to Rs.1589-94 there is no dispute between the parties.

8. On a detailed examination of the contentions urged before him and the evidence on record the learned Munsiff had found that the applicants were due in the said sum to the respondent. In justifying the judgment and decree of the learned Munsiff, the respondent relies on an order made by Government on 8-8-1977 which prima facie supports his case. This case appears to be a solitary case in which a low paid employee of the department had been granted a small relief by the learned Munsiff.

9. We will even assume that there is merit in the contention of Sri Rao. Even then we are of the view that having regard to the facts that the decree granted by the learned Munsiff was for a negligible amount and that the questions raised in this case will not now ~~and then~~ arise before Civil Courts, this is a fit case in which we should decline to examine the interesting questions and refuse to interfere with the decree made by the learned Munsiff. When we decline to interfere on those grounds, the decree made by the learned Munsiff cannot be relied on as a precedent to be followed in other cases. For all these reasons, we decline to examine the questions raised by the applicants and hold that this

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is fit case in which we should decline to interfere with the decree of the learned Munsiff.

10. 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 their own costs.

*[Signature]*  
VICE-CHAIRMAN  
8/12/86

*[Signature]*  
MEMBER(A) *[Signature]*

np/