

INTERIM ORDER CONTINUED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Registered A/D

Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

MONDAY, THE 4TH OF AUGUST, 1986

PRESENT

THE HON'BLE MEMBER(JUDICIAL) : SHRI CH. RAMAKRISHNA RAO

THE HON'BLE MEMBER(ADMINISTRATIVE) : SHRI L.H.A. REGO

IN

APPLICATION NO 1593/86(F)

K. Yellappa,  
C/O Shri M. Raghavendrachar, Advocate,  
No 1074 & 1075, Banashankari I Stage,  
Sreenivasanagar II Phase,  
Bangalore.

: Applicant

VERSUS

1. The National Savings Commissioner,  
(Government of India)  
No. 12, Semineery Hills,  
Nagpur.

2. The Regional Director of National Savings,  
Government of India,  
No 19/2, Infantry Road,  
Shivajinagar, Bangalore.

: Respondents.

O R D E R

In the above Application, this Tribunal has passed the following Order:-

"Shri M.R. Achar present for Applicant and Shri M.V. Rao for Respondent. Shri Rao files reply statement and requests that the application may be taken up on 14-8-86. Shri Achar has no objection. Interim stay already granted shall continue till the next date of hearing".

Given under my hand and the seal of this Tribunal, this  
5th day of August, 1986.



*5/8*  
O/C REGISTRAR

*Smt. S. R. Viswakarman*

*W. S. R. Viswakarman*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

DATED THIS THE 8TH SEPTEMBER 1986

Present

HON'BLE SHRI CH. RAMAKRISHNA RAO : MEMBER (JM)  
HON'BLE SHRI L.H.A. REGO : MEMBER (AM)

Application No. 1593/1986(F)

K. Yellappa, .. Applicant  
S/o Laxmaiah,  
District Savings Officer,  
National Savings (Govt. of India),  
C/o D.Cs. Office, Raichur.

(Shri M. Raghavendra Achar, Advocate)

1. The National Savings Commissioner,  
(Government of India)  
No.12, Semineery Hills,  
Nagpur.

Respondents

2. The Regional Director of National Savings,  
Government of India,  
No.19/2, Infantry Road,  
Shivaji Nagar,  
Bangalore.

Shri M. Vasudeva Rao, Advocate)

The application has come up for hearing before Court-II  
on 22.8.1986. Shri L.H.A. Rego, pronounced the following:

*Ch. Achar*

ORDER

The applicant has challenged the impugned order of his  
transfer dated 26/27.6.1986 by the second respondent on the  
grounds of mala fides and has prayed that the same be set aside.

2. The background of the case is as follows. The applicant  
belongs to the Scheduled Caste community and was working as  
District Savings Officer (DSO, for short) at Raichur from 2.7.1979.

.../-

On completion of his tenure of six years he was transferred on 3/4-5-1985 to Bidar. This transfer order however, was later amended on 4-6-1985, when the applicant was posted to Gulbarga instead. This transfer order too, was later modified on 26/27-6-1986 and the applicant was posted to Bangalore. The applicant alleges that his orders of transfer were cancelled twice within barely a period of one month in order to favour one of his colleagues Shri Bhojappa Rampur. Even though there was a vacancy at Gulbarga the same was not made available to him.

3. We have examined the case carefully and the averments of both the sides. From the course of events that have taken place within a span of scarcely a month, when the orders of transfer of the applicant were twice issued and cancelled by the respondents, once in respect of Bidar (transfer order dated 4-5-1985) and next time in respect of Gulbarga (transfer order dated 4-6-1985) it is clearly manifest, that the respondents have acted with avoidable caprice and indecision, leaving the applicant in a quandary, with consequent inconvenience. In their statement of objections, the respondents have not clarified as to why the order of transfer of the applicant to Bidar on 4.5.1985 had had to be cancelled. Again, the reason for cancellation of the order of transfer of the applicant to Gulbarga on 4.6.1985 is also not clear and in fact bristles with contradiction. It is stated by the respondents that as Shri Bhojappa Rampur, DSO, Bidar had already proceeded to Gulbarga to take over charge there, in accordance with the earlier transfer order dated 4.5.1985, the applicant could not be relieved from Raighur. This seems to be at variance with what has been averred later by the respondents in their statement of objections that the applicant was asked on 24.6.1985,

to hold additional charge of the post at Gulbarga till Shri Bhojappa Rampur joined at Raichur. Accordingly a modified transfer order was issued on 4.6.1985 only a month later.

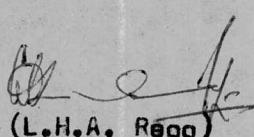
4. In fact, a reading of the transfer order dated 24-6-1985 issued by the second respondent reveals, that the applicant was directed to take over at Gulbarga, relieving the Assistant Regional Director, Gulbarga of the additional charge and to hold charge of Raichur district in addition, till he was relieved by Shri Bhojappa Rampur. The applicant was therefore directed to hold additional charge not of Gulbarga district as stated by the respondents in their statement of objections, but of Raichur district. This leads us to infer that the applicant could have been easily accommodated at Gulbarga in accordance with the transfer order dated 4.6.1985. The reasons for cancellation of the order of transfer of the applicant to Gulbarga issued on 26/27-6-1986 by the respondent are also not clear.

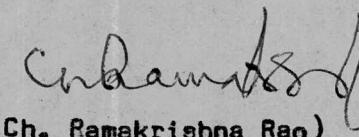
5. Though it is true that the competent authority has discretion to effect transfer of any official under him, in administrative interest at any time, we must observe that the above course of events compounded by questionable vacillation on the part of the respondents within a period of two months and the inconsistency in their action as pointed out above, reveals that there is more than meets the eye in the situation. This needs to be viewed in the context of the fact that later, on 4.3.1986, the second respondent had given the option to the applicant, to indicate in order of preference, three places of his choice, for his transfer and the vacancies indicated by the respondents for the purpose, were Bangalore, Mysore, Belgaum and

Shimoga. The learned counsel for the applicant contends that vacancies at Bidar and Gulbarga would also have been available on the same consideration which weighed with the second respondent, when orders of transfer were issued on 4.5.1985 but which had later to be cancelled for reasons known only to him.

6. While we have no intention to fetter the administrative discretion of the respondents in the matter of transfers, it would not be inapposite for us to observe, in the context of the above facts, that the applicant could have been given a suitable posting taking the difficulty explained by the applicant into consideration and the fact that the respondents were in a spirit of accommodation inclined to ascertain the option of the officials liable to be transferred. In view of these facts and circumstances, the respondents could now consider the vacancies that would be actually available by the end of April next year and transfer the applicant at an appropriate time thereafter, as it would be impolitic to effect his transfer to Bangalore at this stage, in the midst of the academic year.

7. We, therefore, set aside the impugned order of transfer dated 26/27 June 1986, as prayed for by the applicant, subject to our above observation. No order as to costs.

  
(L.H.A. Rego)  
Member (AM)  
08.9.1986

  
(Ch. Ramakrishna Rao)  
Member (JM)  
08.9.1986

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

ORDER SHEET  
Application No. 1593 of 1986 (A)

Applicant

Respondent

Advocate for Applicant

Advocate for Respondent

Date	Office Notes	Orders of Tribunal
	Ref:- notes on Pre-plea may Please be seen.	
	The interim order could not be communicated by Telegraph as the Applicant is not present to bear the cost, and the Applicant in another case (viz. B.S. Anand) who borne out the Telegraph charges in his case (No. 1592/86(F)) has refused to bear the charges in this case as he was having short of money. We may communicate interim order by Regd. Post. as usually.	
22/7/86 5:00 P.M.	For 22/7/86.	
23/7	Interim order issued to all the concerned	
24.7.86	Admn. Notice dt 23.7.86 issued to R-122 in added to file	
	Admn. Notice & To Served to R-1 2 R-2.	
1/8/86	Memo of Appearance filed by Cuse.	

Date	Office Notes	Orders of Tribunal
4.8.86	Reply to the Application filed by the Advocate for Respondent added to the file.	Sri N. R. Acharya present for afftnt & Sri M. V. Rao for Respdt. Sri Rao files reply Statement and requests that the afftn may be taken up on 14/8/86. Sri Acharya has no objection. Interim stay already granted shall continue till the next date of hearing.
8.8.86	I.O. continued issued to the Applicant & Respondents in added to file R-122. I.O. served to Applicant & R-122	<del>Ch. Secy of C. H. &amp; Regd. (Ch. Kamakrishna Rao)</del> Member (S) 4/8/86
11.8.86	No. A. No. 15921/86 (P) Advocate for Applicant has filed a memo praying for adjournment of this case also. C. C. Counsel has no objection. Date: 16.8.86	
18.8.86	Sri. M. R. Acharya for applicant. Sri. M. V. Rao for respondent. present. application is adjourned to 22.8.86 at the request of both the parties.	80. 33 cont. 2.

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

Order Sheet (contd)

Date	Office Notes	Orders of Tribunal
	<p style="text-align: center;"><u>22.8.86</u></p> <p>Before</p> <p>The Hon'ble Shri Ch. Ramakrishna Rao, M.J</p> <p>The Hon'ble Sri L.H.A. Rego - M.A</p> <p>Sri. M.R. Acharya for A</p> <p>Sri. M.V. <del>Acharya</del> Rao for R</p> <p>Argument concluded</p> <p>Orders reserved</p> <p style="text-align: right;">Bd A Co Coch.2</p>	
8.9.86	<p>Sri. N.R. Acharya for Applicant present</p> <p>The Hon'ble Shri. Ch. Ramakrishna Rao (M.J)</p> <p>The Hon'ble Shri. L.H.A. Rego (M.A)</p> <p>Sri. M.R. Acharya for Applicant present.</p> <p>Sri. M.V. Rao for Respondent present. Orders pronounced in the open Court. Application Allowed.</p>	
		<p style="text-align: right;">Bd B Coch.2</p>

(A)

## भारतीय डाक-तार विभाग

## INDIAN POSTS &amp; TELEGRAPHS DEPARTMENT

## विंतदेशीय तार/Inland Telegram

गैर स्वाक्षी जिक्र वाले लेख को गोरोल से 30 दिन के भीतर प्रसात की जानी चाही जैसे अंगलोर  
Telegraph complaints should be preferred within 30 days from the date of delivery.

सेवा विवेद (ये तो बनावी, उत्तमार्थी, विश्वासी) Service indication (e. g., Reply Paid, Safe, Greeting)	प्रमाण Charges पैसे/Rs. ३०/- P.	(भारतीय तार विभाग को नियमों के अनुसार वारंवार के लिए प्रभावित है ताकि यह वारंवार का पारोत्तम वा वितरण प्रभावित होने वाले उत्तर से उत्पन्न होने वाली या उल्लेख परिणामस्वरूप किसी हानि, दर्ता या नुकसान के क्षतिपूर्ति के लिए सरकार जिम्मेदार नहीं हैं। (Presented for transmission subject to Indian Telegraph Act & Rules. The Government is not liable to make compensation for any loss, injury or damage arising or resulting from any failure of service affecting transmission or delivery of this telegram.)	सेवन के विवर Send particulars	तारोचन-मोहर Date-Stamp
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संख्या: १५५५  
The Regional Director  
of National Savings,  
19/2, Infantry Road,  
Bangalore-1.

टेलेफोन नं/Telephone No. 562154.....  
टेलेक्स नं/Telex No. ....  
पिन कोड/PIN Code .....

APPLICATION NO. 1593/86(F) (-) K. YELLAPPA (-) VERSUS (-) NATIONAL SAVINGS  
COMMISSIONER, NAGPUR AND ANOTHER (-), ORDER (-) OPERATION OF THE ORDER  
DATED 26/27-6-86 IN CASE NO. 10856-69/III (4)73-ESTT/A.3 VOL. III IS HEREBY  
STAYED. CASE IS POSTED FOR FURTHER ORDERS ON 4.8.86 (-)

REGISTRAR  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
(From/From)

प्रतीकात्मक वार्ता/Signer's Signature:

Lees *By P. S. P. S.*माना जाए  
Not to be telegraphed

नाम/Name:

Registrar

Central Administrative Tribunal, Bangalore Bench,

माना जाए/Address: Commercial Complex (BDA), Indiranagar, Bangalore-38.

(ये लाइन वाले लिए काट दें/Strike out which is not applicable)

(जीव विदराग की विवाद के लिए कुराया वाली का टेलीफोन/टेलेक्स/पिन कोड है,)

(To enable quick delivery, please indicate Telephone/Telex/PIN Code of the addressee.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

.....  
2nd Floor, Commercial Complex (B.A),  
Indiranagar, Bangalore - 560038.

On Monday, the 21st of July, 1986

Present

The Hon'ble Member (Judg) : Shri Ch. Ramakrishna Rao  
and

The Hon'ble Member (Admn) : Shri L.H.A. Rao

in

Application No. 1593/86 (F)

K. Yellappa,  
C/o Shri M. Raghavendra Achar, Advocate,  
No. 1074 and 1075, Banashankari 1st Stage,  
Sreenivasa Nagar II Phase, Bangalore.

.... Applicant

Versus

1. The National Savings Commissioner,  
(Govt. of India),  
No. 12, Semineery Hills,  
Nagpur.
2. The Regional Director of  
National Savings,  
(Govt. of India),  
No. 19/2, Infantry Road,  
Shivaji Nagar, Bangalore.-1.

ORDER

In the above Application, this Tribunal has passed the following Order:-

"Application is admitted. Shri Raghavendrachar prays for interim stay of the operation of the impugned order transferring him from Raichur to Bangalore, since his client apprehends that he may be directed to handover charge at any time and asked to proceed to Bangalore. In view of his apprehension we consider this to be a fit case for dispensing with the requirements of clauses (a) & (b) of section 24 of the Central Administrative Tribunal Act, 1985 and we accordingly do so. Let notice be issued by the Registry ~~to the Registry~~ to the Respondents returnable in 15 days. Meanwhile, there shall be interim stay of the operation of the impugned order. The Application shall be posted for further orders on 4.8.86. As requested by

Shri Raghavendrachar, orders of interim stay may be communicated to the Respondents by the Registry, at the Applicant's cost by Telegram."

Given under my hand and the seal of this Tribunal,  
this 22nd day of July, 1986.



(Recd 22/7/86)

Registrar

O/C 8  
22/7

Received copy of Ss K. Yellappa  
on his behalf:

Rs. 10/-  
(B.S. ANAND)  
Dr. Savio Offer

Pl. issue to R-1 & R-2

23/7/86

Sued

23/7

## भारतीय डाक-सार विभाग

## INDIAN POSTS & TELEGRAPHS DEPARTMENT

### भारतीय टेलीग्राफ/Indian Telegraph

BANGALORE  
INDIA

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Telegraph complaints should be preferred within 30 days from the date of booking.

सेवा निर्देश (जैसे जवाबी, उत्तरकारी, वर्षाही) Service indication (e. g., Reply Paid, State, Greeting)	प्रभार Charges रु./Rs.      दंड./P.	(भारतीय टार वर्तुनियन और नियमों के अधिन कार्यक्रम के लिय प्रभारित। भार टेलिग्राफ द्वारा से इस टार का पारेंट या वित्तीय प्रभावित होने पर उससे उत्पन्न होने वाली वा उसके परिणामस्त्रैय किसी हानी, ध्वनि या नुकसान को क्षमिता देन के लिए उत्तरकार विभाग नहीं है।)  (Presented for transmission subject to Indian Telegraph Act & Rules. The Government is not liable to make compensation for any loss, injury or damage arising or resulting from any failure of service affecting transmission or delivery of this telegram.)	भेजने के व्यक्ति Sent particulars	नियम-सांकेतिक Date-Stamp
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Re: ~~copy~~ The Regional Director  
of National Savings,  
19/2, Infantry Road,  
Bangalore-1.

टेलीफोन नं/Telephone No. 562154.....  
टेलेग्राफ नं/Telex No. ....  
पिन कोड/PIN Code .....

APPLICATION NO.1593/86(F) (-) K.YELLAPO ( - ) VERSUS ( - ) NATIONAL SAVINGS  
COMMISSIONER, NAGPUR AND ANOTHER ( - ) ORDER ( - ) OPERATION OF THE ORDER  
DATED 26/27-6-86 IN CASE NO. 10856-69/III (4)73-ESTT/A.3 VOL.III IS HEREBY  
STAYED. CASE IS POSTED FOR FURTHER ORDERS ON 4.8.86 (-)

REGISTRAR  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH (contd from)

संस्कृत एवं अंग्रेजी के उत्तराधिकारी/Sunder's Signature -

ਲੋਕ ਮੇਂ ਕਿਸੇ ਜਾਗ ਨਾ ਹੈ।

Own/Name : Registrar

Central Administrative Tribunal, Bangalore Bench,  
Commercial Complex (BDA), Indiranagar, Bangalore-38.

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numy ptg 32/84-85 dt. 6-11-84 10 Lekshmi

tribunal, Bangalore Bench,  
( ), Indiranagar, Bangalore-38.