

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH, BANGALORE

DATED THIS THE FOURTH DAY OF NOVEMBER 1986

Present : Hon'ble Justice K.S.Puttaswamy .. Vicechairman

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

APPLICATION NO.191/86

Smt. Kamalavathi,
W/o Mohan Rao,
Bala village, Mangalore Taluk
Dakshina Kannada. .. Applicant
(Shri S.Ranganatha Jois & Advocate)

Vs.

1. Senior Superintendent of Post Offices, Mangalore, Dakshina Kannada.
2. Union of India, represented by Secretary to Government, Department of Communications, New Delhi..
3. The State of Karnataka, represented by Secretary to Government, Department of Education, Vidhana Soudha, Bangalore. .. Respondents

(Shri M.Vasudeva Rao .. Advocate)

This application came up for hearing before Court today,
Hon'ble Vice Chairman makes the following:

O R D E R

In this transferred application received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 ('the ACT'), the applicant has challenged order dated 30.9.1979 (Exhibit-A) of the Senior Superintendent of ~~Police~~ ^{Post} Offices, Mangalore Division, Mangalore (SSPO).

2. The applicant who working as a teacher in Sri Ramachandra Higher Primary School, Bala, Dakshina Kannada District, a Government-aided institution, was appointed in 1962, by the SSPO as an Extra-Departmental Branch

Post Master (EDDP) of Bala village post office, under
^{and Telegraphs}
the Postal Extra Departmental Agents (Conduct, Rules of
1964 (Rules). An EDDP works on part-time basis.

3. On 11.11.1976, Government of Karnataka communicated its decision, withdrawing its earlier approval given to teachers to work as EDDPs on part-time basis and that circular (Exhibit-B) which is material reads thus:

" Sub: Cancellation of Teachers who are working as Branch Postmasters.

.....

With ref. to the correspondence resting with your letter No. E15-1099 Misc.516/73-74 dated 2.11.76 on the subject mentioned above. I am directed to convey the approval of Govt. the services of the teachers who are working as Branch Postmasters be withdrawn in a phased programme within a period of six months."

In pursuance of this circular, the SSPO has terminated the services of the applicant from the date of her relief. Hence, this application.

4. Firstly the applicant has urged that the order made by the SSPO without issuing her a show cause notice and affording an opportunity to state her case, was violative of the principles of natural justice. Secondly, the applicant had urged that the termination of only teachers and not all other category of officials working in other departments of Government was discriminatory and is violative of Art.14 of the Constitution.

5. In justification of the order made by the SSPO, respondents 1 and 2 have filed their reply.

6. Sri S.Ranganath Jois, learned counsel for the applicant contends, that the order of termination made by

the SSPO without issuing a show cause notice and affording an opportunity to his client to state her case, was violative of principles of natural justice and was illegal. In support of his contention Sri Jois strongly relies on the ruling of the Supreme Court in THE SUPERINTENDENT OF POST OFFICES ETC. v. P.K.RAJAMMA ETC. (AIR 1977 SC 1677)

7. Shri M.Vasudeva Rao, learned Central Govt. Standing Counsel appearing for respondents 1 and 2 contends ~~xxx~~ that on the terms of the order made by the Government of Karnataka, with which the Management of the ~~xxx~~ institution had agreed, the SSPO had no option but to terminate the services of the applicant.

8. On facts there is now no dispute, that the SSPO had terminated the services of the applicant to give effect to the policy decision of the Government of Karnataka reflected in its circular dated 11.11.1976, with which the management of the Institution, which was Government-aided had also concurred.

9. We need hardly say that part-time work as EDDPs by teachers, interferes with their working and efficiency as regular teachers in their institutions. When Government of Karnataka as a matter of policy decided that teachers who were primarily or were exclusively employed to teach students should not be allowed to work as EDDPs on part-time basis, with which the management of the institution had concurred, failing which it had to forego Government grant of salary to the applicant and other teachers of that institution, we fail to see as to what choice the SSPO had in the

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matter at all. If the SSPO had no choice in the matter at all, then the claim of the applicant that that she should have been issued with a show cause notice and afforded opportunity to state her case, does not really make any difference at all. After all the principles of natural justice evolved by Courts to advance and do substantial justice, are not straight-jacket formulae to be applied blindly, regardless of facts and circumstances. We are of the view that the ratio in Rajamma's case does not really bear on the point. We see no merit in this contention of Sri Jois and we reject the same.

10. Sri Jois next contends that the action of the Postal authorities in picking up only teachers working in Government and Government-aided institutions for a different, hostile and discriminatory treatment, was violative of Article 14 of the Constitution.

11. Sri Rao contends that teachers working in Government and Government-aided institutions, who form a separate and distinct class of their own, cannot be compared to others and the same is not violative of Art. 14 of the Constitution.

12. The applicant while urging that the order of Government of Karnataka was discriminatory and violative of Article 14 of the Constitution, impleading the State of Karnataka as a party, had not specifically sought for striking down the same. When that is so, we should decline to examine this ground, on that short ground only. But, we do not propose to be technical and therefore, proceed to examine this challenge on merits.

13. The true scope and ambit of Article 14 of the Constitution has been explained by the Supreme Court in a large number of cases. In RAMKRISHNA DALMIA AND OTHERS v. JUSTICE S.R.TENDULKAR AND OTHERS (AIR 1958 SC 538) and Re: SPECIAL COURTS BILLS CASE (AIR 1978 SC 478) the Supreme Court reviewing all the earlier cases has re-stated the principles exhaustively.

Bearing the principles stated in these cases, we will now examine the challenge of the applicant based on Art.14 of the Constitution.

13. Teachers working in Government and Government-aided schools are primarily or exclusively employed to teach their students and their job requirements are in no way comparable to other classes of Government servants working in other departments of Government. From this it follows that teachers that belong to a separate and distinct class or group group of their own and characteristics, cannot complain of discrimination, if they are treated differently. We cannot therefore, hold that the circular of Government, offends Article 14 of the Constitution.

14. Even otherwise, treating teachers on whose whole-time ^{devotion} duration ~~and~~ and dedication to their pupils their future and the future of the nation depends, is a case of valid classification and is not violative of Article 14 of the Constitution.

15. If we were to accept the contention of the applicant, then we would only be violating the classic and pragmatic statement made by Justice Holmes in one of the landmark cases rendered by that great Judge in ^{104 and} Noble State Bank v. Haskell 219 ~~US~~ to 4^{to} 575. In that case, Justice Holmes ~~expounding~~ expounding the 14th amendment or the equality clause of the American Constitution, corresponding to Article 14 of the Constitution expressed thus:

" In answering that question we must be cautious about pressing the broad words of the Fourteenth Amendment to a ~~dryly~~ logical extreme. Many laws which it would be vain to ask the Court to overthrow could be shown, easily enough, to transgress a scholastic interpretation of one or another of the great guarantees in the Bill of Rights". ~~W~~

We ~~are~~ are of the view that on these principles also that are apposite, the claim of the applicant based on Article 14 of the Constitution is wholly misconceived and has not merit.