

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE TWENTY SECOND DAY OF JANUARY, 1987

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

Hon'ble Shri P.Srinivasan Member(A)

APPLICATION No.1672/86(F)

C.Venkatachalam,
C/o M.Raghavendra Achar, Adv.,
No.1074 and 1075, Banashankar Ist Stage,
Sreenivasa Nagar II Phase,
Bangalore - 50.

... Applicant

(Shri M.Raghavendra Achar ... Advocate)

vs.

Senior Superintendent of Post Office,
East Division, Bangalore & Others. ...

Respondent

(Shri M.V.Rao ... Advocate)

This application has come up before the court today.

Hon'ble Shri P.Srinivasan, Member(A) made the following :

ORDER

This case was called out more than once today but neither the applicant nor his counsel appear even though they had notice of hearing fixed for today. In the circumstances, we proceeded to deal with the matter with the assistance of Shri M.Vasudeva Rao, counsel for the respondents.

2. The applicant is now working as Sorting Postman(SPM) in the Post and Telegraph Department at Vasanthnagar Post Office.

Earlier he was working as a Postman. We understand that the next promotion for a Postman is to the post of SPM and such promotion is effected on the basis of seniority-cum-fitness.

The practice is that as and when a vacancy of SPM arises, the seniormost postmen available are asked to state their willingness to work in that post. Thereafter the seniors among the

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willing Postmen are duly appointed as SPM. It appears that on 4.5.1981 the Senior Superintendent of Post Offices, Bangalore East Division, issued a circular letter to all the Sub-Post Masters within his jurisdiction to ascertain whether 10 postmen specified in that letter were willing to work as SPM. The name of the applicant was first in that list. According to the Respondents, the applicant did not send any letter of willingness immediately while such letters were received from others. According to the applicant, he had sent a letter of willingness on 7.5.1981. However, the applicant was not appointed as SPM at that time. Again in January 1983 there was a similar letter calling for willingness of seniormost Postmen to act as SPM. The applicant claims that he sent in his willingness on this occasion also, but nothing happened. On 1.8.83 the applicant was eventually appointed as Sorting Postman. His prayer in the application is that the respondents should be directed " to pay all consequential benefits to the applicant for the period between 4.5.1981 to 1.8.1983 like monetary and other service benefits including promotions etc.

2. As we have stated earlier, the case of the applicant is that though he was senior and though he expressed willingness to work as SPM in his letter dated 7.5.1981 in response to the letter dated 4.5.1981 issued by the Senior Superintendent of Post Offices, Bangalore East Division, he was not appointed as SPM at the time while his juniors were so promoted. It is on this basis that he claims that he should be given pay and allowances in the grade of SPM from 4.5.1981.

3. Shri M.Vasudeva Rao, learned counsel for respondents states that no letter as stated by the applicant was received expressing his willingness to work as SPM in response to invitation of



4.5.1981 by the SSPC. According to him the copy of the letter dated 7.5.1981 said to have been sent by the applicant is a fabricated document. In any case Shri Rao contends that the cause of action in respect of which this application has been filed arose on 4.5.1981. The applicant is not challenging any specific order but is claiming arrears of pay from 4.5.1981. According to Section 21(2) of the Administrative Tribunals Act 1985 where a grievance in respect of which an application is made ^{had} arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal become~~s~~ exercisable under the Act, the application shall be entertained by the Tribunal if it is made within one year from the date of the order or within one year from the expiry of six months from the date of filing an appeal or representation to which the applicant receives no reply or within a period of six months from the date the powers of the Tribunal became exercisable whichever period expires last. In this case the cause of action arose well before three years preceding the date on which the powers of the Tribunal became exercisable i.e., before 1.11.1982. As such, no application could be filed before this Tribunal in respect of the grievance complained against in this case. Since no application could have been filed by the applicant in the first instance, the question of the Tribunal condoning the delay doesnot arise.

4. We have considered the matter carefully. We agree with Shri Vasudeva Rao that where the cause of action arose more than three years prior to 1.11.1985, the date on which the powers of this Tribunal became exercisable, no application can be filed before this Tribunal and that, therefore, this Tribunal has no jurisdiction over the matter. When it was not possible to file

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an application in the first instance and as a result this Tribunal had no jurisdiction over the subject matter of the application, the application cannot be entertained by invoking the provisions of Section 21(3) of the Act and condoning the delay.

5. For the reasons stated above we dismiss this application as it does not fall within the jurisdiction of this Tribunal. There will be no order as to costs.



MEMBER(J)



MEMBER(A)

AN.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 23 MAR 1990

REVIEW APPLICATION NO. (56) 29 / 90
IN APPLICATION NO. 1672/86(F)
W.P. NO (S) _____

Applicant (s)

Shri G. Venkatachalam
To

Respondent (s)

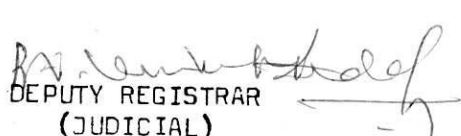
V/s The Senior Supdt. of Post Offices, Bangalore
East Divn., Bangalore & 2 Ors

1. Shri G. Venkatachalam
Sorting Postman
Vasanthanagar Post Office
Bangalore - 560 052
2. Shri M. Raghavendra Achar
Advocate
1074-1075, 4th Cross, 2nd Main
Sreenivasanagar II Phase
Bangalore - 560 050
3. The Senior Superintendent of
Post Offices
Bangalore East Division
Museum Road
Bangalore - 560 001
4. The Director General of Post Offices
Post & Telegraph Department
Dak Ter Bhavan
New Delhi - 110 001
5. The Post Master General
Karnataka Circle
Bangalore - 560 001
6. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPY OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~XXX/INTERIM ORDER~~
Review
passed by this Tribunal in the above said application(x) on 16-3-90.

Encl : As above


DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 16TH DAY OF MARCH, 1990.

PRESENT:

Hon'ble Mr. P. Srinivasan,

.. Member(A)

And:

Hon'ble Mr. D. Surya Rao,

.. Member(J).

REVIEW APPLICATION NUMBER 29 OF 1990

in

APPLICATION NUMBER 1672 OF 1986.

G. Venkatachalam,
Sorting Postman,
Vasanthnagar Post Office,
Bangalore-569 052.

.. Applicant in
Review and main application.

(By Sri M.R. Achar, Advocate.)

v.

1. The Senior Superintendent of Post Office,
East Division, Bangalore.
2. The Director General of Post Office,
Post and Telegraph Department,
Taklar Bhavan, New Delhi.
3. The Post Master General,
in Karnataka, Bangalore.

.. Respondents.

(By Sri N. Vasudeva Rao, Advocate)

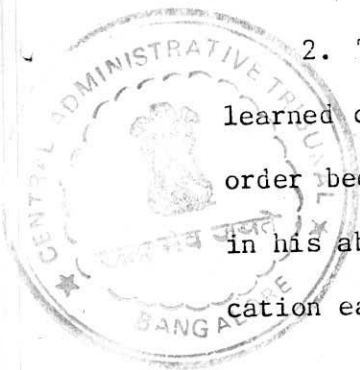
This application having come up for hearing, Hon'ble Member(A) made the following:

ORDER

By this application, the applicant in Application No. 1672 of 1986 wants us to review order dated 22-1-1987 disposing of that application passed by a Bench of this Tribunal of which one of us [Sri P. Srinivasan, Member(A)] was a party.

2. The application is badly delayed. However, Sri M.R. Achar, learned counsel for the applicant, submits that the copy of the said order became available to him only in January, 1990, as it was passed in his absence and because of that he could not file the review application earlier. In view of this, the delay is condoned.

P. Srinivasan



3. Since the original order was passed in the absence of the applicant and his learned counsel, Sri Achar submits that all the facts of the case could not be projected before this Tribunal. For this reason, we admit the review application, recall our earlier order and proceed to pass orders afresh.

4. We have heard Sri Achar for the applicant and Sri M.Vasudeva Rao for the respondents in Application No.1672 of 1986. We had earlier dismissed the application as the cause of action arose long before the establishment of this Tribunal that is in 1981 when according to the applicant he should have been promoted as a Sorting Postman, but his juniors were so promoted. Sri Achar submits that while doing so, we failed to notice that the applicant had made a number of representations to the authorities and if they had been taken into account, the application should have been treated as within time.

5. We have considered the matter carefully. Mere repetitive representations cannot keep a cause of action alive. The pursuit of remedies provided in the service Rules should be taken into account for this purpose and not representations made voluntarily. The applicant's grievance is that on 7-5-1981 he had expressed his willingness to be appointed as Sorting Postman and that in spite of that he was not given that post and it is on this basis he is claiming arrears from 4-5-1981. Clearly the cause of action arose on 4-5-1981 or on the date when his junior was appointed to that post. We find from the records that a certain Vedamanickam was appointed as a Sorting Postman in 1981 against which the applicant gave a representation on 15-6-1981. Even if 15-6-1981 is taken as the date when the cause of action arose, it is more than 3 years prior to the establishment of this Tribunal. Following the decisions rendered by several Benches of this Tribunal, we hold that the application was incompetent and not entertainable ^{at before} by this Tribunal.

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6. We find that the applicant has also filed an I.A. on 13-3-1990 for recalling our order dated 22-1-1987 in A.No.1672 of 1986. This I.A. has now become unnecessary since we have recalled the said order as above.

7. In view of the above, Application No.1672 of 1986 is dismissed leaving the parties to bear their own costs.



Sd-
MEMBER(A)

Sd-
MEMBER(J) 7/3/90

TRUE COPY.

B.V. Venkatesh
DEPUTY REGISTRAR (JDL) 23/3/90
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE