

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE.

DATED THIS THE 16TH DAY OF JUNE, 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego,

.. Member(A).

APPLICATION NUMBER 1686 OF 1986.

M.R. Venkatanarayana Murthy,
B.P.M. Vyarandi, Ugarandi
Devanahalli Taluk,
Bangalore District.

.. Applicant.

(By Smt. Shanthachallappa, Advocate)

v.

1. Senior Superintendent of Post Offices,
Kolar Division, Office of the
Senior Superintendent of Post Offices, Kolar.

2. The Posts & Telegraphs Department,
represented by the Director of Postal
Services, Bangalore Region,
Office of the Post Master General,
Karnataka circle, Bangalore-1.

.. Respondents.

(By Sri M. Vasudeva Rao, CGASC)

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

O R D E R

This is an application made by the applicant under Section
19 of the Administrative Tribunals Act, 1985 ('the Act').

2. As on 22-7-1978 the applicant governed by the Posts and
Telegraphs Extra-Departmental Agents (Conduct and Service) Rules, 1964
('the Rules') was working as an Extra Departmental Branch Post
Office ('EDBPO') at Ugavandi of Devanahalli Taluk, Bangalore District.

3. Evidently on noticing certain omissions and commissions in
the discharge of the duties of the applicant, the Sub-Divisional Inspec-
tor, Doddaballapur ('SDI') under Rule 9 of the Rules kept him off
duty and then reported the same to the Senior Superintendent of
Post Offices, Channapatna Division, Channapatna ('Superintendent').
On an examination of the same, the Superintendent on 29-2-1984

initiated disciplinary proceedings against the applicant under the Rules and framed three charges which read thus:

Article-I - That the said Shri M.R.Venkatanarayana Murthy while functioning as BPM at Uganavadi B.O in a/w Devanahalli SO during the period from 1-4-1983 to 9-7-1983 has refused to accept the official communication sent by the SDI, Doddaballapur and addressed to him in RL No.53039(AD) dated 20-6-1983 of Doddaballapur SO and thus exhibited lack of devotion to duty violating the provisions of Rules 17 of P&T E.D.-Agents (C&S) Rules, 1964.

Article-II - That during the aforesaid period and while functioning in the aforesaid office as BPM the said Shri M.R.Venkatanarayanamurthy did not handover the charge of Uganavadi BO fully i.e., the case on hand, to his substitute while proceeding on leave from 23-4-1983 to 26-4-1983 and thus shown lack of integrity and devotion to duty violating the provisions of Rule 17 of P & T Agents (C & S) Rules, 1964.

Article-III - That during the aforesaid period and while functioning as BPM in the aforesaid office, the said Shri M.R.Venkatanarayana Murthy did not entrust the MOs along with required cash (to the extent available with him) to the EDDA of his office and thereby delayed payment of MOs received at his office and thereby shown lack of integrity and devotion to duty violating the provisions of Rules 17 of P & T E.D. Agents (C & S) Rules, 1964.

Since the applicant denied the charges, the Superintendent appointed one Sri Balaji Singh, Assistant Superintendent of Post Offices, Channapatna Sub-Division, Channapatna as Inquiry Officer (IO) to inquire into the charges and submit his report. In conformity with the same, the IO held a regular inquiry and submitted his report holding that the applicant was guilty of Charge No.1 and the 2nd part of Charge No.3 and that Charge No.2 and first part of Charge No.3 were not proved. In other words, the IO held that the integrity of the applicant was not in doubt and that he had committed some minor lapses in the discharge of his duties.

4. On an examination of the report of the IO and the records, the Senior Superintendent of Post Office, Kolar Division, Kolar, the appropriate Disciplinary Authority ('DA') in his memo No.F1/Misc./Dlgs/CNA dated 12th March, 1986 (Annexure-A) concurring with the report of the IO, inflicted the penalty of removal from service against the applicant. Aggrieved by the same, the applicant filed an appeal before the Director of Postal Services (HB) Karnataka Circle, Bangalore ('Director') who by his memo No.STA/9-3/28/86 dated 29-5-1986

that the applicant had committed some minor lapses in the discharge of his duties. On the integrity they have found in favour of the applicant.

13. Rule 7 of the Rules requires an authority to inflict the penalty of removal from service for good and sufficient reasons. We are of the view that every one of the facts and circumstances alluded to and accepted by them did not merit the extreme penalty of removal from service. If the extreme penalty of removal from service was not justified, then we should necessarily direct the reinstatement of the applicant to service.

14. But, even then Sri Rao urges that we should do so, giving atleast one and half month's time to displace the person working in the place of the applicant denying him all the back wages till he is reinstated to service. Smt. Challappa does not dispute that when the disciplinary proceedings were initiated one Sri Venkatesh Murthy, brother of the applicant had been appointed and is working in the place of the applicant. If that is so, then some reasonable time is necessary for the authorities to displace the other person and give a posting to the applicant. We consider it proper to grant time for the same till 31-7-1987. When we grant time till 31-7-1987 we must necessarily direct the reinstatement of the applicant from 1-8-1987.

15. We are of the view that having regard to all the facts and circumstances, it is reasonable to deny all back wages to the applicant till he is reinstated to service, however, with a condition that the same shall count as continuous service for the purpose of gratuity only.

16. In the light of our above discussion, we uphold the orders of the authorities to the extent they hold the applicant guilty of charge No.1 and charge No.3 in part and dismiss this application only to that extent. But, notwithstanding the same, we modify their orders and direct the respondents to reinstate the applicant to service from 1-8-1987 by displacing the person working in his place denying

denying him all back wages till then, however, counting the previous service for purpose of gratuity only.

17. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

17. Let this order be communicated to all the parties within a week from this day.

R. S. Prasad
VICE-CHAIRMAN
16/8/57

G. L. S. S.
MEMBER(A) *16.6.57*

np/

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

APPLICATION No. 1686/86(F)

(WP.NO.)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED: **22 JUN 1987**

APPLICANT

Vs

RESPONDENTS

Shri M.R. Venkatanarayana Murthy
TO

The Sr. Supdt of Post Offices, Kolar
and another

1. Shri M.R. Venkatanarayana Murthy
Ex-B.P.M.
Ugavandi
Devanahalli Taluk
Pin: 562110
Bangalore District
2. Smt. Shantha Chellappa
Advocate
1/01, 6th Main, 4th Cross
Wilson Garden
Bangalore - 560 027
3. The Senior Superintendent of Post Offices
Kolar Division
Kolar

4. The Director of Postal Services
Bangalore Region
Office of the P.M.G.
Karnataka Circle
Bangalore - 560 001
5. Shri M. Vasudeva Rao
Addl Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 1686/86(F)

....

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on
16-6-87.

ENCL: As above.

For DEPUTY REGISTRAR
(JUDICIAL)

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DATED THIS THE 16TH DAY OF JUNE, 1987.

PRESENT:

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.. Vice-Chairman.

And:

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(By Sri M. Vasudeva Rao, CGASC)

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made the following:

ORDER

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duty and then reported the same to the Senior Superintendent of
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On an examination of the same, the Superintendent on 29-2-1984



that the applicant had committed some minor lapses in the discharge of his duties. On the integrity they have found in favour of the applicant.

13. Rule 7 of the Rules requires an authority to inflict the penalty of removal from service for good and sufficient reasons. We are of the view that every one of the facts and circumstances alluded to and accepted by them did not merit the extreme penalty of removal from service. If the extreme penalty of removal from service was not justified, then we should necessarily direct the reinstatement of the applicant to service.

14. But, even then Sri Rao urges that we should do so, giving atleast one and half month's time to displace the person working in the place of the applicant denying him all the back wages till he is reinstated to service. Smt. Challappa does not dispute that when the disciplinary proceedings were initiated one Sri Venkatesh Murthy, brother of the applicant had been appointed and is working in the place of the applicant. If that is so, then some reasonable time is necessary for the authorities to displace the other person and give a posting to the applicant. We consider it proper to grant time for the same till 31-7-1987. When we grant time till 31-7-1987 we must necessarily direct the reinstatement of the applicant from 1-8-1987.

15. We are of the view that having regard to all the facts and circumstances, it is reasonable to deny all back wages to the applicant till he is reinstated to service, however, with a condition that the same shall count as continuous service for the purpose of gratuity only.

16. In the light of our above discussion, we uphold the orders of the authorities to the extent they hold the applicant guilty of charge No.1 and charge No.3 in part and dismiss this application only to that extent. But, notwithstanding the same, we modify their orders and direct the respondents to reinstate the applicant to service from 1-8-1987 by displacing the person working in his place denying



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np/

sdl-
VICE-CHAIRMAN
16/8/87

sdl-
MEMBER(A) V.C.S.

- True copy -

A. K. Sanyal
SECTION OFFICER 22/6/87
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

(Annexure-B) has dismissed the same. In this application made on 1-9-1986, the applicant has challenged the said order under the Act.

5. In justification of the orders made, the respondents have filed their reply and produced their records.

6. Smt. Shantha Challappa, learned counsel for the applicant contends that the evidence on record did not justify the finding of guilt on Charges 1 and 3 and the removal of the applicant was wholly unjustified and illegal.

7. Sri M.Vasudeva Rao, learned Central Government Additional Senior Standing Counsel appearing for the respondents sought to support the orders of the authorities and the findings recorded by the IO.

8. On an evaluation of the oral and documentary evidence on record, the IO had found that the applicant was guilty of Charge No.1 and part of Charge No.3 with which the disciplinary and the appellate authorities have concurred. The findings of the authorities are based on evidence. We cannot by any stretch of imagination, hold that they are based on 'no evidence'.

9. When once we find that the findings of the authorities are based on evidence, then we cannot re-appreciate the same as really attempted by Smt. Challappa and come to a different conclusion. We see no merit in this contention of Smt. Challappa and we reject the same.

10. Smt. Challappa next contends that the extreme penalty of removal inflicted against the applicant was wholly unjustified.

11. Sri Rao sought to support the penalty of removal inflicted against the applicant.

12. We have earlier noticed that the authorities had only found



that the applicant had committed some minor lapses in the discharge of his duties. On the integrity they have found in favour of the applicant.

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