

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS THE THIRTY FIRST DAY OF MARCH, 1987

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

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

APPLICATION No.1712/86(F)

G.Honnanjappa,  
Sorting Assistant,  
Bangalore City RMS Office,  
Bangalore Sorting Division,  
Bangalore - 560 023.

...

APPLICANT

( Shri M.R.Achar

... Advocate )

V.

S.T.Bhaskaran,  
Director of Posts(HQ),  
Office of the Post Master  
General, Karnataka Circle,  
Bangalore - 560 001.

B.Sadashiva Rao,  
Senior Superintendent, RMS,  
Bangalore Sorting Division,  
Bangalore - 560 026.

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RESPONDENTS

( Shri M.V.Rao

... Advocate )

This application has come up before the court today.

Hon'ble Shri L.H.A.Rego, Member(AM) made the following :

O R D E R

The main prayer of the applicant in this case is to call for the pertinent record and quash the order dated 15.9.1986 (Annexure-J) passed by respondent(R-2), placing the applicant under suspension and to direct the respondents to permit him to discharge his duty in the Office of the Bangalore City RMS Sets I to III in accordance with the procedure, rules and regulations in force.

2. The factual background to this application in so far as it is relevant to the contentions urged therein is as follows :

At the material time, the applicant was serving as a Sorting Assistant in HRD(D) of the Bangalore City RMS. He was placed under suspension by R-2, by his order dated 15.9.1986(Annexure-J) on account of grave misconduct, which was tending to paralyse administrative work in the Bangalore City RMS, for which disciplinary proceedings were contemplated against him. This suspension was in accordance with the provisions of Rule 10(1) of the CCS(CCA) Rules, 1965. The respondents state that a chargesheet has been framed against the applicant, who however is evading acknowledgement of the same, even though sent by registered post to his residential address. Though the respondents in para-3 of their statement of objections have stated, that a copy of the charge-sheet is enclosed, the same has not been placed before us.

3. The applicant avers, that hitherto, his service record was unsullied and that he had worked in the different units of the Department to the satisfaction of his superiors. He alleges that R-2 and his brother-in-law Shri K.S.Rao, who is currently working in the same Department, as In-charge Senior Superintendent, RMS, Bangalore in the Sorting Division, are inimically disposed towards him as he had lodged a complaint against R-2 in the year 1973 (who was then working as Deputy Superintendent(Sorting in the Bangalore City RMS), with the Deputy Superintendent, Central Bureau of Investigation(CBI), Government of India, New Delhi, in connection with a serious theft that had taken place in the departmental stores. On account of this animus, both R2 and Shri K.S.Rao have been vindictive against the applicant, to substantiate which he has cited instances such as : attachment of his house to recover the House Building Advance taken by him; non-payment of his salary; initiation of disciplinary proceedings against him earlier, for relief against which, he had approached this Tribunal, and succeeded etc. The applicant states, that he had to

take recourse to the Court of Law more than once, to seek relief as and when R2 tried to harass him. He also submitted a written representation on 15.9.1985(Annexure-H), to R1(a copy of which was furnished to R2), requesting for direction to the authorities concerned, to permit him to discharge his duties properly, in accordance with the rules and regulations in force. The applicant alleges, that on this very date, he received the order of suspension(Annexure-J) from R2, which according to him is tainted with mala fides on account of the animus borne by R2 towards him. The applicant has therefore approached the Tribunal for redress.

4. Pleading for the applicant, his learned Counsel (Shri M.R.Achar) contended, that the order of suspension issued by R2 is motivated by mala fides; that the provisions of Rule 10(1) of the CCS (CCA) Rules, 1965 are not complied with, as no enquiry is pending or is contemplated against the applicant; that the applicant could not avail of all the remedies available to him for redress, before approaching the Tribunal as the impugned order of his suspension (Annexure-J) was issued, at the instance of R1 himself, who was the appellate authority; and that the applicant is not in a position to discharge his duty properly, as the concerned authorities, do not adhere to the prescribed rules and regulations and procedure and that only oral instructions are given to carry out the work etc.

5. Shri M.S.Padmarajaiah, learned Counsel for the respondents vehemently urged, that on the very premise, that the applicant did not avail of all the remedies available to him for redress, under his service rules, according to Sec.20 of the Administrative Tribunals Act, 1985('Act' for short), the application needs to be rejected straightaway. He asserted, that the allegation of the applicant that the order of suspension (Annexure-J) was issued by R2 under the direction of R1, the appellate authority, was not borne by any factual evi-

dence and therefore, the applicant cannot on this ground, take the plea, that he could not appeal to R1 for redress. The applicant has not substantiated the above allegation by any evidence. We are therefore persuaded to accept the contention of Shri Padmarajaiah, that as the applicant has not complied with the provisions of Section 20 of the Act, it needs to be rejected.

6. Apart from this infirmity, we notice that the various instances cited by the applicant, which are said to have provoked R2, to adopt a vengeful attitude towards him, out of mala fides, in the instant case, do not bear a close nexus. The Counsel for the respondents could have assisted us, by providing a copy of the charge-sheet framed against the applicant, in pursuance of the order of his suspension (Annexure-J) to present a factual picture. Shri Padmarajaiah affirmed, that the applicant was required to be placed under suspension on account of the charge of grave misconduct, on the part of the applicant, which was virtually tending to paralyse administrative work in the Bangalore City RMS and that disciplinary proceedings under Rule 14 of the CCS(CCA) Rules, 1965 have been initiated against him in this connection on 23.9.1986. We have no reason to disbelieve this assertion of the Counsel for the respondents. The above charge which is of a serious nature, ex facie has no bearing on the instances cited by the applicant, so as to infer mala fides on the part of R2.

7. The statement of objections filed by the respondents is ominously silent on the point, regarding the result of the representation submitted by the applicant on 15.9.1986 (Annexure-H) to R1, as also of the representation submitted by the other employees on 12.9.1986 (Annexure-F) to R1, which inter alia, relates to the prescribed procedure, rules and regulations not being followed in the



Department, which is alleged to cause serious handicap to the applicant, among others in the proper discharge of their official duty. We direct R1, to dispose of the above representation dated 15.9.1980, from the applicant, within a period of two months from the date of receipt of this order.

8. We dispose of this application in the above terms, but in the circumstances of the case, we direct the parties to bear their own costs.

*Chandrababu Naidu*

Member(JM)

*[Signature]*

Member(AM)

31.3.1981

AN.