

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE THIRTY FIRST DAY OF MARCH, 1987.

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

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

APPLICATION No.1716/86(F)

Abdul Gafoor,
Sorting Assistant,
Bangalore City RMS,
Bangalore - 23.

...

APPLICANT

(Shri M.R.Achar

...

Advocate)

V.

K.P.Padmanabhan,
Superintendent (Sorting),
RMS, Bangalore City RMS,
Bangalore - 23.

B.Sadashiva Rao,
Senior Superintendent, RMS,
Bangalore Sorting Division,
Bangalore - 26.

...

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 :

ORDER

In this application, filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant challenges the impugned order dated 11.2.1986 (Annexure-A), issued by Respondent-1 (R-1) as Disciplinary Authority(DA), withholding his annual increment for a period of 18 months, without cumulative effect and the other impugned order dated 5.5.1986(Annexure-B), issued by Respondent-2(R-2), as the Appellate Authority(AA), ^{LA}confirming the order of R-1 in appeal.

2. The fact-situation leading to the application is briefly as follows. At the material time, the applicant was working as Assistant Mail Agent, in Bangalore City, RMS , TMD/2. In the course of investigation, into a case of loss of Parcel Bag no.3

despatched on 29.3.1983, from Avenue Road Post Office(PO), Bangalore City (where the bag, in question was closed), to Gankar PO, in Tamil Nadu, it was established, that the parcel bag was lost, on account of negligence on the part of the applicant. This had caused a loss of Rs.3000/- to the Department(Railway Mail Service), which it was required to pay, by way of compensation to the consigner of the said parcel.

3. The applicant was therefore departmentally proceeded against, on 31.7.1985, under Rule 16 of CCS(CCA) Rules, 1965 by R-1 for this negligence. The gist of imputation of the charge against him was as under :

" That he failed to despatch and account for Parcel Bag No.3, at 29.3.1983, from Avenue Road, Bangalore City to Gankar and thereby exhibited gross negligence and lack of devotion to duty, in violation of the provisions of Rule 112(2) of the Post and Telegraph(P&T) Manual(Volume VII), Rule 3(1)(ii) of CCS(Conduct) Rules, 1964. Further, the failure and negligence, resulted in loss of the said bag and caused loss of Rs.3000/- to the Department, by way of compensation paid to the senders of the insured parcel contained in this bag".

4. On conclusion of the disciplinary proceedings, R-1, the DA, by his Order dated 11.2.1986(Annexure-A), imposed on the applicant, the punishment of withholding of his annual increment, for a period of 18 months, without cumulative effect. The applicant preferred an appeal thereon, on 3.3.1986, to R-2, who by his Order dated 5.5.1986, ^{de} confirmed the punishment imposed by R-1.

5. Aggrieved, the applicant has approached this Tribunal for redress.

6. Learned Counsel for the applicant contended, ^{de} ~~that the~~ applicant that hitherto, the applicant had a clean service record; that there was no specific and set procedure, in regard

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to allotment or distribution of work in the Railway Mail Service (RMS) Office in question in Bangalore City; that basic requirement such as : (a) provision of the latest Mail and Sorting Lists and the Error Book and (b) lock and key arrangement so essential for safety of the insured articles, was conspicuously lacking; that the applicant, as well as the other employees of the RMS Wing, were liable to great risk and for action, on account of ^{the men -} compliance with proper procedure, enjoined in this respect in the P and T Manual of the RMS and the SSRM Order dated 31.10.1986; that R-2 and the concerned Head Sorters and Supervisors, extract work from the employees on oral instructions but are quick to punish them for any lapse; that several thousands of postal bags are entrusted to the employees for checking barely, within half an hour on the open platform, without any security; that the applicant and the workers' Union, had served a legal notice on 12.9.1986 on R-2 and others concerned, (who for ulterior motives were violating the rules) ^{impressing} ~~imposing~~ on them, the need to adhere meticulously, to the rules in this respect; that due to heavy rush of work, it was not possible for the applicant, to check cash and each and every article; that the disciplinary proceedings were initiated against the applicant belatedly, after a lapse of two years; that in the absence of an Enquiry Report from HMG on 33 IN (who had acknowledged the bags) which implied there was no evidence, to hold the applicant guilty, it was illegal to do so and that it is not unlikely that Theft of the bag in question, must have taken place in transit, from Bangalore to Madras. Counsel for the applicant pleaded that the applicant was not guilty of the charge framed against him and therefore, the impugned orders dated 11.2.1986 and 5.5.1986 (Annexures A & B respectively) be set aside.

7. Learned counsel for the respondents refuting each of

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the above contentions averred, that a memorandum of distribution of work existed for every set of mail offices, inclusive of Bangalore City RMS, cited by the applicant. According to him, the Due Mail List, the Error Book etc were available in the set. In Transit Mail Offices (TMOs), as the postal bags are not opened, the question of ascertaining the contents of the bags does not arise. The primary function of the TMOs therefore, is to ensure, that the postal bags received, are properly accounted for and despatched to the right destination. Lock and key arrangement, was not provided for individually, to officials working in TMOs, since the postal bags were sorted out according to their destination and a round-the-clock vigil, was maintained on these bags, by a chowkidar.

Counsel for the respondents therefore emphatically rebutted the accusation of the applicant, that the employees of the RMS Wing were seriously handicapped, in discharging their duty according to the Rules of the Department. Oral instructions he said, were given by the concerned authorities not as a matter of routine but to meet an exigency as and when it arose.

8. The workload required to be shouldered by the applicant was not excessive and certainly not to the tune of several thousands of postal bags as exaggerated by the applicant.

9. We have examined the case in its entirety and the rival contentions. We are not convinced, that the RMS Wing in Avenue Road, Bangalore City was functioning in a haphazard manner, without proper rules and procedure. Such a situation is inconceivable in a long and well-established organisation like the RMS. If the applicant was genuinely handicapped in this respect, there is no evidence to show, that he promptly brought the matter to the notice of his immediate superior for redress. On the contrary he seems to have done ^{by or} so, _h 12.9.1986 i.e., well over a year, after he was

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departmentally proceeded against for his above lapses, which only leads to infer, that it was an after-thought, merely to shield his guilt. We notice, that the applicant has a tendency to exaggerate. He refers to several thousands of postal bags he was saddled with. In the instant case, he was entrusted with less than 20 bags and yet he could not properly account for them and ensure their proper delivery. He has not explained satisfactorily, as to how out of the 16 (sixteen) postal bags, of which he had taken delivery from Bangalore City TMO/2 on 29.3.1983 to be despatched to Madras Central Station TMO/2, he invoiced only 15 (fifteen) bags in the CMC^{IL} prepared by him, for M-33-IN. The applicant himself corrected the total in the Mail List & rounded off the entry, relating to the bag meant for Varanasi. The fact, that one bag was despatched short, by the applicant to M-33-IN Section, is indisputable. Besides the very bag, the entry of which was rounded off by the applicant in the Mail List, was actually ^{IL} located ^{IL} ~~wanted~~ at Madras CSTMO, on the very date of receipt of mail in M-33-IN Section^{IL}, which calls in question, the very act of the applicant, in rounding off the entry of this parcel bag. Besides, the applicant ^{del} ~~had~~ ^{IL} not seem to have promptly brought to the notice of his immediate superior, the above discrepancy in the number of postal bags taken delivery of by him and those actually despatched. The only inference that can be drawn there-
from in these circumstances, is, that he did not properly account for the postal bags taken by him in his custody and failed to despatch one of them. We are of the view, that the applicant is guilty of this lapse, which has caused no little financial loss to the Department.

10. The applicant has referred to the probability of loss of the postal bag in transit, from Bangalore to Madras and in support has cited the Press Report dated 19.6.1985 in THE HINDU, narrating

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the theft of parcel packets, by 3 RMs employees in the Central Station RMS Madras. Isolated incidents like these, where the facts and circumstances are not wholly identical to the case before us, can scarcely come to the rescue of the applicant. ~~to Besides~~ " One swallow, does not make a summer", as the saying goes.

11. The respondents are ^{or duly} seen to have ~~only~~ taken into account, the past service record of the applicant, while awarding the punishment, by which his annual increment was withheld only for a period of 18 months and that too, without cumulative effect. By no means can this punishment be regarded as unreasonable and excessive, in relation to the guilt of the applicant.

12. In the result, the application fails and we dismiss the same. No order as to costs.

Chandrababu Naidu
MEMBER(JM) 31.3.87

[Signature]
MEMBER(AM) 31.3.87

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C. Annabalu
MEMBER(JM) 31-3-87

[Signature]
MEMBER(AM) 31-3-87

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REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 14-9-87

Review Application No. 113/87 ~~113/87~~)

W.P. No 15 D No. 1716/86(F) /

Applicant Abdul Gafoor Vs Supt., RMS, Bangalore and one

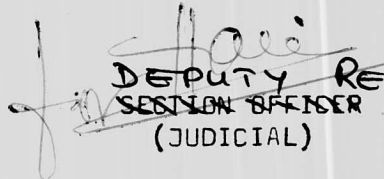
To

1. Sri Abdul Gafoor,
Sorting Assistant,
Bangalore City RMS,
Bangalore.
2. Sri M. R. Achar, Advocate,
No. 1074 & 1075,
Bomashankari 1st Stage,
Sreenivasa Nagar, II Phase,
Bangalore-50

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH IN REVIEW
APPLICATION NO. 113/87

Please find enclosed herewith the copy of the Order/~~Interim Order~~
passed by this Tribunal in the above said Application on 8.9.87.

Encl : as above.


DEPUTY REGISTRAR
SECTION OFFICER
(JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 8TH DAY OF SEPTEMBER, 1987

Present:

Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

REVIEW APPLICATION NO. 113/1987

Shri Abdul Gafoor,
Sorting Assistant,
Bangalore City RMS,
Bangalore.

.... Applicant

(Shri M.R. Achar, Advocate)

v.

1. K.P. Padmanabhan,
Superintendent (Sorting),
RMS, Bangalore City RMS,
Bangalore.

2. B. Sadashiva Rao,
Senior Superintendent, RMS,
Bangalore Sorting Division,
Bangalore.

.... Respondents.

This application having come up for hearing to-day,
Vice-Chairman made the following:

O R D E R

In this application made under Section 22(3)(f) of the
Administrative Tribunals Act, 1985, the applicant has sought
for a review of an order made by a Division Bench of this
Tribunal consisting one of us (Shri L.H.A. Rego, Member (A)
and Shri Ch. R.K. Rao, Member (J)) dismissing his Application
No. 1716/86.

2. In making this application, there is a delay of 110
days. In I.A. No.1, the applicant has sought for condoning
the said delay.



3. Shri M.R. Achar, learned counsel for the applicant, contends that every one of the facts and circumstances stated in I.A. No.1 constitute a sufficient ground to condone the delay and then review the order on the grounds urged in the main application.

4. We are of the view that everyone of the facts and circumstances stated in I.A.No.1 do not constitute a sufficient ground to condone the delay. We, therefore, hold that I.A.No.1 is liable to be rejected. If that is so, then the main review application is also liable to be rejected, without examining the merits. But we do not propose to do so and proceed to examine the merits also.

5. We have perused the order of the Tribunal. We find that every one of the grounds urged by the applicant really asks us to re-examine the order as if we are a court of appeal and come to a different conclusion, which is impermissible in a Review. In this view also, the main review application is liable to be rejected.

6. In the light of our above discussion we, reject the I.A. No.1 and the Review Application at the stage of admission, without notices to respondents.

Sd---

Sd---

Vice-Chairman

Member (A) 18.12.87

SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

BANGALORE

dms/Mrv.

21/12/87
True copy