

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE TWENTYFIRST DAY OF JANUARY, 1987

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

Hon'ble Shri P.Srinivasan Member(A)

APPLICATION NO. 1723/86(F)

Thimme Gowda,
R/a No.132, 13th Main Road,
4th Cross, Hanumanthanagar,
Bangalore - 560 019. ... Applicant

(Shri T.V.Narayana Murthy ... Advocate)

1. The Senior Superintendent,
R.M.S.Bangalore STG Division,
Bangalore - 560 020.

2. The Director of Postal Services(HB),
Karnataka Circle, Bangalore - 560 001. Respondents
(Shri M.Vasudeva Rao ... Advocate)

This application has come up before the court today.

Shri Ch.Ramakrishna Rao, Member(J) made the following:

O R D E R

The applicant, who was working as a mail man in the Railway Mail Service of the Post and Telegraph Department in Bangalore, has, in this application, challenged the order dated 28.11.1985 by which the disciplinary authority imposed the penalty of compulsory retirement on him as well as order dated 3.6.1986(Annexure B) by which the appellate authority dismissed his appeal. The articles of charge in respect of which departmental enquiry was conducted related to his absence from duty on six occasions during the year 1984 for varying periods on each occasion. There were in all three articles of charge. The first of them narrates that he absented himself from duty on six occasions without prior sanction of leave and had also failed to give intimation of his absence to the head of office. He had also failed to join duty when ordered to do so by the Sub Record Officer by letter dated 22.8.1984. The second



article of charge refers to the same six occasions when he was absent and narrates that he submitted leave applications supported by a medical certificate belatedly in respect of his absence which indicated failure to maintain devotion to duty. The third article of charge alleges that even though he had been previously punished with compulsory retirement in December 1982 and had been reinstated in April 83 as a result of an appeal, he had failed to show any improvement in his attendance thereafter.

2. Shri T.V.Narayana Murthy, learned counsel for the applicant, contended that the punishment awarded to the applicant was out of proportion to the gravity of the offence committed by him. The applicant's daughter had been mentally sick during the period and the applicant had also fallen sick on some occasions. Due to ignorance and worry, he could not apply for leave in time, but he had subsequently applied for leave and produced medical certificates explaining his absence from duty. While it was certainly an omission on his part not to have applied for leave in advance, owing to the peculiar circumstances in which he had to be absent from duty, a sympathetic view could have been taken and the ultimate penalty of compulsory retirement need not have been visited on him. Shri.Narayananmurthy also pointed out that in the articles of charge, reference had been made to the punishment awarded to him earlier, This punishment had been set aside in appeal. Therefore, the initial order imposing penalty had ceased to have any operation and should not have been referred to at all.

3 Shri M.Jasudeva Rao, learned counsel for the respondents, strongly refutes the arguments of Shri Narayana Murthy. The applicant is a habitual offender and whatever sympathy was due to him was exhausted when the earlier penalty had been set aside in appeal. Since he was a mail man in the RMS, his

(Signature)

absence without prior sanction upset the working of the department and also set a bad example for others.

4 We have considered the matter carefully. We do agree with counsel for the respondents that the applicant had been remiss in not applying for leave in advance on each of the occasions as he should have done as a disciplined Government servant. At the same time, it has to be remembered that the applicant is a Group D official and did not have the amount of education required to act with presence of mind on each occasion particularly when his daughter or he himself fell ill. In view of this, we do feel that the punishment awarded was out of proportion to the "offence" with which the applicant was charged. We feel that it would meet the ends of justice, if the penalty is reduced to withholding of increments of pay for five years with cumulative effect.

5 In the result, the application is partly allowed as indicated above. Parties to bear their own costs.

Ch.Ramakrishna

(Ch.Ramakrishna Rao)
Member(J)

P.Srinivasan

(P.Srinivasan)
Member(A)

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