

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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

Dated : 14-5-87

Application No. 1733 /86(F)

W.P. No. /

Applicant

Shri Channahanumaiyah

v/s The PMG, Karnataka Circle & 2 Ors

To

1. Shri Channahanumaiyah
No. 3321, 4th Cross
Gayathrinagar
Srirampuram
Bangalore - 560 021

3. The Post Master General
Karnataka Circle
Palace Road
Bangalore - 560 001

2. Shri U. Panduranga Nayak
Advocate
No. 7(Upstairs)
4th Cross, Srirampuram
Bangalore - 560 021

4. The Senior Superintendent of Post Offices
West Division
Rajajinagar
Bangalore - 560 010

5. Shri S. Balasundararaman
Inquiry Officer and H.S.G.II
Bangalore Sorting Office
Bangalore - 560 051

6. Shri M. Vasudeva Rao
Addl Central Govt. Stng Counsel
High Court Buildings, Bangalore - 560 001

Janard
BB/10/87
Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH IN

APPLICATION NO. 1733/86(F)

Please find enclosed herewith the copy of the Order/XXXXXX
passed by this Tribunal in the above said Application on 1-5-87.

R. H. Singh
SECTION OFFICER
(JUDICIAL)

Encl : as above.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE FIRST DAY OF MAY, 1987

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

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

APPLICATION NO. 1733/86(F)

Channahanumaiah,
Postal Assistant,
No.3321, 4th Cross,
Gayathrinagar,
Srirampuram,
Bangalore-560 021.

... Applicant

(Shri U. Panduranga Naik ... Advocate)

v.

Postmaster General,
Karnataka Circle,
Palace Road,
Bangalore-1.

Senior Superintendent
of Post Office,
West Division,
Rajajinagar,
Bangalore-560 010.

S. Balasundaraman,
Inquiry Officer and
H.S.G.II,
Bangalore Sorting Office,
Bangalore-560 051.

(Shri M. Vasudeva Rao ... Advocate)

This application ~~was~~ came up for hearing before this
Tribunal on 26.2.1987, Hon'ble Shri Ch. Ramakrishna Rao, Member (J)
made the following:-

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ORDER

The Superintendent of Post Office (SPO), Bangalore West
Division, issued a Memorandum (Memo for short) dated 21.1.1985
proposing to hold an inquiry against the applicant, a Postal Assistant
(under suspension), Malleswaram West Post Office. The statement
of articles of charge as set out in Annexure I reads as follows:



"Article 1: That the said Shri Channanumaiah while functioning as Postal Assistant, Malleswaram West Post Office, Bangalore-560 055 during the period from July 1983 to June 1984 failed to credit to the Post Office accounts, various amounts accepted from depositors of CTD/RD accounts violating Rule - 4 of P&T F.H.B. Volume I, and exhibiting lack of integrity thereby violating Rule - 3(1)(i) of C.C.S. (Conduct) Rules 1964.

Article 2: During the aforesaid period and while functioning as Postal Assistant in the aforesaid office Shri Channanumaiah was found responsible for belated credits of amounts accepted from depositors of various C.T.D. accounts, violating the provisions of Rule 4 of P&T F.H.B. Volume I and exhibiting lack of integrity thereby violating Rule 3(1)(i) of C.C.S. (Conduct) Rules 1964."

An Inquiry Officer (Respondent 3)(I.O.) was appointed by the SPO to hold the inquiry into the charges. The applicant was also kept under suspension on the ground that a criminal prosecution is under contemplation. Aggrieved by the initiation and continuance of disciplinary proceedings pending police investigation for the same charge levelled in the disciplinary proceedings the applicant has filed this application.

2. Shri U. Panduranga Naik, learned counsel for the applicant relies upon a decision rendered by this Tribunal on 28.4.1986 in *M. Huchaiah v. Director of Postal Services, Bangalore and others: Application No.19/86(F)* wherein we held that the disciplinary proceedings should be kept in abeyance pending the outcome of the criminal ~~and~~ trial in respect of the same charge and submits that the disciplinary proceedings initiated by the SPO should be quashed.

3. Shri M. Vasudeva Rao, learned counsel for the Respondents submits that the matter is still at the stage of investigation. No charge sheet has yet been filed and, therefore, the disciplinary proceedings already initiated may be allowed to continue.

CJ

4. We have considered the rival contentions carefully. We have held in the earlier order dated 28.4.1986 that paragraphs 80 and 81 of the Posts and Telegraphs Manual ('Manual' for short) placed an embargo on continuance of departmental proceedings pending finalisation of the criminal proceedings (Note III underneath paragraph 80 of the Manual says —

"Note III: In all cases, where prosecution has to be launched, a report should be lodged with the police, as soon as the case comes to notice and departmental enquiries should not be held simultaneously with the Police enquiry, except to the extent permitted by the Police. The question of taking departmental action in such cases, would arise, either on completion of Police enquiries and other referring the case for departmental action, or after completion of the court case. If, however, it is desired to conduct departmental enquiries simultaneously with police enquiries or to take departmental action, wherever feasible, before the case is taken up for prosecution by the police, the matter should be decided after consultation with the police authorities."

It has not been stated in the reply filed on behalf of the Respondents whether the departmental proceedings were initiated after compliance with the provision of Note III in para 80 of the Manual. At what stage the police investigation is resting. If the investigation is nearing completion and the charge sheet in the criminal court would be filed at an early date there is no necessity to comply with the provisions of Note III supra; otherwise, the departmental proceedings should be continued since they have already been initiated after consultation with the police authorities as envisaged by Note III. Needless to add that when a charge sheet is filed in the criminal court the disciplinary proceedings will have to be kept in abeyance till the criminal proceedings terminate.

5. The Respondents are, therefore, directed to examine the matter

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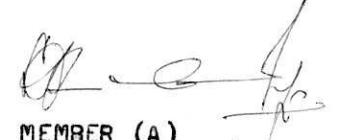
in the light of the legal position stated above. Pending examination and until the examination is completed and the decision conveyed to the applicant the departmental proceedings shall be kept in abeyance.

6. The applicant has actually prayed for quashing the departmental proceedings and directing the respondents to reinstate the applicant in service. The prayer is misconceived because in terms of paragraphs 80 and 81 of the Manual the disciplinary proceedings have only to be kept in abeyance pending the criminal proceedings.

7. The application is disposed of with the direction given above. Parties to bear their own costs.

bsv

Chelmadishaw
1-5-87
MEMBER (J)


1-5-87
MEMBER (A)