

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
@@@@@@@@@@@@@@@

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

Dated : 3/8/87

APPLICATION NO 327 /87(F)

W.P. NO _____

Applicant

Shri C. Kannan

v/s The PMG, Karnataka & another

To

1. Shri C. Kannan
C/o Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050

3. The Post Master General
Palace Road
Bangalore - 560 001
4. The Director of Postal Services in
Headquarters Karnataka
Bangalore
5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/87XX/
~~ORDER~~ passed by this Tribunal in the above said
application on 21-7-87.

RECEIVED

Encl : as above

4/8/87

5/8/87
Please
4/8/87

R. V. Venkatesh
DEPUTY REGISTRAR

SECTION OFFICER

(JUDICIAL)

4/8/87

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 21st DAY OF JULY, 1987

Present : Hon'ble Sri Ch.Ramakrishna Rao

Member(J)

Hon'ble Sri P.Srinivasan

Member(A)

APPLICATION No.327/87(F)

C.Kannan,
C/o M.Raghavendra Achar,
No.1074 and 1075,
Banashankari 1st Stage,
Sreenivasa Nagar II Phase,
Bangalore.

...

APPLICANT

(Sri M.R.Achar

... Advocate)

Vs.

Post Master General
in Karnataka,
Bangalore.

The Director of Postal Services
in Karnataka, Bangalore

...

RESPONDENTS

(Sri M.V.Rao

... Advocate)

This application has come up before the court today.

Hon'ble Sri Ch.Ramakrishna Rao, Member(J) made the following :

ORDER

The applicant was working as a Postal Assistant in Bangalore East Division. By order dated 7.5.1985 the Director of Postal Services(DPS), Bangalore, imposed the punishment of removal from service on the applicant. The disciplinary proceedings which preceded this order were somewhat prolonged by reference to the High Court, with which we need not concern ourselves here.

2.

Sri M.R.Achar urges on behalf of the applicant that the punishment meted out to the applicant is grossly disproportionate to the gravity of the charges levelled against the applicant.





According to him, similar charges had been levelled against another Postal Assistant, Sri V. Anantha Rao and were held to have been proved but in his case the punishment was far less viz. that of reduction by two stages in the time scale for a period of two years without postponing future increments. The charges levelled against the applicant as well as Sri Anantha Rao were that they had ¹² ~~conspired~~ with a certain D. Venkat Rao and thereby defrauded public money while working in the Savings Bank counter. In the case of the applicant the defrauding was alleged to be to the extent of Rs. 1,000/- while in the case of Sri Anantha Rao it was said to be Rs. 1,380/-. Sri Achar contends that, if anything, the charge against Sri Anantha Rao was more serious than that of the charge against the applicant. It therefore, amounted to discrimination to award the extreme penalty of removal from service to the applicant while imposing a much lesser penalty on Sri Anantha Rao.

3. Sri M. Vasudeva Rao raised a preliminary objection that this application is barred by limitation. The order which the applicant was aggrieved with viz. the order of the appellate authority was passed on 22.10.1985. The application should have been filed within a year therefrom i.e., on or before 22.10.1986. However, it has been filed only on 1.5.1987 i.e., nearly 7 months late. Sri M.R. Achar, learned counsel for the applicant, relying on his application for condonation of delay, submits that the applicant was under the impression that the period of limitation was 3 years as in the case of civil suits. Moreover the applicant had been ill for quite sometime and was, therefore, not in a position to contact his counsel and file the application in time. He also submits that since this is a case of disciplinary proceedings, where the ultimate penalty of removal from service has been imposed, this Tribunal should not reject the application on the ground of limitation in the larger interest of justice.

Bench Bangalore

4. After hearing both sides, we are satisfied that reasonable cause has been shown for delay in filing this application. We, therefore, condone the delay.

5. Sri M.V.Rao, learned counsel for the respondents, then countered the arguments of Sri Achar. The punishment awarded to the applicant should be viewed against the charge proved against him viz., of defrauding the Government. It was an act of moral turpitude which could not be tolerated and, therefore, the applicant deserved deterrent punishment. The penalty imposed in disciplinary proceedings depends on the facts of each case and what was done in one case cannot be compared to what is done in another case. Sri Anantha Rao was a young man, who admitted his guilt at the first opportunity, and so h an inquiry need not have to be conducted in his case. The applicant did not admit his guilt at the first instance and so a detailed inquiry had to be held in his case. The disciplinary authority took into account all these and other circumstances in viewing the case of Sri Anantha Rao with some leniency compared to that of the applicant.

6. Having considered the rival contentions carefully, we agree that penalty in disciplinary proceedings has to be considered on the facts of each case and a comparison would not be very appropriate. We also agree with Sri Vasudeva Rao that the charges levelled against the applicant were quite serious involving moral turpitude and defrauding the Government and that the applicant did deserve a major punishment. However, taking into account all the circumstances of the case and the fact that a joint inquiry was held in respect of similar offences against four persons, we feel that it would meet the ends of justice if the applicant were awarded the penalty of compulsory retirement. We, therefore, reduce the punishment to that of compulsory retirement.

Erst



6. The applicant will be entitled to pension according to rules from the date of this order and not from an earlier date because of the delay in approaching this court. He will also be entitled to other terminal benefits according to the rules as may be permissible under the rules.

7. We hope the authorities will determine the retirement benefits of the applicant expeditiously.

8. The application is disposed of as indicated above. Parties to bear their own costs.

Sd _____

MEMBER (J) 21.7.87

Sd _____

MEMBER (A)

an.

-True Copy-

K. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
3/8