

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex(BDA),  
Indiranagar,  
Bangalore - 560 038

Dated : 3/8/87

APPLICATION NO 636 / 86 ( F )

W.P. NO \_\_\_\_\_

Applicant

Shri N. Venkataramanaiah

V/s The Sr. Supdt. of Post Offices,  
Mysore & another

To

1. Shri N. Venkataramanaiah  
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

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/  
~~INTERIM ORDER~~ passed by this Tribunal in the above said  
application on 24-7-87.

B.V. Venkatesh  
DEPUTY REGISTRAR  
~~SECTION OFFICER~~  
(JUDICIAL)

Encl : as above

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3/8/87  
Per  
3/8/87

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 24TH DAY OF JULY, 1987

Present: Hon'ble Shri P. Srinivasan, Member (A)  
and  
Hon'ble Shri Ch. Ramakrishna Rao, Member (J)

APPLICATION NO. 636/1987

Shri N. Venkataramanaiah,  
S/o Narasimhaiah,  
aged about 55 years,  
Group 'D' Jayanagar Post Office,  
Mysore-14. .... Applicant

(Shri M. Raghavendrachar, Advocate)

v.

1. Sr. Superintendent of Post Office,  
Mysore Division,  
Mysore.
2. Director of Postal Services (South),  
O/o the Postmaster General,  
Karnataka Circle,  
Bangalore-1. .... Respondents.

This application having come up for hearing  
to-day, Hon'ble Member Shri P. Srinivasan made the  
following:

ORDER

This application has come up for admission before  
us today. In the application, the applicant challenges  
order dated 14.4.1987 (Annexure-A) by which, in exercise  
of the powers conferred by rule 48 of the CCS (Pension)  
Rules, 1972 ('the Pension Rules'), the Senior Superin-  
tendent of Post Offices (SSPO) gave notice to the  
applicant that he would be retired from service on the  
forenoon of 1.7.1987. He was thus given three months'  
notice of retirement and was duly retired from service.

P. Srinivasan



2. Shri M. Raghavendrachar, learned counsel for the applicant, contends that earlier, a departmental inquiry was initiated against the applicant and an order of penalty was passed on 26.11.1986 reducing the applicant to a lower post <sup>ly</sup> and that by retiring him from service by the impugned order, the respondents had imposed a double penalty on him. If they had atleast retired him by way of penalty on 26.11.1986, he would have got higher pension, because the effect of reducing him to a lower post was to reduce his average emoluments for calculating his pension. According to him the order by which he was retired from service is really in the nature of penalty and therefore the applicant should have been given an opportunity of being heard.

3. Having heard Shri Achar, we are of the view that this application does not deserve to be admitted. Action retiring a person under Rule 48 of the Pension Rules is on all fours with action under rule 56(j) of the Fundamental Rules for retiring a person. The Government has the absolute right to retire a person if it considers it in the public interest to do so. It has been held in a long line of decisions of the Supreme Court that compulsory retirement of a government servant under such conditions is not a punishment and it is a facet of the doctrine of pleasure embodied in Article 310 of the Constitution. Compulsory retirement under Section 48 of the Pension Rules or under Section 56(j) of Fundamental Rules can be challenged only when there is no material to come to the conclusion that it was in public interest, or that

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the authority concerned had not come to the conclusion that it was in public interest, or that the action was arbitrary. The only charge made in the application and repeated before us was that there was no material, and that the applicant had not received any adverse remarks in the preceeding 5 years , and had even received an award during that period. On the other hand the applicant himself admits that disciplinary proceedings were initiated against him, and that a penalty was imposed on him on 26.11.1986. This itself shows that there was relevant material before the Government to come to the conclusion that it was in public interest to retire him. It is not for us to go into the sufficiency of the material. That he did not receive any adverse remarks in his confidential reports or that he received an award is not <sup>conclusive</sup> ~~conclusion~~ because the entire service records including disciplinary proceedings taken against the Government servant have to be taken into account for the purpose. Since retirement under Rule 48 of Pension Rules or FR 56(j) does not constitute a punishment, the question of holding an inquiry or giving an opportunity of being heard does not arise. We are therefore of the view that this application does not deserve to be admitted.

4. In the result, the application is rejected at the admission stage, without notice to the respondents.



"True copy"

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DEPUTY REGISTRAR

Member (J) 24.11.81

Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE

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