

REGISTERED

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

Dated : 24/9/87

APPLICATION NO 82

/87 (F)

W.P. NO

Applicant

Shri C.K. Naik

v/s The Superdt of Post Offices, Udupi & 2 Ors

To

1. Shri C.K. Naik
Sub-Postmaster
Hejmedi Post Office
Udupi Division
Dakshina Kannada District

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

3. The Superintendent of Post Offices
Udupi Division
Udupi - 576 101, Dakshina Kannada Dist.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

4. The Director of Postal Services
(S.K.)
Office of the Post Master General
Karnataka Circle
Palace Road, Bangalore - 560001

5. The Member (P)
Postal Service Board
Ministry of Communications
Department of Posts
New Delhi - 110 001

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Buildings, Bangalore-1

Please find enclosed herewith the copy of ORDER/STAY/

~~ORDER~~ passed by this Tribunal in the above said
application on 16-9-87.

Encl : as above

By-Subbaiah
DEPUTY REGISTRAR
SECTION ~~xx~~
(JUDICIAL)

Spcl Ctr 28/9/87

9C Red copy for
R 3 & R 4
H Jee
28/9/87

Issued
DR

29/9/87

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 16th DAY OF SEPTEMBER, 1987

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

Hon'ble Sri P.Srinivasan Member (A)

APPLICATION No. 82/87

C.K.Naik,
Sub-Postmaster,
Hejmadi Post Office,
Udupi Division. ... Applicant

(Sri U.Panduranga Naik ... Advocate)

V\$

1. The Supdt. of Post Offices,
Udupi Division,
Udupi - 576 101.

2. The Director of Postal Services (SK)
O/o the PMG, Karnataka Circle,
Palace Road, B'lore - 1.

3. The Member, (P)
Postal Services Board,
Ministry of Communications,
Department of Posts,
New Delhi - 1. ...

Respondents.

(Sri M.S.Padmarajaiah ... Advocate)

This application has come up before the Tribunal today.
Hon'ble Sri Ch.Ramakrishna Rao, Member (J) made the following :



O R D E R

This is an application filed under Section 19 of the
Administrative Tribunals Act, 1985 calling in question the
disciplinary proceedings initiated against the applicant
by the Superintendent of Post Offices, Udupi Division,
Udupi (R-1) and for quashing (i) the order dated 30.5.1984
(Annexure A) passed by R-1 in these proceedings; (ii) the
order dated 20.10.1984 passed by the Director of Postal
Services, Bangalore (R-2) in appeal and (iii) the order
of

dated 4.2.1986 passed by Member(P), Postal Services Board, New Delhi, (R-3) in review.

2. The facts giving rise to this application are briefly as follows : The applicant was working as Assistant Postmaster at Manipal in Dakshina Kanada District in 1982. He availed of Leave Travel Concession (LTC) to proceed to Bombay with his family. He included in his application for LTC the names of his parents and drew advance for performing the journey. He actually performed the journey on 15.12.1982 from Manipal to Bombay but his parents did not accompany him. According to him, he addressed a letter to R-1 from Udupi on 15.12.1982 under a certificate of posting to the effect that he was not availing of LTC in respect of his parents, who did not accompany him. He returned from Bombay and presented his LTC Bill without including therein the names of his parents. Thereafter, a memorandum was issued to the applicant (Memo I, for short) levelling against him the charge of misuse of the amount granted to him by way of advance for performing the LTC in respect of his parents, who actually did not travel. After receiving a representation from him, the penalty of withholding one increment for six months was passed on 30.4.1983 by the disciplinary authority. The applicant preferred an appeal against this order to R-2 and a review thereafter to R-3, who by his order dated 14.8.1985 reduced the penalty to one of censure.

3. On 24.4.1984, a memorandum was issued to the applicant (Memo II, for short) levelling the charge that he fabricated a certificate of posting bearing the postal seal dated 15.12.1982 in support of his statement that he wrote a letter to the competent authority from Udupi to the effect that he had not



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actually taken his parents with him. After the reply to Memo II was received, the disciplinary authority passed an order dated 30.5.1984 imposing the penalty of stoppage of one increment for one year without cumulative effect. He filed an appeal against this order to R-2 who dismissed the same by an order dated 20.10.1984. His further application for review to R-3 was rejected by order dated 4.2.1986. Aggrieved by these orders, the applicant has filed this application.

4. Sri U.Panduranga Naik, learned counsel for the applicant, strenuously contends that the disciplinary authority, having issued Memo I for misuse of the amount advanced to his client for performing the LTC and imposed the penalty of censure, was not justified in issuing Memo II levelling against his client the charge of fabricating the certificate of posting, on which his client relied to support his statement that he had written a letter from Udupi on 15.12.1982 to R-1 informing that he was not taking his parents with him to Bombay; that the charge in Memo II arose out of the same transaction in Memo I, namely, the misuse of the LTC advance; that the disciplinary authority erred in viewing the charges separately and issuing two memoranda at different points of time splitting up the charges; that his client was not allowed to cross-examine the persons from whom statements were obtained and on which reliance was placed by R-1 viz. Ramesh and Mallya. In view of these defects in the enquiry, Sri Naik maintains that the order passed against the applicant by the disciplinary, appellate and reviewing authorities are not legally tenable.



5. Sri M.S.Padmrajaiah, learned counsel for the respondents, refutes vehemently the contentions urged by Sri Naik and submits that there is no ~~not~~ ^{ambage} on the issue of two memoranda levelling two different charges though they may arise out of the same transaction because the gravamen of the charge in each of the memoranda was different; that no request was made by the applicant in his reply dated 10.5.1984 for cross-examination of Sarvashri Remesh and Mallya, whose statements were referred to in the imputations of misconduct, which accompanied the Memo II and the grievance of the applicant on this ground at this belated stage should not be entertained. ^(u)

6. We have considered the rival contentions carefully. We are satisfied that there is no illegality or impropriety attaching to the issue of two memoranda levelling two different charges against the applicant and initiating disciplinary proceedings one after the other. Sometimes it may happen due to inadvertence that all the charges are not included in one memorandum and such omission can be made good by issuing a second memorandum on a later date. We do not, therefore, find any substance in this contention.

7. Turning to the next contention of Sri Naik, the legal position is well settled that a delinquent has the right to cross-examine the persons, on whose statements reliance is placed by the disciplinary authority and this right unless exercised by the delinquent during enquiry or indicated in the reply to the Memorandum of charge, which he forwards to the disciplinary authority, such as Memo II in the present case, no grievance can be ventilated by the applicant at later stages of the proceedings. We have gone through the reply submitted



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by the applicant to Memo II and we find that he has not requested for cross-examining the persons from whom statements were obtained by R-1 and to which reference was made in Memo II. In the absence of such a request, we are satisfied that the proceedings initiated on the basis of Memo II are in order. We do not, therefore, find any infirmity in the impugned orders.

8. In the result the application is dismissed and in the circumstances, there will be no order as to costs.



Sd/-
MEMBER (J) 11111

Sd/-
MEMBER (A)

- True Copy -

By. Venkatesh
DEPUTY REGISTRAR *24/9/*
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE