

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH : : BANGALORE.

Present: Hon'ble Mr. Justice K.S. Puttaswamy, Vice-Chairman,
and

Hon'ble Mr. P. Srinivasan, Member (AM).

DATED THIS THE SEVENTEENTH DAY OF FEBRUARY, 1987.

Application No. 87 of 1987


V. Padmanabhan,
L.S.G. Sorting Asst.,
Bangalore Sorting Office,
Bangalore. ...Applicant.
(Shri M. Raghavendrachar, Advocate)
vs.

1. Senior Superintendent of Post Offices,
R.M.S. Division,
Bangalore.
2. Enquiry Officer and Asst. S.P.O.,
Kolar Sub-Division, Kolar. ...Respondents.
(Shri M. Vasudeva Rao, Addl. CGSC)

This application having come up for admission
before this Tribunal today, Hon'ble Vice-Chairman made
the following:

O R D E R


This case was posted for admission before us with
an interim prayer made by the applicant. At our direction,
Shri M. Vasudeva Rao, learned Additional Central Government
Standing Counsel takes notice for the respondents. He is
permitted to file his memo of appearance for them within
15 days from this day. As agreed to by both sides, this
case is treated as listed for hearing today and is accor-
dingly heard.



2. In this application made under Section 19 of the Administrative Tribunals Act, 1985 ('the Act'), the applicant has challenged Memo No. K4/40/85-86 dated 5.12.1986 (Annexure-A) of the Senior Superintendent, RMS, Bangalore Division ('Superintendent').

3. In a disciplinary proceeding instituted against the applicant under the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('the rules'), the Superintendent had permitted him to be defended by one Shri Honnanjappa, a Sorting Assistant of the Department. On 5.12.1986, the Superintendent had revoked the said permission granted to Shri Honnanjappa and had permitted the applicant to choose any other official as his Defence Assistant ('DA') immediately, the validity of which is challenged by him, on a number of grounds. But at the hearing, Shri M. Raghavendrachar, learned counsel for the applicant, in our opinion, very fairly and rightly, has confined the challenge of the applicant only to the reasonable time to be granted for engaging the services of another DA. We, therefore, proceed to examine this aspect only.

4. Whenever an authority decides to revoke an earlier permission granted to a DA and accords permission to engage the services of another DA, it is necessary for that authority to grant a reasonable




time to engage the services of another DA to conduct the enquiry before an enquiry officer. A DA to be chosen cannot be compelled to proceed with the enquiry immediately. If that is done, then there would not be a proper and just enquiry. We are, therefore, of the view that the submission made by Shri Achar that the applicant should be given a reasonable time to engage the services of another DA and proceed with the enquiry is well-founded.

5. On the facts and circumstances of the case, we are of the view that atleast one month's time should have been given by the Superintendent. We propose to grant the same from this day.

6. Shri Achar submits that a direction be also issued to the enquiry officer (EO) to allow any application to be made by the applicant for recalling witnesses already examined. We cannot issue any such direction to the EO at any rate at this stage. But if any such application is made, the EO is bound to consider the same and make his orders in accordance with law. We have no doubt that the EO will do so.

7. In the light of our above discussion, we make the following orders and directions:



(1) we dismiss this application in so far as it challenges the order dated 5.12.1986 of the Superintendent revoking the earlier permission granted to Shri Honnanjappa and permit the applicant to engage the services of another DA; and

(2) we grant a month's time from this day to the applicant to engage the services of another DA of his choice; But till then only, we direct the respondents not to proceed with the enquiry against the applicant.

8. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

9. Let this order be communicated to the parties within five days from this day.

K. S. Prasad
VICE CHAIRMAN
17/2/87

P. S. Rao
MEMBER (AM)
17/2/87

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