

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

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

Dated: 25 Nov 87

APPLICATION NO 1004 /87 (F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

K.L. Nayak
To

Director General, Dept. of Posts,
N. Delhi and 20s.

1. Shri K. Leelanga Nayak,
Superintendent of Post Offices,
Chickmagalur.
2. Shri M. Narayana Swamy,
Advocate,
No. 844 (Upstairs), V Block,
Rajaji Nagar, Bangalore-10.
3. The Director General,
Department of Posts,
Dak Tar Bhowan,
New Delhi -1.
4. The Post Master General,
Karnataka Circle,
Bangalore-1.

5. Shri K.R. Vijaya Raghavan,
H.S.G.I. Post Master,
HAL II Stage,
HO Bangalore.
6. Shri M.S. Padmarajiah
Advocate (Sr. C.A.S.C.),
High Court Building,
Bangalore-1.

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 18 Nov 87.

RECEIVED 6 Copies 26/11/87

Diary No. 1466/CR/87

Date: 27.11.87 AB

Encl: as above.

Dr. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

ofc

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 18TH DAY OF NOVEMBER, 1987

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 1004/87

Shri K. Leelayya Nayak,
s/o Ganapathi Nayak,
aged 56 years,
Superintendent of Post
Offices, Chickmagalur.

.... Applicant.

(Shri M. Narayanaswamy, Advocate)

v.

1. The Director General,
Department of Posts,
Dak Tar Bhavan,
Sansad Marg, New Delhi.
2. The Post Master General,
Karnataka Circle,
Bangalore.
3. Sri K.R. Vijayaraghavan,
Major, H.S.G.I, Post Master,
HAL II Stage, HO, Bangalore
(now promoted as PSS Group-B
and allotted to Karnataka
Circle and posted in place
of the applicant)

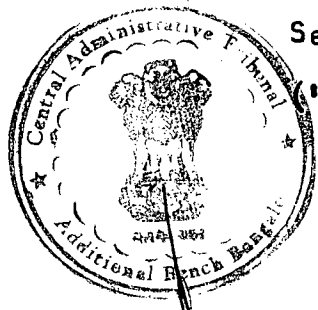
.... Respondents.

(Shri.M.S. Padmarajaiah, S.C.G.S.C.)

This application having come up for hearing to-day,
Vice-Chairman made the following:

O R D E R

This is an application made by the applicant under
Section 19 of the Administrative Tribunals Act, 1985
(the Act').



2. From 1982 the applicant has been working as the Superintendent of Post Office, Chickmagalur.

3. In its order No.9/7//87-SPG dated 3.11.1987, Government of India in the Ministry of Communications Department of Posts, (Govt) had allotted the applicant and one Shri K. Sanjiva Shetty, applicant in A.No.1003/87 to Tamil Nadu Circle with immediate effect in the interest of service, with appropriate directions thereto for implementing the same. In pursuance of the same, the PMG by his order No.STA/O-2/R/87-88 dated 10.11.1987 (Annexure-H) had directed the competent authority to forthwith relieve the applicant and Shri Sanjeava Shetty to enable them to join their new posts in the Tamil Nadu Circle. In this application, the applicant has challenged the orders dated 3.11.1987 and 10.11.1987 as arbitrary and illegal and unjust.

4. Shri M. Narayanaswamy, learned Advocate has appeared for the applicant. Shri M.S. Padmarajaiah, learned Senior Standing Counsel for Central Government has taken notice and has appeared for Respondents 1 to 2.

5. Shri M. Narayanaswamy, contends that the allotment of the applicant, who has hardly one year and seven months of service to retire and against whom an unjustified charge Memo had been made and served on him for making representations to promote him to the post of Senior Superintendent, was arbitrary and illegal.



6. Shri Padmarajaiah, contends that the allotment made by the Government and the consequent order made by the PMG were in the public interest, and the same should not be interfered with by this Tribunal.

7. In his application, the applicant while challenging the order dated 3.11.1987 had not produced the same as the same had not been furnished to him.

8. At our request Shri Padmarajaiah has made available a copy of the same and the same reads thus:

" ORDER

Subject: Postings and transfers of officers of PSS Group 'B'.

....

The undersigned is directed to say that the following officers of PSS Group 'B', presently working in Karnataka Circle are transferred and allotted to Tamil Nadu Circle with immediate effect in the interest of service.

1. Shri K. Leelayya Nayak.
2. Shri K. Sanjiva Shetty.

The PMG, Tamil Nadu Circle will intimate the station of posting of the above officers to PMG, Karnataka Circle Bangalore immediately.

Charge reports of the officers may be forwarded in due course.

Sd:
(S. Chadha)
Director (Staff)"



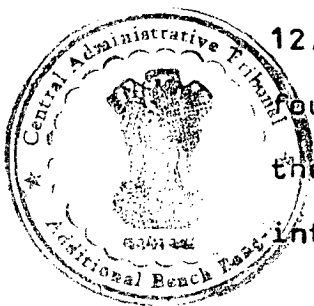
In this order Government had stated that the allotment of the applicant was made in the interest of service. The term 'interest of service' necessarily means that the same was in the interest of public service. We need hardly say that the PMG on 10.11.1987 had only given effect to this order which he was in duty bound to do.

9. The power of Government to allot the applicant from one circle to another is not rightly disputed by Shri Narayanaswamy.

10. In this application, the applicant had not challenged the charge memo issued to him. In the absence of a challenge to the same, we cannot examine its validity or rely on the same for any purpose. If that is so, we cannot take that fact into consideration in examining the validity of the order made by Government on 3.11.1937.

11. Every one of the allegations made by the applicant, which were very passionately highlighted by Shri Narayanaswamy at the hearing do not even suggest that the statement of the authority that the allotment of the applicant was made in the public interest was not true and inaccurate. If that is so, then this Tribunal must necessarily accept the same and examine the case on that basis only.

12. When a duly constituted authority like Government had found that the allotment of the applicant was necessary in the public interest then this Tribunal should be loath to interfere with the same on any ground. We cannot also examine



the grounds urged by the applicant as if we are a court of appeal and come to a different conclusion. In matters of allotment and transfers, this Tribunal cannot usurp the powers of Government and other authorities and stifle the functioning of the administration.

13. On the view we have expressed, we decline to examine the grounds urged by the applicant. But that cannot and does not prevent Government itself to reexamine them if a representation is made by the applicant. We do hope and trust that when a representation is made by the applicant, Government will entertain the same and pass such order as the circumstances so justify without in any way being influenced by this order.

14. On the foregoing discussion we hold that this application is liable to be rejected. We, therefore, reject this application subject to what we have expressed at para 13 of the order. But in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-
Vice-Chairman

18/11/1957

D F - 48 27
Sd/-
Member (A)

- True copy -

bsv/Mrv.

B. V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
20/11