

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex(BDA)

Indiranagar

Bangalore - 560 038

Dated : 23 MAR 1988

APPLICATION NO

814

/ 87(F)

W.P. NO.

Applicant

Shri B. Allabakshi

To

1. Shri B. Allabakshi
S/o Shri Babasab
Hoovinahadagali
Bellary District

2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050

3. The Superintendent of Post Offices
Bellary Division
Bellary - 583102

4. The Sub Divisional Inspector (Postal)
Harapanahalli Division
Harapanahalli
Bellary District

5. Shri B. Durgappa
S/o Shri G. Mariappa
Harijanawada
Hoovinahadagali
Bellary District

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Respondent

v/s The Supdt of Post Offices, Bellary & 2 Ors

*My copy
2K-3-88* Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~XXXXXX~~ ORDER
passed by this Tribunal in the above said application on 16-3-88.

R. Venkateshwaran
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

jc.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE
DATED THIS THE SIXTEENTH MARCH, 1988

Present: Hon'ble Justice Shri K.S. Puttaswamy ...Vice-Chairman
Hon'ble Shri L.H.A. RegoMember (A)

APPLICATION NO. 814 of 1987

B Allabakshi, S/o Sri Babsab,
aged about 25 years, Ex.EDMC,
Hoovinahadagali, Bellary Dist.
Bellary.

Applicant

(Sri M.R. Achar.....Advocate)

Vs.

1. Superintendent of Post Offices,
Bellary Division, Bellary.
2. Sub Divisional Inspector,
Harpanahalli Division,
Harpanahalli.
3. Sri B Durgappa, S/o Sri
G Mariappa, Harijanawada,
Hoovinahadagali, Bellary
District, Bellary.

Respondents

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

This application has come up for hearing before
this Tribunal to-day, Hon'ble Justice Shri K.S. Puttaswamy,
Vice-Chairman, made the following :

O R D E R

In this application made under section 19 of
the Administrative Tribunal Act, 1985, the applicant
has challenged the order No. B5/41(f) dated 30.4.1985
of the Superintendent of Post Offices, Bellary Division,
Bellary ('SPO') communicated by the Sub-Divisional
Inspector of Posts, Hoovinahadagali ('SDI') on
5-7-1985 (Annexure B).

2. The applicant is a resident of Hoovinahadagali
village of Bellary District. On an application

made by him, the Assistant SPO, Hoovinahadagali ('ASPO') appointed him as the Extra-Departmental Mail Carrier ('EDMC') of Hoovinahadagali S.O., on the terms and conditions set out in that order. On a complaint made by respondent No.3, who was also a rival applicant to the post of EDMC, Hoovinahadagali, the SPO here made an order against the applicant on these terms:

"The appointment of Sri Allabakshi as EIMC Hoovinahadagali, is irregular. Sri G. Durugappa may be appointed as EIMC, removing Sru Allabakshi, subject to promotion of caste certificate which may be obtained later at the time of appointment."

This order has been communicated by the SDI on 5.7.1985. On receipt of this order, the applicant made a representation to the Director of Postal Service, North Karnataka Region, Dharwad ('Director'), who by his reply dated 18.10.1985 has stated thus:

"The S.P.Os Bellary has been asked to accommodate you in some other vacancies as soon as it is administratively convenient. It is hoped that the needful will have been done."

This reply was communicated to the applicant by Registered Post Acknowledgement Due, and was received by him on 4.11.1985. The applicant has presented this application on 21.9.1987. If the limitation is computed from 5.7.1985, then there is a delay of 1 year and 78 days. But if the limitation is computed from 4.11.1985, which is more proper, then there is a delay of 321 days. In I.A. 1, the applicant has sought for condoning the said delay.

3. I.A. 1 and the main application are opposed by respondents 1 and 2.

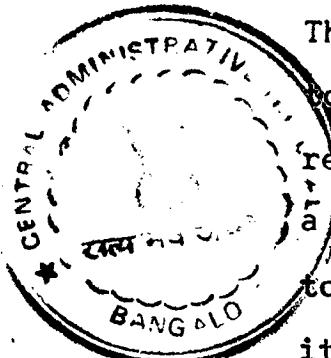


4. Shri M. Raghavendrachar, learned counsel for the applicant, contends that everyone of the facts and circumstances stated in I.A.1 constitute a sufficient cause for condoning the delay of 321 days, and that delay be condoned and the application decided on merits.

5. Shri M.S. Padmarajaiah, learned Senior CGSC, appearing for respondents 1 and 2, contends that everyone of the facts and circumstan stated by the applicant in I.A.1 which are vague and general, do not constitute a sufficient cause for condoning the delay of 321 days.

6. In I.A.1, the only ground stated by the applicant is that he is a poor and innocent person, and that he was told that he would be accommodated at Hoovinahadagali or elsewhere in terms of the directions issued of the Director on 18.10.1985 which had not been done so far by his subordinates.

7. The applicant has passed II PUC and was the son of a Mail Carrier who was working in the area. The claim of the applicant that he is a poor and an innocent person is factually incorrect. The fact that the authorities have not been able to accommodate the applicant so far for various reasons narrated by them in their reply, is hardly a ground to hold that there is sufficient cause to condone the delay of 321 days. On these facts, it is clear that the applicant had not shown sufficient cause for the condoning the delay. In this view, I.A. No.1 is liable to be rejected. When once



we hold that I.A. 1 is liable to be rejected, the question of examining the merits does not arise. We, therefore, decline to examine the merits.

8. Mr. Achar however complains that respondent-3 who has been appointed in place of the applicant, has not been really discharging his duties, and is getting the work discharged through his brother, however receiving the remuneration attached to the post. Whether this is so or not, cannot be properly examined by us in this application. But we have no doubt that this is a matter that has to be taken note of by the authorities, examined and decided by them in accordance with law. We have not doubt that they will do so.

9. In the light of our above discussion, we hold that I.A. 1 and the main application are liable to be rejected. We, therefore, reject I.A.1 and the main application. But in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-

(K.S. PUTTASWAMY)
VICE-CHAIRMAN

Sd/-

(L.H.A. REGO)
MEMBER (A)

TRUE COPY

Replies have been rejected
DEPUTY REGISTRAR (JD)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE