

GENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 28 MAR 1988

APPLICATION NO

844

/ 87(F)

W.P. NO.

Applicant

Shri R. Syed Shermaiz Hussain

To

Respondent

v/s The PMG, Karnataka Circle, Bangalore
& another

1. Shri R. Syed Shermaiz Hussain
Sub-Post Master
District Board Post Office
Bellary - 583 102
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050
3. The Post Master General
Karnataka Circle
Bangalore - 560 001
4. The Chairman
P & T Board
New Delhi - 110 001
5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/SIXTH/PAPERWORK ORDER
passed by this Tribunal in the above said application on 23-3-88.

R. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

Q/C

*General
W.M.L.V.
19/3/88*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE TWENTY THIRD MARCH, 1988

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

APPLICATION NO.844 OF 1987

R.Syed Shermaz Hussain,
Major, Sub-Post Master,
District Board Post Office,
BELLARY -583 102.

Applicant

(Sri M. Raghavendrachar....Advocate)

Vs.

1. Post Master General,
Karnataka Circle,
Bangalore.
2. The Chairman,
P & T Board,
NEW DELHI

Respondents

(Shri M. Vasudeva Rao....Advocate)

This application has come up for hearing
before this Tribunal to-day, Hon'ble Shri L.H.A.Rego,
Member (A), 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. On 20-12-1952 the applicant joined
service as a Postal Assistant in the Karnataka
Circle of the Postal Department of Government
of India. On his own request he was transferred
to Bombay Circle in 1964 and has again been
re-transferred from Bombay Circle to Karnataka
Circle from 3-9-1965 from which time he has been
working in the Karnataka Circle.

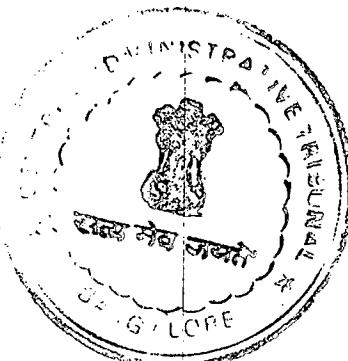


3. On joining the Karnataka Circle, the applicant claimed that his previous service from 20-12-1952 should be reckoned for purpose of seniority and the rank appropriate to his service be assigned to him, which has been rejected by the authorities. Hence, this application.

4. In resisting the application, the respondents have filed their reply and have produced their records.

5. Sri M. Raghavendrachar, learned counsel for the applicant contends that the transfer of his client from Karnataka Circle to Bombay Circle and from Bombay Circle to Karnataka Circle were all in the interest of public service and, therefore, the entire service rendered by him from the commencement of his career must be reckoned in determining his seniority and the denial of the same was illegal, improper and unjust.

6. Sri M. Vasudeva Rao, learned Additional Standing Counsel for the Central Government appearing for the respondents, contends that the transfers of the applicant from Karnataka Circle to Bombay Circle and from Bombay Circle to Karnataka Circle were all at his own request and, therefore, he cannot reckon the entire service for purpose of seniority. Sri Rao also contends that this application which seeks to reopen matters concluded prior to 1-11-1982 cannot be entertained and adjudicated by this Tribunal as ruled by this Tribunal in



V.K.MEHRA v. MINISTRY OF INFORMATION AND BROADCASTING
New Delhi (ATR 1986 CAT 203) and (Smt) Kshama Kapoor
vs. Union of India (1987(4) ATC 329). In the very
nature of things it is necessary to examine this
preliminary objection of Sri Rao first.

7. On the very claim made by the applicant, the Director General of Posts and Telegraphs who is the head of the department rejected the same on 29.2.1982 and communicated the same also to the applicant through his subordinates. That order made by the Director General on 29.9.1982 reads thus:

"I am directed to refer to your letter No. STA/11-III dated 22/23.9.81 forwarding a petition dated 15.8.81 addressed to the Chairman P & T Board, from Shri R. Sayed Shermaz Hussain in which he prays for restoration of his seniority and to say that after careful consideration, the Director General sees no reason to interfere on behalf of the petitioner and has, therefore, rejected the petition. Shri R.S.S. Hussain may be informed accordingly."

From this order it is clear that the claim of the applicant had been rejected by the Head of the Department prior to 1-11-1982. If the claim had been rejected prior to 1-11-1982 as ruled by this Tribunal in Mehra and Kshama Kapoor's cases, this Tribunal has no jurisdiction to entertain this application and examine the grievance on merits. But, out of deference to Mr. Achar, we propose to examine the merits also.

6. When the applicant sought for transfer from Bombay Circle to Karnataka Circle on his



own request, he has given an undertaking on 18-8-1965 undertaking to claim bottom seniority. We have shown that undertaking to Mr. Achar and perused the same. From this undertaking it is clear that the claim of the applicant that his transfer was in the public interest and, therefore, he was entitled to count his entire service is untrue and cannot be upheld. Even on merits, the claim of the applicant has no legs to stand.

7. As all the contentions urged for the applicant fail this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-
(K.S.PUTTASWAMY)
VICE-CHAIRMAN
23/3/1988.

Sd/-
(L.H.A.REGO)
MEMBER(A)
23.3.88

TRUE COPY

R. Venkateshwaran
DEPUTY REGISTRAR (JD)
CENTRAL ADMIN. STRAT. TRIBUNAL
BANGALORE
23/3/88