

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex(BDA)

Indiranagar

Bangalore - 560 038

Dated : 9 MAY 1988

IA I IN

APPLICATION NO

867

/87(F)

W.P. NO.

Applicant

Shri Tajuddin

To

Respondent

V/s The Supdt. of Post Offices, Chitradurga
& another

1. Shri Tajuddin
Kohinoor Bedding Shop
40th Cross, T Block
Bangalore - 560 041
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050
3. The Superintendent of Post Offices
Chitradurga Division
Chitradurga - 577 501
4. The Director of Postal Services
North Karnataka Region
Dharwar - 580 001
5. Shri M.S. Padmarajaiah
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/~~STAY~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said application on 4-5-88.

SECTION OFFICER
~~SECTION OFFICER~~
(JUDICIAL)

Encl : As above

**IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL ADDITIONAL BENCH,
BANGALORE**

Application No. 867/87(F)

Tajuddin

V/s

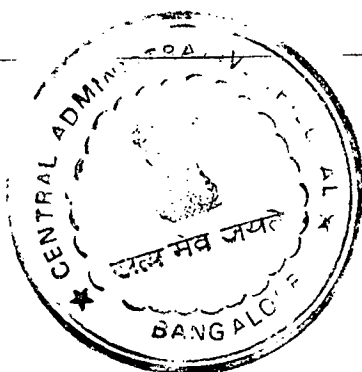
The Supdt. of Post Offices, Chitradurga
& another

M. Raghevendra Achar

Order Sheet (contd)

M.S. Padmarajaiah

| Date | Office Notes | Orders of Tribunal |
|------|--------------|---|
| | | <p><u>LHAR/RKR</u></p> <p>None present for the applicant.</p> <p>Shri M.S. Padmarajaiah appears for the respondents and requests for six months' & more time from 12-5-88 to enable him to file SLP in the Supreme Court. We feel that the extension of time requested for is rather excessive. However, taking into account the vacation in the Supreme Court intervening, we grant his request for a period of three months from 12-5-1988 to comply with our orders.</p> |



TRUE COPY

[Signature]
SECTION OFFICER 9/5
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
MEMBER(A) 4.5.88
4.5.88

Sd/-
MEMBER(J)
4.5.88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 1st day of February, 1988

Present : Hon'ble Justice Sri K.S. Puttaswamy

Vice-Chairman

Hon'ble Sri P. Srinivasan

Member (A)

APPLICATION No. 867/87

Tajuddin,
Kohanoor Bedding Shop,
40th Cross, T Block,
Bangalore - 41.

Applicant

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

vs.

1. The superintendent of Post Office,
Chitradurga Division,
Chitradurga.

2. The Director General of Postal
Services, North Karnataka Region,
Dharwar.

Respondents

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

This application has come up before the court today. Hon'ble Sri P. Srinivasan, Member (A) made the following :

O R D E R

The applicant who joined the Postal Department as an Extra-Departmental Agent in 1964, was appointed as a Postman in the regular service of the department w.e.f. 25.6.1975. By a memo dated 20.2.85, the Superintendent of Post Offices, Chitradurga Division, ('SPO') informed the applicant that a departmental inquiry would be initiated against him in respect of two articles of charge levelled against him. The two articles of charge levelled against him referred to non-payment of six money orders to various parties, and/or failure to obtain signatures of the payees. An Inquiry Officer ('IO') was appointed. In his report dated 12.9.86, the IO held the charges in respect of 5 out of the 6 transactions comprised in both the articles



of charges as proved and in respect of the sixth as not proved. Thereupon, the disciplinary authority namely the SPO, agreeing with the findings of the IO, imposed the penalty of dismissal from service by order dated 20.10.1986. The applicant filed an appeal to the Director of Postal Services, Dharwad, who rejected the same by order dated 30.3.1987. Hence this application.

2. Though the inquiry proceedings have been challenged on several grounds in the application, when the matter was heard, Sri Achar, learned counsel for the applicant, laid stress on the contention relating to the quantum of penalty imposed on the applicant. In the appeal filed by the applicant, he had cited instances of two other postmen, who had been charged with similar offences but were given lighter punishments. But the appellate authority had not considered this at all. Sri Achar, therefore, submitted that the penalty imposed on the applicant was disproportionate to the offence with which he was charged and that it should be reduced. He also pointed out that the applicant had duly paid to the department the amounts of the money orders in respect of which he was charged with manipulation, and these amounts had been retained by the respondents. In effect, therefore, he had also been punished with recovery of these amounts, though no charge had been levelled against him in regard to the loss occasioned to the Government by his actions. Once the respondents imposed the punishment of dismissal on the applicant on the charges levelled against him, they should have at least refunded the amount which he had earlier paid with the hope that he would not be proceeded against in the matter.

3. Sri Padmarajaiah, learned counsel for the respondents, submitted that the punishment of dismissal from service



P. L. B.

was reasonable and justified considering the gravity of the offence with which the applicant was charged. So far as the amounts paid earlier by the applicant were concerned, Sri Padmarajaiah pointed out that this was not recovery made by the respondents after initiating disciplinary proceedings; the applicant had paid the said amounts himself. Therefore, it was not proper to suggest that a separate article of charge ought to have been framed to effect the recovery of the said amount.

4. Having considered the rival contentions carefully, we are of the view that the inquiry proceedings were properly held and we uphold the findings of the IO and of the disciplinary and appellate authorities. We are also of the view that the penalty imposed on the applicant was proper considering the nature and seriousness of the offence with which he was charged. He was charged with non payment of a number of money orders running into over Rs.3000/- . This was clearly an action involving moral turpitude. We, therefore, confirm the penalty of dismissal from service imposed on the applicant. As regards the amount ^{paid} of the ^{paid} money orders by the applicant, we feel that he is entitled to a refund of the same. Even though the applicant may have paid the amounts voluntarily, the respondents retained the said amount without having raised a charge against him for that amount by way of penalty or otherwise. Once disciplinary proceedings were initiated alleging that he had not paid the amounts of the MOs to the payees or had not obtained their signatures, the question of recovery of the said amount did not arise, unless that was also made a specific charge in the memorandum of charges. The respondents, therefore, had no right to retain this amount and what they could not retain in law, they have necessarily to refund.



P. S. V.

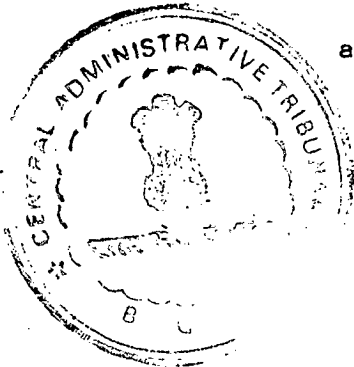
We would, therefore, direct the respondents to repay the applicant the amounts of MOs earlier paid by him.

5. In the result, we dismiss this application and confirm the penalty of dismissal from service imposed on the applicant. We direct the respondents to refund the applicant whatever amounts he may have paid to the respondents in respect of MOs referred to above, within a period of three months from the date of receipt of this order. Parties to bear their own costs.

Sd/-
VICE-CHAIRMAN
12/88
TRUE COPY

Sd/-
MEMBER (A)

an.



P. V. Venkatesh Reddy
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE
10/12/88

