

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 23 MAR 1988

APPLICATION NO 893 / 87(F)
W.P. NO. _____

Applicant

Shri Shivappa Banekal

V/s

Respondent

The Director, Postal Services(NK),
Dharwad & another

To

1. Shri Shivappa Banekal
C/o Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 50
3. The Director of Postal Services
North Karnataka Region
Dharwad - 1
4. The Post Master General
Karnataka Circle
Bangalore - 560 001
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/~~2222/2222222222~~
passed by this Tribunal in the above said application on 14-3-88.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 14TH DAY OF MARCH, 1988

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

APPLICATION NO. 893/1987

Shri Shivappa Banekal,
S/o Hanumappa Banekal,
Branch Post Master,
Gangavathi Taluk,
Raichur District.

... Applicant

(Shri M. Rayhavendrachar, Advocate)

v.

1. The Director,
Postal Service,
North Karnataka Region,
Dharwar.

2. Post Master General,
Karnataka Circle,
Bangalore.

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

... Respondents

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

O R D E R

In this application made under Section 19 of the
Administrative Tribunals Act, 1985 ('Act') the applicant
has challenged Order No. STA/9-4/23/87 dated 2.4.1987 of
the Post Master General, Karnataka Circle, Bangalore ('PMG')
and order No. NKR/VITG/4-31/86 dated 26.6.1986 of the
Director of Postal Services, North Karnataka Region,
Dharwad ('Director').



2. At the material time, the applicant was working as an
Extra Departmental Branch Post Master ('EDBPM') at Bandihar-
lapur Branch Post Office attached to Munirabad Railway Stat-
ion Post Office. In his capacity as EDBPM, the applicant
was stated to have mis-utilised a sum of Rs.50/- which should

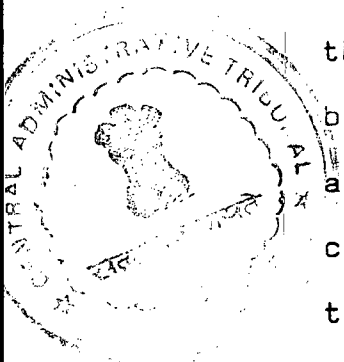
have been otherwise paid to one Smt. Mallavva, who was in receipt of old-age pension. On noticing the same the Superintendent of Post Offices, Raichur Division, Raichur ('Superintendent') issued a charge memo on the applicant and recovered that amount from him on 18.3.85 and made an order on 16.12.1985 in these terms:

"I, M.V. Devarajan, Supdt. of Post offices, Raichur Division, Raichur hereby let off Shri Shivappa Hanumappa Benkal, BPM (POD) Bandhiharapur with a severe warning and order for his reinstatement with immediate effect."

In pursuance of this order of the Superintendent, the applicant was reinstated to service. The applicant did not also challenge the same in any legal proceeding. But the Director, in exercise of the powers conferred on him by Rule 16 of the P&T Extra-Departmental Agents (Conduct and Discipline) Rules, 1964 ('the Rules'), issued, show cause notice to the applicant, considered his representations and made an order on 26.6.1986 (Annexure-B) removing him from service. Aggrieved by this order, the applicant filed an appeal before the PMG, who by his order dated 2.4.1987 had dismissed the same. Hence this application.

3. In justification of the impugned orders, the respondents have filed their reply and have produced their records.

4. Shri M. Raghavendrchar, learned Counsel for the applicant, contends that on the very peculiar facts and circumstances explained before the Superintendent, his client, had misutilised the Money Order amount payable to

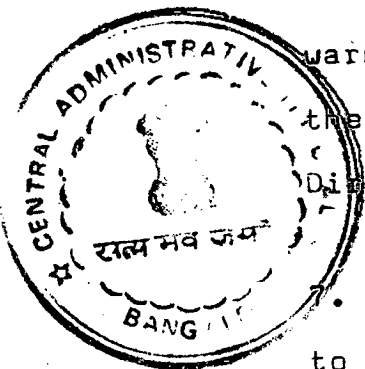


Smt. Mallavva, which he had also repaid to Government and all those facts only justified a warning as imposed by the Superintendent and did not justify any higher punishment than the one imposed by him.

5. Shri M.S. Padmarajaiah, learned Senior Standing Counsel for Central Government, appearing for the respondents, sought to support the impugned orders.

6. Before the Superintendent, who initiated the disciplinary proceedings, the applicant did not controvert the misutilisation of the amount and admitted the same. But he pleaded various facts and circumstances as compelling him to misutilise the amount, which he later paid. On an examination of all the facts and circumstances the Superintendent let off the applicant, with a severe warning, though the rules do not provide for such a punishment at all. On an examination of the very facts and circumstances, the Director had found that everyone of them justified the removal of the applicant from service and not a severe warning, which is not contemplated by the rules. On appeal the PMG had concurred with the punishment imposed by the Director.

7. Rule 16 of the Rules, conferred power on the Director to review the order made by the Superintendent and enhance the punishment imposed on the applicant. If that is so, we cannot hold that the order made by the Director was not within his jurisdiction. We are of the view that the order made by the Director was within his jurisdiction. When once we find that the order made by the Director was within



his jurisdiction, we cannot, normally, take exception to the nature and quantum of punishment imposed by him with which the PMG had also concurred.

8. As noticed earlier, the applicant had admitted his guilt. When once he had admitted his guilt, the only question that survives for our consideration is one of punishment. The rules only provide either for removal or dismissal. The Director, on an examination of all the facts and circumstances of the case, had imposed the minimum punishment of removal from service provided by the rules. If that is so, we cannot take exception to the nature and quantum of punishment imposed by the Director and upheld by the PMG. In this view, we cannot interfere with the impugned orders made against the applicant.

9. An order of removal does not bar a fresh appointment. The applicant appears to be a young man and had been compelled to misutilise the amount in somewhat compelling circumstances. Even though we find that the punishment imposed on the applicant cannot be interfered with by us, we are constrained to observe that this is a fit case in which the authorities should rehabilitate the applicant when there is an opportunity to rehabilitate him in any post in any place in the near future. We do hope and trust that the authorities will do so.

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10. In the light of our above discussion, we hold that 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.

DEPUTY REGISTRAR (JULY)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE
VICE-CHAIRMAN

Sd/-

MEMBER (A) 14.3.1988