

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 30 SEP 1988

APPLICATION NO.

1013

/ 87(F)

W.P. NO.

Applicant(s)

Shri Basappa Bimappa Birader
To

Respondent(s)

V/s

The Director of Postal Services, NK Region,
Dharwad & another

1. Shri Basappa Bimappa Birader
S/o Shri Bimappa Birader
At & P.O. Hallur
Muddebihal Taluk
Bijapur District
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
3. The Director of Postal Services
North Karnataka Region
Dharwad - 580 001

4. The Post Master General
Karnataka Circle
Bangalore - 560 001
5. Shri M.S. Padmarajiah
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(s) on 21-9-88.

Encl : As above

Deputed
K. Wafar
30-9-88

9c

Deputy Registrar
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 21ST DAY OF SEPTEMBER, 1988

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

APPLICATION NO. 1013/87

Shri Basappa Bimappa Birader,
S/o Shri Bimappa Birader,
at and post Hallur,
Muddebihal Taluk,
Bijapur District.

.... Applicant.

(Shri M. Raghavendrachar, Advocate)

v.

1. The Director of Postal Services,
N.K. Region,
Dharwad.

2. The Post Master General,
Karnataka Circle,
Bangalore.

.... Respondents.

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

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/9-3/21/87 dated 18.8.1987 (Annexure-B) of the Postmaster General, Karnataka Circle Bangalore, and Appellate Authority (AA) and order No.NKR/STA/23-VII/BBB dated 30.3.1987 (Annexure-A) of the Director of Postal Services, N.K. Region, Dharwad, and Disciplinary Authority (DA).

2. At the material time, the applicant was working as Sub Post Master (SPM) at Narayanpur, Gulbarga District.



In the performance of his duties as SPM, the DA noticing several omissions and commissions, initiated disciplinary proceedings under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (Rules) against the applicant on four charges, which read thus:-

" ARTICLE I

That Sri. B B Birader, while functioning as SPM Narayanpur during the period from Oct.1984 to Jan.85 is alleged to have kept a sum of Rs.1179/- short in Office cash and Stamps balances on 1.1.85 thereby contravening the provisions of Rule 658 and 659 of P & T Man.Vo. VI part III.

ARTICLE II

That during the aforesaid period and while functioning in the aforesaid office, the said sri B B Birader is alleged to have failed to keep the office cash and stamp balances in joint custody with the office P.A. as prescribed in Rule 658 of P & T Man. Vol.VI and also exhibited lack of devotion to duty in violation of Rule 3(1)(ii) of CCS (Conduct) Rules.

ARTICLE III

That during aforesaid period and while functioning in the aforesaid office, the said Sri BB Birader is alleged to have retained cash in excess of the authorised maximum without having actual liabilities on hand. Further, he is alleged to have shown the amount of liability on his daily account fictitiously. Shri B B Birader is therefore, alleged to have failed to observe the provisions of Rule 605 and 677 (B) of Vol.VI Part III.

ARTICLE IV

That during the aforesaid period and while functioning in the aforesaid office, the said Sri B B Birader is alleged to have remained unauthorisedly absent from his duty as SPM from 14.30 hrs on 31.12.84 to 15.50 hrs. on 1.1.85, contravening the provisions of Rule 62 of P & T Man.Vol.III and exhibited lack of devotion to duty violating the provisions of Rule 3(1)(ii) of CCS (Conduct) Rules 1964."

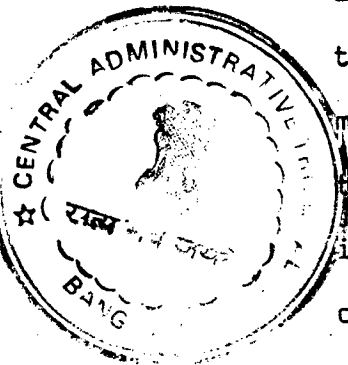
3. As the applicant filed a statement denying the charges levelled, the DA appointed an Inquiry Officer (IO) to inquire into the truth or otherwise of the charges and submit his report to him. On that, the IO held an inquiry and submitted his report to the DA on 10.9.1986 holding the applicant guilty of all the four charges. On an examination of the report of the IO and the records, the DA concurring with the findings of the IO, by his order made on 30.3.1987 inflicted on the applicant the penalty of removal from service. Aggrieved by this order, the applicant filed an appeal before AA who, by his order made on 18.8.1987 had dismissed the same. Hence this application.

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

5. Shri M. Raghavendrchar, learned counsel for the applicant, contends that on the very findings recorded by the AA in his order, he should have modified the punishment imposed on his client to any one of the minor penalties and at the highest to one of compulsory retirement, in the place of removal from service, denying the applicant the benefits of his service for about 23 years.

6. Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the respondent, vehemently opposes any modification in punishment by the authorities.

7. In his order, the AA had expressed that the applicant had admitted his guilt and had only pleaded for a reduction in the penalty imposed on him. Shri



opinion, rightly did not dispute this correctness of this observation of the AA. If that is so, then the only question that calls for our examination is the quantum of punishment. On this aspect AA had observed thus:-

"I have gone through the proceedings against the appellant carefully. The official proposed by him as defence assistant, was not permitted as he was not stationed in the same place. Subsequently, during the inquiry, the appellant defended himself. The appellant never attributed any mala fides to the inquiry officer as the action taken by the inquiry officer was in order. It is true that except in the last phase of his service, the appellant had not come for adverse notice. It is also true that removal from service at that age, would not allow him to seek re-employment elsewhere. But, as the allegations against the appellant were established and they were admitted by him initially as well as in the appeal, I find it difficult to either revoke or amend the order of D.P.S., Dharwar to the advantage of the appellant. I, B. Parabrahmam, Postmaster-General, Karnataka Circle, Bangalore, therefore, reject the appeal of Sri B.B. Birader, Ex. LSG P.A., Jewargi PO."

We are of the view that the AA, having rightly ^{made} pertinent observations which touch on the quantum of punishment, had failed to give effect to them as he was bound to under rule 27 of the Rules. On the very observations made by him, the AA could not have maintained the punishment of removal from service.

8. We have carefully examined the service record of the applicant and all other relevant factors touching on the quantum of punishment. On such an examination, we are of the view that the penalty of compulsory retirement from service instead of removal from service would meet the ends of justice and the impugned orders call for modification to that extent only.

9. In the light of our above discussion, we make the following orders and directions;

We allow this application in part and modify the impugned orders only to the extent they relate to imposition of punishment, convert the punishment of removal from service imposed on the applicant to one of compulsory retirement from service from 30.3.1987 and direct the respondents to extend all such consequential and monetary benefits flowing from our order with all such expedition as is possible in the circumstances of the case and in any event not later than 31.12.1988.



10. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-
VICE-CHAIRMAN 21/11

Sd/-
MEMBER (A)

TRUE COPY

gr/Mrv.

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

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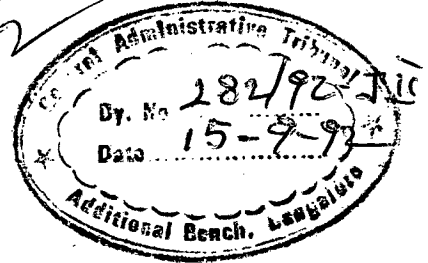
From:-

The Registrar(Judicial)
Supreme Court of India
New Delhi.

D.NO. 2835/89/SCA
SUPREME COURT OF INDIA
NEW DELHI
DATED:- 1/9/88

To

The Registrar,
Central Administrative Tribunal
Bangalore Bench
at Bangalore.



PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL/SLP) NO. 10583/92
(Petition under Article 136 of the Constitution of India
from the judgment and order dated 21-9-88
of the High Court of Judicature at CAT at Bangalore
in A.No 1013/87(F)).

Sh. Basappa Bimappa Biradar

... PETITIONER(S)

-VERSUS-

The Director of Postal Services & Ans

...RESPONDENT(S)

I am directed to inform you that the petition above
mentioned filed in the Supreme Court was dismissed by the
Court on 17/8/88.

Yours faithfully

R.C. [Signature]
For Registrar

Copy of note in SLP list,
SLP Register, main register & addl
file. A copy of this letter as
placed below may be ctd to Hon. Members.
K. S. G.
Smt. B. S. / Smt. P. H.