

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 14/12/87

APPLICATION NO 1034 /87 (F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri D. Kenchaiah

To

The Manager, Mail Motor Service (P&T)
Bangalore & another

1. Shri D. Kenchaiah
Driver
Mail Motor Service
Office of the Manager
P&T Motor Service
Bangalore - 560 052

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/87/

~~XXXXXXXXXX~~ passed by this Tribunal in the above said application

on 4-12-87.

RECEIVED One copy (F) 12/12/87

Diary No. 15511-2 /87

Date: 21/12/87

Encl: as above.

R.V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS 4TH DAY OF DECEMBER, 1987.

PRESENT:

Hon'ble Mr. Justice K.S.Puttaswamy, Vice-Chairman.

And

Hon'ble Mr.L.H.A.Rego, Member(A).

APPLICATION NUMBER 1034 OF 1987.

D.Kenchaiah,
Driver, Mail Motor Service,
Aged 38 years,
Working in the office of the
Manager, Mail Motor Service,
Bangalore-52.

.. Applicant.

v.

v.

1. The Manager,
Mail Motor Service,
Bangalore-52.

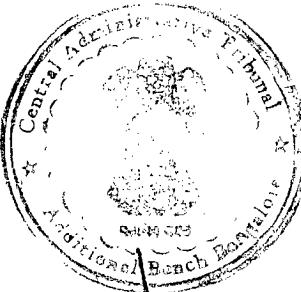
2. Additional Postmaster General,
Karnataka Circle, Bangalore-1. .. Respondents.

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

O R D E R

In this application made under Section 19 of the Administrative Tribunals Act,1985 ('the Act') the applicant has challenged Order No.STA/9-3/61/87 dated 27-10-1987 (Annexure-6) of the Additional Post Master General, Karnataka Circle, Bangalore - Appellate Authority (AA) and Order No.B-10/PF/DK dated 17-8-87 (Anneuxre-4) of the Manager, Mail Motor Service, Bangalore and the Disciplinary Authority (DA).



2. At the material time, the applicant was working as a Driver in the office of the DA. On 30-5-1987, the applicant was asked by his superiors to perform over-time duty, which he declined. He also declined to receive a memo sought to be served on him in that regard.

3. On an examination of the above facts, the DA initiated disciplinary proceedings for imposition of a minor penalty under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules 1965 ('the Rules') against the applicant on 9-6-1987 and served the necessary articles of charge and statement of imputations as required by the Rules and the same reads thus:

On 30-5-1987 Sri D.Kenchaiah, Driver, Mail Motor Service, Bangalore was drafted to perform duty in route No.4. After completion of route No.4 i.e., at 1315 hours, Sri D.Kenchaiah was requested by the Control room clerk Sri S.Peter to perform overtime duty in route No.31 and the same was communicated to him in writing by making entries in the remark column of time bill. Sri D.Kenchaiah has intimated that he will not perform the overtime duty. Sri D.Kenchaiah has refused to perform OT duty ordered to him and is therefore charged for violation of Rule No.9 of over time allowance rules.

2. Sri D.Kenchaiah was asked to explain as to why disciplinary action should not be taken against him for his refusal to perform over time duty on 30-5-1987 vide memo No.B-10/PF/DK dated 30-5-1987. The above memo was issued to Sri D.Kenchaiah on 1-6-1987. Sri D.Kenchaiah has refused to take the memo No.B-10/PF/DK dated 30-5-1987. Sri D.Kenchaiah is therefore charged



for violation of Rule 3(1)(iii) of CCS(Conduct) Rules 1964 for having acted in a manner unbecoming of a Government servant.

In answer to this, the applicant filed his written statement before the DA generally denying the same.

4. On an examination of the charge memo, written statement and the records, the DA made an order on 17-8-1987 (Annexure-4) and imposed on the applicant the minor penalty of withholding the next increment for a period of two years without cumulative effect. Aggrieved by this order, the applicant filed an appeal before the AA, who by his order made on 27-10-1987 (Annexure-6) had disposed of the same upholding the guilt of the applicant and modifying the punishment to one year without cumulative effect. Hence, this application.

5. Sri D.Kenchaiah, the applicant in the case contends that the findings of guilt recorded by the AA and the DA and the punishment on him were wholly unjustified, illegal and were violative of Boards Circular No.10-1/64 dated 12-6-1964.

6. In the charge memo the DA had clearly set out the alleged misdemeanours committed by the applicant in the course of his official duties. In his reply, the applicant had not expressly denied them.

7. On a detailed examination of all the facts and circumstances and records, the DA had found that the applicant was guilty of the two charges and had imposed the penalty. On ~~his~~ appeal the AA had inde-



independently examined all the material questions and had concurred with the findings of guilt recorded by the DA. He had also substantially reduced the punishment imposed by the DA.

8. In a proceeding under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the authority is not bound to record evidence. In that view it was open to the DA to examine the records and hold that the applicant was guilty of the charges levelled against him.

9. The findings of the authorities are essentially on questions of fact. We, cannot examine them as if we are a court of appeal and come to a different conclusion in exercise of the powers of judicial review conferred on us. We see no ground to interfere either with the findings or the penalty imposed on the applicant by the authorities.

10. As all the contentions urged by the applicant fail, this application is liable to be rejected. We, therefore, reject this application at the admission stage without notices to the respondents.

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VICE-CHAIRMAN

4/12/89

-True COPY-

sdl-

MEMBER (A) 4.12.1989

np/

B. V. Subba Reddy
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE COURT
ADDITIONAL BENCH
BANGALORE