

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

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

Dated: 4-12-87

APPLICATION NO 326 /87 (F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri Sadashiva Gajanana Mahadik
To

The PMG, Karnataka Circle, Bangalore & 2 Ors

1. Shri Sadashiva Gajanana Mahadik
C/o Shri M. Madhusudan
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050
2. Shri M. Madhusudan
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050
3. The Post Master General
Karnataka Circle
Bangalore - 560 001
4. The Director of Postal Services
North Karnataka Region
Dharwad
5. The Superintendent of Post Offices
Gokak Division
Gokak
6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Received copies
for 3 to 5
BDA
8/12/87
By [Signature]
3/12/87
As per o/o P.M. Be-1

Re Cancelled
and
one
Jaro
on 12.87
7 12.87

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 1-12-87.

RECEIVED

Cons 9/12/87
Diary No. 14.82/CR/15

In Date: 10-12-87 [Signature]

Encl: as above.

[Signature]
Deputy Registrar
(JUDICIAL)

9c

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 1ST DAY OF DECEMBER, 1987.

PRESENT:

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

And:

Hon'ble Mr. P. Srinivasan, .. Member(A)

APPLICATION NUMBER 326 OF 1987.

Sadashiva Gajanana Mahadik,

S/o Sri Gajanana Mahadik, •

Ex-ED BPM

Gokak Market Yard Branch Office,

Gokak.

.. Applicant.

(By Sri M. Madhusudan, Advocate)

v.

1. Post Master General,
Karnataka Circle, Bangalore.

2. Director of Postal Services,
North Karnataka Region,
Dharwad.

3. Superintendent of Post Offices,
Gokak Division, Gokak.

.. Respondents.

(By Sri M. S. Padmarajaiah, Standing Counsel)

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This application having come up for hearing this day, Vice-Chairman 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.

2. The applicant who is a resident of Gokak town had registered his name at Employment Exchange of Belgaum.

3. In response to a requisition made by the

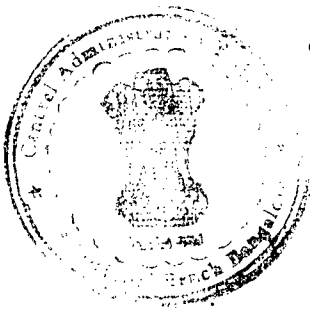


the Superintendent of Post Offices, Gokak Division, Gokak ('Superintendent') for making a selection to the post of an Extra Departmental Branch Post Master ('EDBPM') Market Yard, Gokak, the Employment Exchange, Belgaum sponsored the name of the applicant and four others to the said post. Before the Superintendent the applicant and two others appeared for an interview and the other two remained absent. On an evaluation of the merits of those that appeared for interview, the Superintendent selected the applicant to the post and by his order No.B-2/Gkk Mkt.Yard dated 27-5-1986 (Annexure-A) appointed him to the said post. In pursuance of the said order, the applicant reported for duty on 4-6-1986 and was working as an EDBPM from that date.

4. On 24-11-1986 (Annexure-B), the Superintendent in his Memo No.B-2/Gkk.M.Yard terminated the services of the applicant with immediate effect. Aggrieved by this order, the applicant filed a representation before the Post Master General, Karnataka Circle, Karnataka ('PMG') who by his order dated 4-3-1987 rejected the same. Aggrieved by the said orders, the applicant has approached us challenging them on diverse grounds.

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

6. Sri M.Madhusudan, learned counsel for the appli-



applicant contends that the termination of his client without assigning reasons or for the reasons now stated by the respondents in their reply was illegal.

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

8. In the termination order or in the order of the PMG, the reasons for the termination of the applicant have not been set out. But, in their reply, the respondents have now stated that the same was done on two grounds and they are (1) that there was no proper publicity for making the selection and (2) that the father of the applicant had brought to bear his influence on the same. We will examine their correctness in their order.

9. In their reply, the respondents have not elaborated as to what was the publicity that was required and as to how and where was that failure. Without any doubt the said plea is a vague one.

10. Whether there was a proper publicity for making a selection or not has necessarily to be examined and decided with reference to the nature of the post, the Rules and the orders regulating the same. The same cannot be decided on theoretical considerations at all or what one believes to be proper thing to do.

11. In conformity with the orders of Government, on such matters, the Superintendent requested the



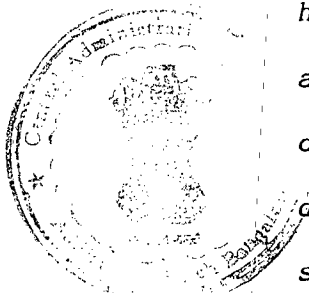
the Employment Exchange to sponsor 5 names, which complied with the same. On receipt of their names, the Superintendent notified them to appear for an interview and on the appointed day and time, he interviewed those that appeared for interview before him. On these facts which are borne out from the records, it is difficult to hold that there was no proper publicity for making a selection to the post.

12. The fact that two persons sponsored by the Employment Exchange did not appear for interview is no ground to hold that there was no proper publicity for making a selection.

13. On the foregoing discussion, we have no hesitation in holding that the selection of the applicant was made after proper publicity.

14. The applicant's father was working as a Mail Overseer at Gokak town is not in dispute. But, the assertion of the respondents that he had brought to bear his influence on his selection is seriously denied by the applicant.

15. Before holding that the father of the applicant had brought to bear his influence on his selection and appointment, the authority had not afforded any opportunity to them to state their case. Without doing so, it was not open to the authority to hold so and the same is plainly in contravention of the principles of natural justice. On this short ground, the second reason for termination cannot be countenanced by us.



16. Even otherwise, an examination of the records disclose that the Superintendent made an evaluation of the merits of all those that appeared for interview and came to the conclusion that the applicant was the most suitable person for the post and then appointed him to the post.

17. On these facts, we cannot but hold that the selection and appointment of the applicant was legal and valid. If that is so, then his termination on the two illegal grounds cannot be upheld by us. We are, therefore, bound to set aside the impugned orders and issue a direction to reinstate the applicant to service.

18. But, notwithstanding the same, Sri Padmarajaiah contends that another person had already been appointed to the post held by the applicant and a direction to reinstate the applicant would cause grave injury and hardship to that person and on that ground, we should decline to interfere with the orders and that in any event we should deny back wages to the applicant.

19. We need hardly say that the appointment made in the place of the applicant who was pursuing his legal remedies, is undoubtedly subject to the orders to be made by this Tribunal. If the applicant is entitled to succeed and is entitled for reinstatement, then the authority which made a provisional appointment in the place of the applicant is bound to take steps to terminate his services and accommodate him at some other place if that is found feasible. But, that cannot



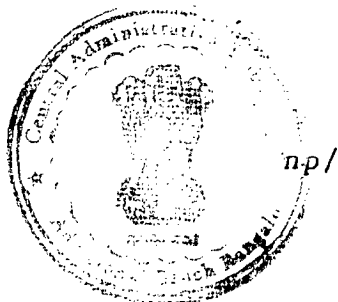
cannot be a ground to deny the reliefs legitimately due to the applicant.

20. As the applicant had not actually rendered service, it is reasonable to deny him all the back wages till he is reinstated to service for which, we propose to give time to the respondents till 1st January 1988.

21. In the light of our above discussion we allow this application, quash the impugned orders and direct the respondents to reinstate the applicant to service with all such expedition as is possible in the circumstances of the case and in any event from 1-1-1988 denying him all back wages till he is actually reinstated to service, however counting the service for all other purposes.

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

23. Let this order be communicated to all the parties immediately.



Sd/-
VICE-CHAIRMAN 1/1/88

Sd/-
MEMBER(A)

-True copy-

B. V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
4/12/88