

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

.....

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

Dated: 15 JUL 1988

To

1. Shri.Sanjeev Malhotra,
All India Services Law Journal,
Hakikat Nagar, Mal Road,
New Delhi- 110 009.
2. Administrative Tribunal Reporter,
Post Box No.1518,
Delhi- 110 006.
3. The Editor,
Administrative Tribunal Cases,
C/o.Eastern Book Co.,
34, Lal Bagh,
Lucknow- 226 001.
4. The Editor,
Administrative Tribunal Law Times,
5335, Jawahar Nagar,
(Kolhapur Road),
Delhi- 110 007.
5. M/s.All India Reporter,
Congressnagar,
Nagpur.

Sir,

I am directed to forward herewith a copy of the under
mentioned order passed by a Bench of this Tribunal comprising of

Hon'ble Mr. Justice K.S. Puttaswamy Vice-Chairman/
~~Member(J)~~ and Hon'ble Mr. L.H.A. Rego Member(A)

with a request for publication of the order in the journals.

Order dated 5-7-88 passed in A.Nos. 414/87(F)

Yours faithfully,

[Signature]
for (B.V. VENKATA REDDY)
DEPUTY REGISTRAR(J).

[Handwritten initials]

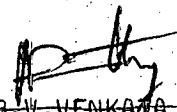
[Handwritten notes]
Assured
K. M. J. V.
18/7/88

Copy with enclosure forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi- 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I.Compunds, Nungambakkam, Madras-600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O.Complex, 234/4, AJC Bose Road, Nizam Palace, Calcutta- 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex(CBD), 1st Floor, Near Kankon Bhavan, New Bombay- 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad- 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O.102/103, Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shilong Road, Guwahati- 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floor, Opp.Maharaja College, M.G.Road, Ernakulam, Cochin-682001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur-(MP).
10. The Registrar, Central Administrative Tribunal, 88-A B.M.Enterprises, Shri Krishna Nagar, Patna-1.
11. The Registrar, Central Administrative Tribunal, C/o.Rajasthan High Court, Jodhpur(Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanapura, Ahmedabad.
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak- 753 001.

Copy with enclosure also to:

1. Court Officer (Court I)
2. Court Officer (Court II)


(B.V.VENKATA REDDY)
For DEPUTY REGISTRAR(J).

ofc

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 5TH DAY OF JULY, 1988

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

APPLICATION NO. 414/1987

Shri T. Kunna Naik,
s/o Narayana Naik,
Aged 38 years,
Head Mailman,
SRO - RMS 'Q' Division,
Mangalore.

... Applicant.

(Shri M. Raghavendrachar, Advocate)

v.

1. Superintendent,
RMS 'Q' Division,
Bangalore.

2. Director of Postal
Services,
S.K. Region,
Bangalore.

3. Member (Personnel),
Postal Services Board,
New Delhi.

... 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 ('the Act') the
applicant has challenged order No.2/5/87-Vig.III dated
27.2.1987 (Annexure-C) of Government of India and
Revising Authority (RA), order No. STA/9-3/7-36 dated
5.6.1986 (Annexure-8) of the Director of Postal Services
(SK Region) Appellate Authority (AA) and order No. K4/
10/85-36 dated 22/26-3-1985 of the Superintendent, RMS
'Q' Division, Bangalore/Disciplinary Authority (DA).

2. On 31.1.1985, the applicant was working as a Head Mailman in the Sub-Record Office, RMS 'Q' Division Mangalore, in which office on Shri S.K. Gopal Naik, a Lower Selection Grade Sorting Assistant (LSGSA), was working with other officials with whom we are not concerned. When they were all working in that office, there was an altercation between the applicant and Shri Gopal Naik in the performance of their official duties, a detailed narration of which is not necessary for our purpose.

3. On that day on the close of office hours Shri Gopal Naik left the office and was proceeding from the railway station premises where the Sub-Regional office was located. When Shri Gopal Naik was so proceeding the applicant unprovoked, assaulted Gopal Naik, who complained the same to the DA.


4. On an examination of the complaint of Shri Gopal Naik and after making preliminary investigation into the same, the DA initiated disciplinary proceedings against the applicant under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 on the following statement of imputations ('Charge').

"Shri K. Gopal Naik, LSGSA, SRO, RMS 'Q' Division, Mangalore lodged a complaint dated 1.2.1985 with the Railway Police, Mangalore a copy of which was received at

this office, complaining of the assault on him by Shri T. Kunha Naik, HMM, SRO 'Q' Division, Mangalore, at the outskirts of Railway Station, Mangalore, where he was on his way back to home after completion of his duties at Mangalore RMS/3-B dated 31.01.1985.

Enquiries made into the case, revealed that on 31.1.1985, Shri K. Gopal Naik, worked at HSA and Shri T. Kunha Naik, as HMM at Mangalore RMS/3-B. At about 20-30 hrs. On 31.1.1985, the HSA of the Set Shri Gopal Naik, while checking the articles of the letter mail, arranged for sorting, there were number of articles intended for Gouthigar PO, Bantwal and directional articles for Puttur side, Belthangady side, etc. It was found that, the MM, who had opened the letter mail bundles had deliberately done this mischief. Shri T. Kunha Naik, HMM, who was working at the table, opening and arranging the letter mail articles for sorting was responsible for having played this mischief. He was warned by the HSA and the matter was reported to ASRM/2 over phone.

Next day i.e., on 1.2.1985, while Shri K. Gopal Naik was returning home after completion of his duties at Mangalore RMS/3-B at about 06-15 hrs., Shri T. Kunha Naik, HMM, who was near the path-way appeared before the former and hit him




on his back. Before Shri K. Gopal Naik could realise what had happened, Shri T. Kunha Naik, ran away from the scene. It was also said that, the latter threatened the former for having reported against him.

Later at about 14.00 hrs. on same day, Shri K. Gopal Naik, lodged a complaint with the Sub-Inspector of Railway Police, Mangalore R.S. Mangalore-575 001, a copy endorsed to this office. Subsequently, the complaint case closed by the Police by making a compromise between the two at Railway Police Station, before the ASRM/II and some other officials. Shri T. Kunha Naik, also sought apology with Shri K. Gopal Naik.

From the above, it is clear that, Shri T. Kunha Naik, HMM, SRO, Mangalore had assaulted Shri K. Gopal Naik, HSA SRO, Mangalore, and acted in a way unbecoming of a Government Servant, thus contravening Rule 3(i)(iii) of CCS (CONDUCT) Rules, 1964".

In answer to this, the applicant filed his statement of defence ('WS') on 7.8.1985. On an examination of the charge, WS and the records, the DA on 22/26-8-1985 (Annexure-A) holding that the applicant was guilty of the charge levelled against him, inflicted on him the penalty of postponing his increment for a period of three years, without postponing his future increments.



Aggrieved by this order, the applicant filed an appeal before the AA, who by her order dated 5.6.1986 dismissed the same. Aggrieved by these orders, the applicant filed a revision petition before Government, which by its order dated 27.2.1987 had dismissed the same. Hence, this application.

5. The respondents have filed their reply and have produced their records.

6. Shri M. Madhusudan, learned counsel for the applicant contends, that the assault of Shri Gopal Naik by his client, even if true, was outside the office working hours and office premises, and therefore, the DA had no jurisdiction and power to initiate disciplinary proceedings over the same and impose any penalty on him under the Rules. In support of his contention, Shri Madhusudan strongly relies on the ruling of the Supreme Court in CENTRAL INDIA COAL FIELDS LIMITED v. RAM BILAS SHOBHATH (AIR 1961 SC 1199) (Coal Fields Case).

7. Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel, appearing for the respondents sought to justify the impugned orders. In support of his contention Shri Padmarajaiah strongly relies on the ruling of the Supreme Court in S. GOVINDA MENON v. UNION OF INDIA AND ANOTHER (AIR 1967 SC 1274).

8. In the charge, the DA had stated that the applicant had assaulted Shri Gopal Naik, his colleague at the time and place mentioned in the charge. From the charge

itself, it is clear that the assault if true, was almost very near the office where the applicant and Shri Gopal Naik were working. In his WS filed before the DA, which runs to three closely typed pages, the applicant does not deny the fact of assault on Shri Gopal Naik at the time and place mentioned in the charge. Without disputing these material facts, the applicant has however raised various technical objections to the charge. From this it follows that the applicant had assaulted his colleague Shri Gopal Naik very near the office though it may be that the same was outside the office premises and outside office working hours. On this finding of fact, we must examine the legal contention urged for the applicant.

9. Rule 3 (i)(iii) of the Central Civil Services (Conduct) Rules, 1964 (Conduct Rules) provides, that every Government servant shall at all times not do anything which is unbecoming of a Government servant. This rule enjoins on a Government servant that he should conduct himself either in his office or outside his office in such a way that his acts are not characterised as unbecoming of a Government servant.

10. The expression 'unbecoming of a Government servant' occurring in Rule 3(i) (iii) of the Conduct Rules is not capable of a precise definition and formulation and therefore, will have to be understood in a general and broad way. We must understand those terms

in the context, time and conditions of our own country and not with reference what is good or bad in other countries and times. What is unbecoming of a Government servant must be examined and decided on the facts and circumstances of each case without placing any undue restriction on their meaning and content. When so examined we are of the view, that when a Government servant assaults another Government servant whether in office or outside the office, whether during office hours or outside the office hours as is the case, he undoubtedly acts in a manner unbecoming of a Government servant. From this it follows the fact that the applicant assaulted Shri Gopal Naik outside the office hours and premises was unbecoming of a Government servant and therefore it was open to the DA to proceed against the applicant under the Rules and impose on him the punishment.


11. In Coalfields case, the Court was not dealing with a case of a Government servant who was subject to more rigorous discipline under the Conduct Rules than an industrial worker as in that case. On this short ground, the ratio in Coalfields case does not govern the question that arises before us. In this very case the the Court had also ruled, that when the act complained of occurs where the workmen discharges duties at a short distance from the work spot or the office, as in that case, then it was open to the disciplinary authority to punish him for such act. We are of the view, that on these principles, it was open to the DA to punish the applicant under the Rules.

12. In Govinda Menon's case, the Supreme Court dealing with the case of a member of an All India Service, whose conduct is governed by the All India Service (Discipline and Appeal) Rules, 1955 analogous to the CCA Rules and Conduct Rules, had ruled that a Government servant cannot absolve himself for any act which he does outside his office hours or office premises. We are of the view that on the ratio in Govinda Menon's case which squarely governs the question, the contention urged for the applicant is without any merit.

13. Shri Madhusudan next contends that the punishment imposed is too severe and disproportionate to the gravity of the offence, if any, committed and this is a fit case in which we should substantially reduce the punishment imposed on the applicant by the authorities.

14. Shri Padmarajaiah opposes any modification in the punishment.

15. When the Tribunal upholds the guilt, it should not normally interfere with the quantum of punishment by the authorities unless it finds that the same is grossly disproportionate to the gravity of the offence committed by the Government servant. We are of the view, that the punishment imposed by the DA and upheld by the AA and RA is not at all disproportionate to the gravity of the offence and does not call for any modification.



16. As all the contentions urged for the applicant fail, 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.

sd/-
VICE-CHAIRMAN 5/7/88

sd/-
MEMBER (A) 5.7.88

mr/Mrv.

TRUE COPY

15/7/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

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

Dated: **15 JUL 1988**

APPLICATION NO 414 /87 (F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri T. Kunna Naik

The Supdt, RMS 'Q' Divn. B'lore & 2 Ors

To

- | | |
|---|---|
| 1. Shri T. Kunna Naik
Head Mailman
SRO - RMS 'Q' Division
Mangalore - 575 001 | 4. The Director of Postal Services
S.K. Region
Office of the Post Master General
Karnataka Circle
Bangalore - 560 001 |
| 2. Shri M. Madhusudan
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050 | 5. The Member (Personnel)
Postal Services Board
New Delhi - 110 001 |
| 3. The Superintendent
RMS 'Q' Division
Bangalore | 6. 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/8787/

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

on 5-7-88.

9/5/88
K. Rajan
15/7/88
Encl: as above.

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

o/c

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 5TH DAY OF JULY, 1988

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

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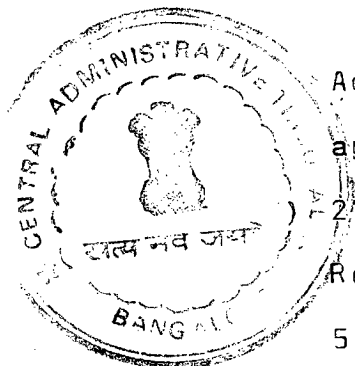
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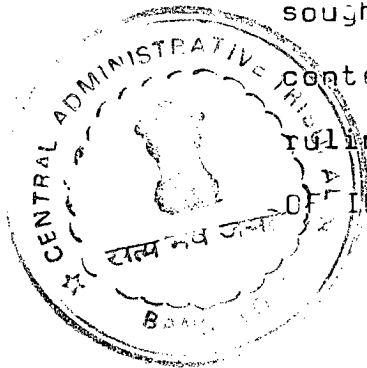
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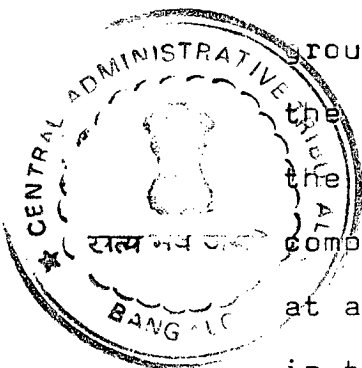
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in the context, time and conditions of our own country and not with reference what is good or bad in other countries and times. What is unbecoming of a Government servant must be examined and decided on the facts and circumstances of each case without placing any undue restriction on their meaning and content. When so examined we are of the view, that when a Government servant assaults another Government servant whether in office or outside the office, whether during office hours or outside the office hours as is the case, he undoubtedly acts in a manner unbecoming of a Government servant. From this it follows the fact that the applicant assaulted Shri Gopal Naik outside the office hours and premises was unbecoming of a Government servant and therefore it was open to the DA to proceed against the applicant under the Rules and impose on him the punishment.

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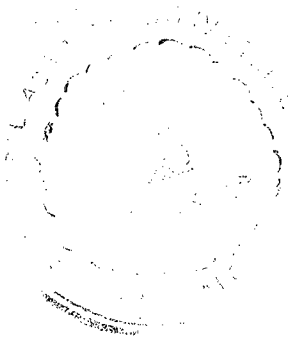


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sd/-
VICE-CHAIRMAN 5/7/88

sd/-
MEMBER (A) 5-7-88

mr/Mrv.

TRUE COPY



15/7/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL SECRETARY
BANGALORE