

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated :

7 MAR 1989

APPLICATION NO (R) 1588 /88(F)

W.P. NO (S) _____

Applicant (s)

Shri M.K. Madappa
To

1. Shri M.K. Madappa
S/o Shri Kallappa
R/o Srimangala - 571 217
Virajpet Taluk
Kodagu District

2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasa Nagar II Phase
Bangalore - 560 050

3. The Assistant Superintendent of
Post Offices/Sub Divisional Inspector
Postal Sub-Division
Virajpet - 571 218
Kodagu District

Respondent (s)

v/s The Asst. Supdt. of Post Offices/Sub-Divisional
Inspector, Virajpet & another

4. The Superintendent of Post Offices
Kodagu Division
Madikeri - 571 201

5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/Order/ORDER/ORDER
passed by this Tribunal in the above said application(s) on 1-3-89.

Received
K. M. M.
1-3-89

0/c *Re: Envelope*
DEPUTY REGISTRAR
(JUNIOR)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE.

DATED THIS THE FIRST DAY OF MARCH 1989

Present: Hon'ble Shri Justice K.S.PUTTASWAMY .. VICE CHAIRMAN

Hon'ble Shri L.H.A.REDDY .. MEMBER(A)

APPLICATION NO. 1588/88(r)

M.K.Madappa,
E.D.Packer,
R/o Srimangala 571217,
Virajpet Taluk,
Madakere District.

..Applicant.

(Shri M.R.Achar .. Advocate)

vs.

1. Assistant Superintendent
of Post Offices, /Sub Divisional
Inspector, Postal Sub-Division,
Virajpet Sub-Division,
Kodagu District.

2. The Superintendent of Post
Offices,
Kodagu Division,
Mysore.

.. Respondents

(Shri M.Vasudeva Rao .. Advocate)

This application has come up today before this
Tribunal for Orders. Hon'ble Vice Chairman made the following:

ORDER

This is an application under Section 19 of the
Administrative Tribunals Act, 1985.(Act)

2. Shri M.K.Madappa, the applicant before us, was
working as an Extra Departmental Packer (EDP) from 1970 in Srimangala
Sub Post Office, Srimangala, Virajpet Taluk, Kodagu District, When

he was so working, barely within a period of one year from September, 1986, he availed of leave at frequent intervals for 209 days in all. On this, the Sub-Divisional Inspector, Postal Sub-Division, Virajpet and the Disciplinary Authority (DA) initiated disciplinary proceedings against him under the P&T Extra Departmental Agents (Conduct and Service) Rules, 1964(Rules) and by his Order made on 30.9.1987 inflicted on the applicant the penalty of removal from service. Aggrieved by this order, the applicant filed an appeal before the Superintendent of Post Offices, Kodagu Division and the Appellate Authority (AA) who by his Order made on 30.11.1987 dismissed the same. Hence this application.

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

4. Shri M.R.Achar, learned counsel for the applicant contends that the absence of his client with due intimation for a period exceeding 180 days within a period of one year, was for unavoidable reasons and therefore there was absolutely no justification to remove him from service.

5. Shri M.Vasudeva Rao, learned counsel appearing for respondents sought to justify the impugned orders.

6. It is seen, that in the relevant period with which we are concerned, the applicant absented himself from duty after prior intimation and necessary advance application for leave for the same on different grounds, and that this leave had all been duly sanctioned. This fact admitted by the respondents in their reply, is borne out from the records produced before us. When leave of absence sought by the applicant had been sanctioned, then the DA, cannot initiate disciplinary proceedings for his absence and remove him from service. When the absence is authorised, then there cannot be removal on that very ground, whatever be that period. On this short ground, the impugned orders are liable to be quashed without examining all other questions.

7. The fact, that on his removal from service the applicant had not rendered service is not in dispute. On this, the applicant in a memo filed today even regretting his frequent authorised absence has agreed to forego his salary for the period he had not worked.
8. We are informed by Shri Rao that another person had already been appointed in the post held by the applicant and that person is now working in that post.
9. On the view we have taken, the applicant is entitled to be reinstated to service. If that is so, then the respondents are bound to remove the other person in accordance with law and reinstate the applicant. Shri Rao prays for atleast two months' time to do the same. We are of the view that this request of Sh.Rao is reasonable and should be granted.

10. In the light of our above discussion we make the following orders and directions:

- 1) We quash the impugned orders.
- 2) We direct the respondents to reinstate the applicant in the original post he held with all such expedition as is possible in the circumstances of the case and in any event on or before 1.5.1989 terminating the services of the other person appointed in the place of the applicant on or before that date. But, till the applicant reports for duty, he shall not be entitled to salary and allowances. His past service however shall be reckoned for all other purposes.
11. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

TRUE COPY

MEMBER (AT) 11.5.1989

Sd/-

SD/-

SD/-

SD/-

SD/-