

Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 16 MAR 1989

APPLICATION NO (2) 1649 /88(F)

W.P. NO (S) \_\_\_\_\_

Applicant (x)

Respondent (s)

Shri M.K. Shivalingaiah  
To

V/s

The Secretary, M/o Communications, Dept of Posts,  
New Delhi & 3 Ors

1. Shri M.K. Shivalingaiah  
Postman  
Siddarthanagar Post Office  
Mysore - 11

2. Shri M. Narayanaswamy  
Advocate  
844 (Upstairs)  
V Block, Rajajinagar  
Bangalore - 560 010

3. The Secretary  
Ministry of Communications  
Department of Posts  
New Delhi - 110 001.

4. The Member (Personnel)  
Postal Services Board  
Ministry of Communications  
Department of Posts,  
New Delhi - 110 001.

5. The Director of Postal Services (SK)  
Office of the Post Master General  
Karnataka Circle  
Bangalore - 560 001

6. The Senior Superintendent of Post Offices  
Mysore Division  
Mysore - 570 020

7. 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 a copy of ORDER/~~STAY~~/~~INTERIM ORDER~~  
passed by this Tribunal in the above said application(x) on 13-3-89.

DEPUTY REGISTRAR  
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman  
and  
Hon'ble Shri L.H.A. Rego, Member (A)  
DATED THIS THE 13TH DAY OF MARCH, 1989  
APPLICATION NO. 1649/1988

Shri M.K. Shivalingaiah,  
S/o Kariyappa,  
aged 45 Years,  
Postman, Siddarthanagar,  
Post Office, Mysore-11.

... Applicant.

(Shri M. Narayanaswamy, Advocate)

v.

1. The Union of India,  
rep. by its Secretary,  
M/o Communications,  
Dept. of Posts, New Delhi.
2. The Member (Personnel),  
Postal Services Board,  
M/o Communications,  
Department of Posts,  
Govt. India, New Delhi.
3. The Director of Postal Services,  
(SK), Bangalore-1.
4. The Sr. Superintendent of  
Post Offices, Mysore Division,  
Mysore.

... Respondents.

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

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

ORDER

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

2. At the material time, the applicant was working as  
a Postal Assistant in the Head Post Office, Mysore City.  
When he was so working the Senior Superintendent of Post

Offices, Mysore Division, Mysore and the Disciplinary Authority ('DA') initiated disciplinary proceedings against the applicant under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 on three charges appended to his Memorandum No.F3/3/85-86 dated 1.6.1985 (Annexure-A) ('Charge Memo'). On service of the charge memo, the applicant filed his statement admitting the charges levelled against him however pleading for mercy on various grounds, the narration of which is not very necessary for our purpose. On an examination of the charge memo, the statement filed and the records, the DA by his Memo No.F3/3/85-86 dated 29.7.1985 (Annexure-C) holding the applicant guilty of the charges, imposed on him the penalty of compulsory retirement from service from the afternoon of 29.7.1985. Aggrieved by this order, the applicant filed an appeal before the Director of Postal Services and Appellate Authority ('AA') who by her order dated 26.2.1986 (Annexure-E) allowed the said appeal in part and modified the punishment of compulsory retirement to one of reduction in rank as indicated in her order. Aggrieved by the orders of the AA and the DA, the applicant filed a revision/review petition before the Postal Services Board ('Board') which by its order dated 3.10.1986 (Annexure-F) had dismissed the same. Hence this application.

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

4. Shri M. Narayanaswamy, learned counsel for the applicant contends that as his client had admitted the guilt in the circumstances explained by him, there was no justification for the DA to make the various unwarranted remarks/observations against him and that too on the previous

service rendered by him which was not at all the subject matter of enquiry and that all of them in any event, calls for our interference.

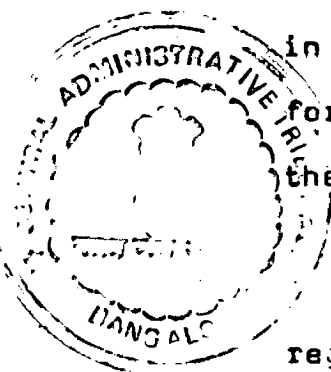
5. Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel, appearing for the respondents sought to support the remarks/observations made by the DA.

6. When the applicant had admitted the charges levelled against him, the DA should have proceeded to so hold and then examined the quantum of punishment to be imposed with due regard to all the facts and circumstances. But, the DA instead of doing so, entered into a needless discussion on the entire working of the applicant which was wholly irrelevant and had made some irrelevant or extraneous observations. We consider it even unnecessary to extract every <sup>one</sup> of them and annul each of them specifically except to say that all of them cannot be taken into consideration in either awarding the punishment or considering his case for promotion on the expiry of the punishment imposed by the AA.

7. Shri Narayanaswamy next contends that with due regard to all the circumstances the Board and the AA should have further reduced the punishment and imposed only nominal punishment of 'censure' on the applicant and we should so modify the impugned orders.

8. Shri Padmarajaiah opposes any interference on the punishment imposed by the AA and upheld by the Board.

9. On an examination of the fact-situation, the AA had reduced the punishment imposed on the applicant with which



the Board had concurred. On the punishment imposed we should not lightly interfere with the discretion exercised by the authorities. Even otherwise, we find that punishment imposed by the authorities does not suffer from any infirmity to justify our interference. We find no ground to interfere with the quantum of punishment imposed on the applicant.

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

" We dismiss this application and uphold the impugned orders. But, notwithstanding the same, we direct that the observations made by the DA on the previous service rendered by the applicant shall not be taken into account while considering his case for promotion on the expiry of the period of punishment imposed by the AA and upheld by the Board."

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.

Sd/-

VICE-CHAIRMAN

13/3/87

Sd/-

MEMBER (A)

np/Mrv.

TRUE COPY

*R. Venkatesh*  
DEPUTY REGISTRAR (JDL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE  
13/3/87