

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 9 MAR 1989

APPLICATION NO. (2) 1827 / 88(F)

W.P. NO (S) _____

Applicant (s) Respondent (s)

Shri L. Manjunatha . v/s The Asst. Director General (SPN), P&T Dept,
To New Delhi & another

1. Shri L. Manjunatha
Opp : Railway Station
Basaveshwara Extension
Kyathasandra - 572 131
Tumkur
2. Shri S.A. Pathan
Advocate
No. 11, Jeevan Building
Kumara Park East
Bangalore
3. The Assistant Director General (SPN)
P & T Department
New Delhi - 110 001
4. The Post Master General
Karnataka Circle
Bangalore - 560 001
5. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel,
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

9c *R. V. Venkateshwaran*
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 1ST DAY OF MARCH, 1989

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY...VICE-CHAIRMAN
HON'BLE SHRI L.H.A. REGO ...MEMBER (A)

APPLICATION NO. 1827/88

1. Shri L. Manjunatha,
Opp: Railway Station,
Basaveswara Extension,
Kyathasandra-572131. ...APPLICANT

(Shri S.A. Pathan.....Advocate)

Vs.

1. Assistant Director General (SPN) India,
P & T Department, New Delhi.
2. Post Master General,
Karnataka Circle,
Bangalore. ...RESPONDENTS

(Shri M.S. Padmarajaiah.....Advocate)

This application having come up for
hearing before this Tribunal to-day, Hon'ble Shri
Justice K.S. Puttaswamy, Vice-Chairman, made the
following :-

O R D E R

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



2. Shri L. Manjunatha, the applicant before us, is the son of one Shri K.G. Lakshminarasimhaiah (KGL) who was employed as a Group 'D' employee in the Postal Department of Government of India. Shri K.G. Lakshminarasimhaiah died in harness on 8.5.1976. His widow Smt. Lakshmidevamma, was at that time uneducated and was therefore, not eligible for any appointment in the Postal Department on compassionate grounds. The applicant was then a minor and, therefore, could not also be appointed in the said Department on compassionate grounds. On this position, the Post Master General, Karnataka Circle, Bangalore (PMG) on 11.7.1983 advised Smt. Lakshmidevamma to move the department for an appointment on compassionate grounds on the applicant attaining majority.

3. On attaining majority the applicant who by then had passed SSLC examination made an application before the Post Master General to appoint him as a Group 'C' employee on compassionate grounds. On that, on 26.2.1987 the P.M.G. selected the applicant for a Group 'C' cadre post provisionally, subject to its approval by the competent authority specified in Para 7 of Government Order dated 30.6.1987 (Annexure 2). On this, the P.M.G. deputed him for training which he completed satisfactorily (Annexure 5). On this the applicant naturally expected an appointment in the Postal Department in due

course. But unfortunately the competent authority rejected the recommendation of the P.M.G. taking a technical view thus throwing cold water on the hopes of the applicant. The substance of the order of the competent authority has been communicated to the applicant by the Superintendent of Post Offices, Channapatna, on 11.7.1988. Hence this application for appropriate reliefs.

4. In their reply the respondents have justified their orders and produced their record.

5. Shri S.A. Pathan, learned counsel for the applicant, contends that the action of the competent authority in rejecting the selection of his client legally made by the P.M.G. was illegal, improper and unjust and that we should interfere with his action and issue appropriate directions.

6. Shri M.S. Padmarajaiah, learned senior standing counsel appearing for the respondents, contends that on a proper examination of all the facts and circumstances, the competent authority had rightly refused to approve the selection and appointment of the applicant and the same therefore does not justify our interference. In support of his contention Shri Padmarajaiah strongly relies on a ruling



of a Division Bench of this Tribunal in A.No. 540/87 SMT. RADHA KRISHNOJI HOSUR V. UNION OF INDIA AND ANOTHER to which one of us (KSPVC) was a party.

7. We have noticed that Shri K.G. Lakshnimarasimhaiah died in harness and that his widow Smt. Lakshmidevamma, who could not secure appointment in the Postal Department was advised to make an application on the applicant attaining majority. On passing the S.S.L.C. examination and attaining majority the applicant made his application before the P.M.G. for appointment on compassionate grounds. On this, the P.M.G. very rightly selected the applicant to a Group 'C' post and deputed him for training which he successfully completed.

8. We have perused the letter dated 23.6.1988 of the competent authority rejecting the recommendation of the P.M.G. In this letter, the competent authority had not given reasons for rejecting the same. We need hardly point out that an order without reasons is arbitrary and illegal. On this short ground we should take exception to the order of the competent authority.

9. But the respondents in their

reply have asserted that the competent authority had rejected the application/proposal on the ground, that it was belated. Shri Padmarajaiah highlighted this aspect at the hearing. We will assume that this statement of the respondents is correct and examine its validity.

10. In considering the time for making an application the period during which the applicant was a minor had to be excluded. Even if there was any delay, that delay was such which the competent authority should have ignored, and therefore he should have approved the selection and recommendation of the P.M.G. without making a fetish of the same. Unfortunately the competent authority did not do that and dealt with the recommendation of the P.M.G. in a mechanical and arbitrary manner and rejected the same. We are distressed at the way the competent authority had dealt with the matter in a rather ⁱⁿhuman manner.

11. On facts noticed by us earlier, there was really no delay in the applicant making his application. This is all the more evident from the advice/direction of the P.M.G. to Smt. Lakshmidevamma.

12. On the foregoing we hold that the rejection by the competent authority is illegal, improper and unjust.

13. In Smt. Radha Krishnoji Hosur's case, who had also sought for an appointment on compassionate grounds her husband having died in harness, there was a delay of more than 10 years. On those facts, the action of the authority in that case was upheld by this Tribunal. That is not the position in the present case. In the present case as held by us earlier there is really no delay. If that is so then the ratio if any in that case does not really bear on the point.

14. We are also of the view that Smt. Radha Krishnoji Hosur's case is only a decision on the facts of that case and does not lay down any binding principle to be held against the applicant.

15. On the foregoing discussion it follows that the applicant is entitled to succeed. So far the applicant has not been given a regular appointment in the Postal Department. We must now direct the respondents to do so.

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

- (i) We quash letter No.21/3/88/SPB-I dated 23.6.1988 of the Assistant Director General, SPM, New Delhi as also communication No.B2/11 dated 11.7.1988 of the Supdt. of Post Offices, Channapatna, to the applicant in that behalf.

(ii) We direct the respondents to give an appointment order to the applicant in a Group 'C' post in the Postal Department to which he had been selected against a vacancy that exists or would arise in the future in the Karnataka Circle. But till the applicant is given a posting and reports for duty, he shall not be entitled to any emoluments.

17. 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

Sd/-

MEMBER (A)

TRUE COPY



Deputy Registrar (JDL)
DEPUTY REGISTRAR (JDL) 9/3
CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE