

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 3 APR 1989

APPLICATION NO (S) 2043 / 88(F)
W.P. NO (S) _____

Applicant (s)

Shri Almeida Alfred Domingo V/s
To

Respondent (s)

The Sub-Divisional Inspector,
Postal Sub-Division, Buntwal & 2 Ors

1. Shri Almeida Alfred Domingo Ex-E.D.D.A. Shirthady Buntwal Taluk Dakshina Kannada District	4. The Senior Superintendent of Post Offices Puttur Division Puttur - 574 201 Dakshina Kannada District
2. Shri M. Raghavendra Achar Advocate 1074-1075, 4th Cross Banashankari I Stage Sreenivasanagar II Phase Bangalore - 560 050	5. The Director of Postal Services South Karnataka Region Office of the Post Master General Karnataka Circle Bangalore - 560 001
3. The Sub-Divisional Inspector Postal Sub-Division Buntwal - 574 211 Dakshina Kannada District	6. 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/STAN/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 22-3-89.

4/1989
K.N. Jn
13-4-89

ofc P. Almeida Alfred
DEPUTY REGISTRAR
(JURIDICAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 22ND DAY OF MARCH, 1989

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

APPLICATION NO. 2043/1988

Shri Almeida Alfred Domingo,
Ex-E.O.D.A., Major,
Shirthady,
Buntwal Taluk.

.... Applicant.

(Shri M. Raghavendrachar, Advocate)

v.

1. Sub-Divisional Inspector,
Postal Sub-Division,
Buntwal.

2. Senior Superintendent of
Post Offices,
Puttur Division,
Puttur.

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

.... Respondents.

(Shri M. Vasudeva Rao, C.G.A.S.C.)

This application having come up for hearing to-day,

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 Almeida Alfred Domingo, the applicant before us, with the educational qualification of SSLC, was appointed as Extra Departmental Delivery Agent (EDDA) from 3.1985 at the Shirthady Post Office of Karkala Taluk, Dakshina Kannada District, by the Sub-Divisional Inspector, Postal Sub-Division, Buntwal (SDI), on the terms and

conditions stipulated in his order dated 27.9.1985 (Ann.A1). In his memorandum No.CR/Misc/87-88 dated 30.7.1987 (Annexure A2), the SDI - terminated the services of the applicant with immediate effect. Against this order, the applicant filed petitions before the Senior Superintendent of Post Offices, Puttur (Superintendent) and the Director of Postal Services, Bangalore (Director) who by, their orders made on 28.12.1987 and 23.5.1988 (Annexures B & C respectively), dismissed them. Hence this application.

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

4. Shri M. Raghavendrachar, learned Counsel for the applicant, strenuously contends that the termination of the applicant was really as a measure of punishment and not simpliciter in terms of the appointment order and Rule-6 of the Posts and Telegraphs Extra Departmental Agents (Service conditions) Rules, 1964 (Rules) and the same therefore calls for our interference.

5. Shri M. Vasudeva Rao, learned Additional Standing Counsel for Central Government appearing for the respondents sought to support the termination of the applicant.

6. The applicant was appointed on an ad hoc or temporary basis and not on a regular and permanent basis. If so, it was undoubtedly open to the appointing or higher authority to terminate the services of the applicant under Rule 6 of the Rules, under which only the SDI had terminated the services of the applicant. On the terms employed

in the order of SDI, there cannot be any doubt as to the fact that the termination of the applicant was termination simpliciter and was not as a measure of punishment.

7. In their orders, the Superintendent and the Director had made certain remarks or observations on the performance of the applicant which were really unnecessary. We cannot read them as casting a stigma on the character and conduct of the applicant. On this it follows that the termination of the applicant was termination simpliciter and not as a measure of punishment.

8. On the very terms of appointment and Rules 6 of the Rules, we cannot therefore take exception to the termination of the applicant.

9. ^{to the} Shri Achar contended that almost entire village was pleased with the performance of his client in regard to his postal duty and therefore there was no warrant to terminate his services abruptly and appoint in his place another person by the name Shri Balakrishna, who is a resident of Mudabidre a place more than 16 kms distant from Shirthady as this was causing considerable inconvenience to the public. He therefore pleaded for our interference against the termination of his client.

10. Shri Rao refuting the contention of Shri Achar, contended that the appointment of Shri Balakrishna, who is not made a party to this application cannot be invalidated on any ground.



11. Whatever be the merit or demerit in regard to the appointment of Balakrishna, he is not a party to this application. He has not even been notified on this application. If that is so, then, we cannot examine the validity of the appointment of Shri Balakrishna and invalidate the same. On this short ground alone we cannot interfere with the appointment and continuance of Shri Balakrishna as EDDA, Shirthady Post Office.

12. We have earlier noticed, that the termination of the applicant was not as a measure of punishment but was only termination simpliciter. If that is so, nothing prevents the authorities from appointing the applicant against any vacancy that exists or may arise in the near future.

13. We are informed by Shri Achar that — a vacancy of EDDA already exists in Shirthady Post Office. Shri Rao however disputes the correctness of this submission of Shri Achar.

14. Whether there is a vacancy at Shirthady or not, cannot be examined and decided by us. That question has necessarily to be examined and decided by the competent authority. But, if there is such a vacancy in that Post Office, then we do not see any good ground as to why the applicant should not be appointed to that vacancy. If there is no such vacancy in Shirthady Post Office, then also it is proper for the authorities concerned to make an earnest effort to rehabilitate the applicant in a

nearby village against an existing vacancy or a vacancy that may arise in the near future. We do hope and trust that the authorities will do so. with expedition.

15. In the light of our above discussion, we make the following order and direction:

- i) We dismiss this application in so far as it challenges the impugned orders, not for the reasons stated by the Superintendent and the Director but for the reasons stated in our Order.
- ii) We direct the respondents to examine the case of the applicant for rehabilitating him either in Shirthady Post Office or in a nearby village post office against an existing vacancy or a vacancy that may arise in the near future with all such expedition as is possible in the circumstances of the case.

16. 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

22/2/1981
TRUE COPY

Sd/-

MEMBER (A)

22-3-1981

bk/Mrv.

By Venkatesh
DEPUTY REGISTRAR (JD) 3/4
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE