

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 20 APR 1988

APPLICATION NO 515 / 88(T)W.P. NO. 17933 / 84Applicant

Shri R. Balakrishna Murthy

v/s

Respondent

The PMG, Karnataka, Bangalore & another

To

1. Shri R. Balakrishna Murthy
Postal Assistant
Channapatna Head Post Office
Channapatna - 571 501
2. Shri S.B. Swethadri
Advocate
Papaish Building
Subedar Chathram Road
Bangalore - 560 009
3. The Post Master General
Karnataka Circle
Bangalore - 560 001
4. The Superintendent of Post Offices
Channapatna Division
Channapatna - 571 501
5. 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/ ~~SEARCH/ INVESTIGATION ORDER~~
 passed by this Tribunal in the above said application on 11-4-88.

Encl : As above

HC *By Venkatesh*
 DEPUTY REGISTRAR
 (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 11TH DAY OF APRIL, 1988

Present Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 515/1988

Shri R. Balakrishna Murthy,
s/o. late K. Ramappa,
aged 51 years,
Postal Assistant,
Channapatna Head P.O.
Channapatna.

... Applicant.

(Shri S.B. Swethadri, Advocate)

v.

1. Post Master General,
Karnataka Circle,
Bangalore.

2. Superintendent of Post Offices,
Channapatna Division,
Channapatna.

... 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


This is a transferred application and is received
from the High Court of Karnataka under Section 29 of the
Administrative Tribunals Act, 1985 ('Act').

2. When he was working as a Postal Assistant in
Channapatna Head Post Office, Channapatna, the applicant
applied for House Building Advance (HBA) of Rs.20,000/-
for constructing a house at Mudigere Village, Hosur Hobli,
Gowribidanur Taluk, which was sanctioned on 19.9.1977.
In pursuance of the same, the applicant drew the HBA in
three instalments and the last one of Rs.4,000/- on

9.7.1980. The applicant completed the construction of the house on 31.3.1981 and duly reported the same to the authority. On an examination of the completion report, the Post Master General in Karnataka, Bangalore (PMG) had made an order on 27.9.1984 (Annexure-E2) against the applicant and the same reads thus:

"Copy of CO letter No.HBA/1222/IV
dated 27.9.1984 received from
Postmaster-General, Karnataka
Circle, Bangalore-1 addressed
to SP0's., Channapatna Division,
Channapatna.

Sub: HBA case of Sri R. Balakrishna-Murthy.

Ref: Your letter No.E2/HBA/RB/
dated 6.8.1984.

The official has not constructed the house as per the original approved plan and thus violated the HBA rules. In this circumstances, it is decided to recover the whole sum with interest from the pay of the official leaving a sum of Rs.1/- as nominal pay. The balance outstanding is about Rs.9,000/- (Nine thousand only). Therefore please arrange to effect recovery as decided from the pay of the official for Oct.'84 payable on 31.10.84 and reply compliance.

Please acknowledge receipt.

Sd/-
for Postmaster General,
Bangalore 560 001."

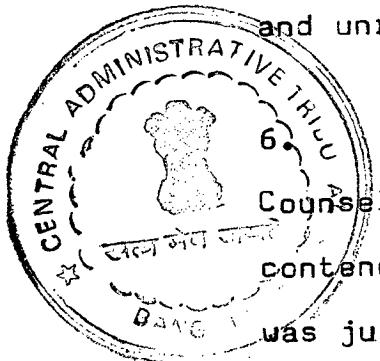


In Writ Petition No.17933 of 1984, the applicant challenged this order before the High Court.

3. On 16.11.1984, the High Court issued rule nisi and made an interim order permitting the respondents to recover the HBA from the applicant at the rate of Rs.220/- per month which has been in force ever since then. Before the said order of the High Court, the authorities had recovered at the rate of Rs.160/- per month upto 12.4.1982 and thereafter at the rate of Rs.220/- per month.

4. The applicant has challenged the impugned order of the P.M.G. on diverse grounds. The respondents have resisted this application.

5. Shri S.B. Swethadri, learned Counsel for the applicant, contends that the deviation if any, in the construction was only on the installation of the front-door of the building and not in any other respect and that deviation did not at all justify the PMG to make the arbitrary and unreasonable order.



Shri M.S. Padmarajaiah, learned Senior Standing Counsel for Central Government appearing for the respondents contends that so long as there was a deviation, the PMG was justified in making his order and that order being legal, its aptness cannot be examined by this Tribunal.

7. The assertion of the applicant that he had completed the construction of the building, is not denied by the respondents.

8. The only ground on which the PMG found that the entire HBA advance should be recovered from the applicant in the manner indicated in his order was that the applicant had not installed the front-door of the building as indicated in the Plan of the building. Shri Swethadri does not also dispute that the applicant had deviated to that extent.

9. We are of the view that the deviation in the installation of the front-door was not really a deviation in the construction of the building at all. At the highest it was too minor a deviation and should have been ignored by the PMG for all purposes. On this short ground, the impugned order calls for our interference.

10. Even assuming that under the Rules, the PMG was bound to treat the same as a deviation, then also we are of the view that the order made by the PMG was very unreasonable. After all, it is impossible for the applicant drawing a salary of Rs.2000/- per month to live on a nominal pay of Rs.1/- per month. On this ground also the order of the PMG calls for our interference.


In pursuance of the Order of the High Court, the applicant has been re-paying the HBA at the rate of Rs.220/- per month. Shri Swethadri submits that his client is ready to repay all the outstanding amounts to Government at that rate itself. We consider it proper to accord our permission to this request.

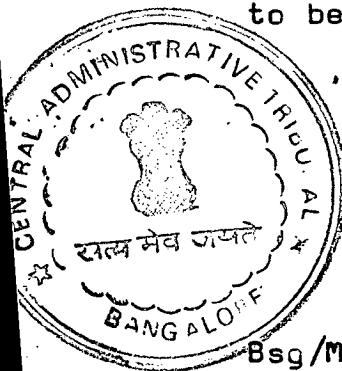
12. In the light of our above discussions, we make the following orders and directions:

(i) We quash the order dated 27.9.1984 of PMG -
(Annexure-E2)

(ii) We permit the applicant to repay the outstanding HBA advance at the rate of Rs.220/- per month, and if the outstanding HBA advance is not recovered before the retirement of the applicant, then the authorities are free to recover the balance outstanding then from out of the retiral benefits payable to the applicant.

13. 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 15-4-1984

Sd/-
MEMBER (A)

Bsg/Mrv.

TRUE COPY

By *Deputy Registrar (JDL)*
DEPUTY REGISTRAR (JDL) *gsl*
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE