

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : **13 JUN 1988**

APPLICATION NO.

58

/ 88(F)

W.P. NO.

Applicant(s)

Shri N.R. Raghunatha Rao
To

Respondent(s)

V/s The Post Master General, Karnataka, Bangalore
& 2 Ors

1. Shri N.R. Raghunatha Rao
S/o Shri N. Rama Rao
Nandalike - 576 126
Karkala Taluk
Dakshina Kannada District

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

3. The Post Master General
Karnataka Circle
Bangalore - 560 001

4. The Director of Postal Services
South Karnataka Region
Office of the Post Master General
Karnataka Circle
Bangalore - 560 001

5. The Senior Superintendent of Post Offices
Mangalore Division
Mangalore - 575 002

6. 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 ~~/STAY/~~ ~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 7-6-88.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE SEVENTH DAY OF JUNE, 1988

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

APPLICATION NO.58 OF 1988

N.R. Raghunath Rao,
Son of Sri N. Rama Rao,
aged about 24 years,
Ex.ED SPM, Nandalike,
Pin Code 576 126,
Karkala Tq. SK Dist.

Applicant

(Shri M.R.Achar.....Advocate)
Vs.

1. The Post Master General,
Karnataka Circle,
Bangalore.
2. The Director of Postal
Services,
South Karnataka Region
3. Sr.Superintendent of
Post Offices,
Mangalore Division,
Mangalore

Respondents

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

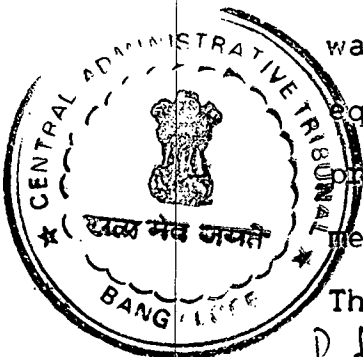
This application has come up for hearing
before this Tribunal to-day, Hon'ble Shri P.Srinivasan,
Member(A), made the following :

O R D E R

The applicant was appointed as an Extra-
Departmental Branch Post Master (EDBPM) by order
dated 22.6.1987. However, by another order dated
2.7.1987, his appointment was cancelled. When he
sought for a clarification, the Senior Superintendent



of Post Offices by his letter dated 15.7.1987 (Annexure-C) explained that near relatives could not be appointed in the same office, according to the rules. The applicant's brother was an Extra-Departmental Mail Carrier in the same post office to which the applicant was appointed as a postmaster, and so the appointment had to be cancelled. The applicant challenges his termination from service and the grounds urged therefor. The instructions of the Government against appointment of near relatives in the same office is contained in letter dated 17.10.1966 issued by the Director General, Post & Telegraphs (DGP&T). During the hearing, with our permission, learned counsel for the applicant Shri M. Raghavendrachar, added another prayer in the application, requesting this Tribunal to strike down the said letter and its contents as violative of Articles 14 and 16 of the Constitution. Shri Achar submitted that the letter of the DGP&T prohibiting the appointment of near relatives in the same office was illegal and unconstitutional. Preventing a person from applying for a post in an office, merely because a relative of his was working there, was violative of Article 16, which guarantees equal opportunity for all. There could be no presumption that fraud would be committed if members of one family work in the same office. This amounted to discrimination against members



P. S. - 42

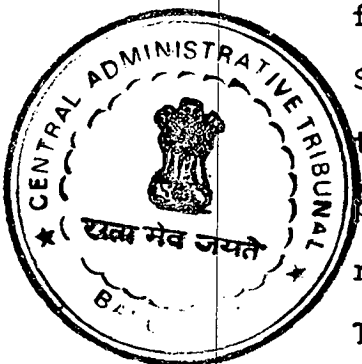
of a family treated as a group vis-a-vis others, as if, otherwise, no fraud would be committed. In an Extra-Departmental post office, the transactions are not too many and the scope for fraud is very limited. But no restriction against appointment of near relatives is made applicable to regular post offices where transactions are much larger. The impugned letter amounts to refusing appointment on an apprehension of fraud and in the present case, the applicant's appointment was cancelled ^{by only} ~~again~~ on such an apprehension. Such an apprehension cannot justify termination of appointment. Moreover, the applicant's service could not be terminated without giving him an opportunity of being heard and so the impugned letter violated Article 311 of the Constitution. The prohibition in the impugned letter was not a rule notified under Article 309 of the Constitution and therefore cannot be enforced against the applicant. The authority responsible for making appointments is expected to apply his mind, consider the family history of the person seeking appointment and the character certificates issued to him; he cannot be denied appointment merely on the ground that he was related to another person working in the same office. With effect from 30.1.1981, qualifications and conditions of service of appointment of ED Agents had been announced as can be seen



P. S. - 4

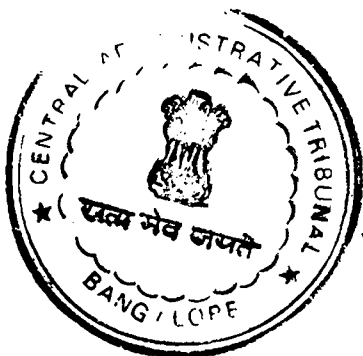
from page 45 of Swamy's Compilation of Service Rules for Extra-Departmental Staff. These conditions replaced whatever instructions existed in the post, including the impugned letter of 1966. After 1981, the impugned letter of 1966 had no application and as such, the cancellation of the applicant's appointment was illegal. Further, at page 44 of the same publication, Extra-Departmental agents are required to furnish security and offer their own premises for housing the post offices. This constituted adequate safeguard against possible frauds and therefore, there was no need to continue the prohibition against employment of near relatives. Shri Achar also drew our attention to the detailed conditions of service set out in the same publication at pages 40 onwards where no reference is made to the prohibition of appointment of near relatives in the same office. For all these reasons, Shri Achar submitted that the letter of the DGP&T dated 17.10.1966 on the basis of which the applicant's service was terminated, should be struck down as illegal and unconstitutional or in the alternative that the said letter ^{should be held to have} had no application to the appointment of the applicant.

2. Shri M.S. Padmarajaiah, learned counsel for the respondents, opposed the contentions of Shri Achar. It was the view of the Government that in Extra-departmental post offices, the possibility of fraud would be reduced if near relatives are not posted to man the same office. The objective was to prevent occurrence of frauds and the impugned letter provided a

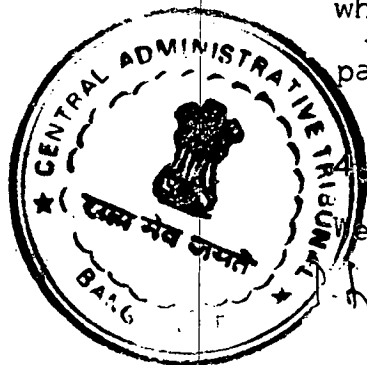


classification which was reasonable and had a nexus with the object to be achieved. It was not directed against any particular individual - least of all against the applicant or his family -, but was a general rule to be followed wherever appointments had to be made. It cannot be challenged either under Articles 14 or 16 or 311 of the Constitution. The applicant was not punished when his services were terminated. ^{The} ~~His~~ termination of ^{his} services was only because his appointment in the same office in which his brother was working was a mistake, being in violation of the instructions of the DGP&T on the subject. In fact, the respondents were prepared to offer the applicant the post of Extra-departmental Agent elsewhere in the same division as and when a vacancy arose. ^{of} They had nothing against the application ^{not} and so the question of violation of Article 311 did not arise.

3. Having considered the rival submissions, we are of the view that this application deserves to be dismissed. As pointed out by Shri Padmarajaiah, the instructions of the DGP&T had an objective to fulfil, viz., to prevent the possibility of frauds occurring in post offices. Whether the transactions are few or many, whether the amount of cash or other valuables



handled in an office is big or small, there is always a chance of fraud. It is the duty of the Government to create conditions in which it would be difficult for such frauds to occur. There was a reasonable presumption that if near relatives were appointed to the same office, they could collude in defrauding the Government. We agree with Shri Padmarajaiah that there is no aspersion cast on the applicant or his family or any discrimination against his family, because the rule has a general application and is based on a reasonable classification bearing a nexus with the object sought to be achieved. We do not agree that the qualifications and conditions prescribed and printed at pages ^{40,} 44 and 45 of Swamy's Compilation referred to by Shri Achar in any way to overrule or render unnecessary the instructions issued by the DGP&T that near relatives should not be appointed in the same office. Nor does the cancellation of the applicant's appointment in the circumstances of this case account to a punishment. We, therefore, see nothing in the letter or in the action of the respondents in this case, which offends any Article of the Constitution, particularly Articles 14, 16 or 311.



In the result, the application is dismissed. We may, in the passing, express a hope that the

respondents will, as stated by Shri Padmarajaiah,
be able to accommodate the applicant in any other office
as an Extra-departmental ^{Postmaster (t)} as soon as possible
provided he is willing to accept such appointment.
No order as to costs.



Sd/-
(K.S. PUTTASWAMY)
VICE-CHAIRMAN

Sd/-
(P. SRINIVASAN)
MEMBER (A)

TRUE COPY

[Signature]
SECTION OFFICER B/6
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE