

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 7 JUL 1988

APPLICATION NO. 701 / 88(F)

W.P. NO. _____

Applicant(s)

Shri D. Selvaraj

To

1. Shri D. Selvaraj
Peon
Account Current Section
Office of the Deputy Director of
Accounts (Postal)
Bangalore - 560 009

2. Shri L. Narayana Swamy
Advocate
No. 11, Jeevan Buildings
Kumara Park East
Bangalore - 560 001

3. The Deputy Director of Accounts (Postal)
Karnataka Circle
G.P.O. Complex
Bangalore - 560 001

Respondent(s)

v/s The Deputy Director of Accounts (Postal),
Karnataka Circle, B'lore & another

4. The Accounts Officer
Office of the Deputy Director of
Accounts (Postal)
G.P.O. Complex
Bangalore - 560 001

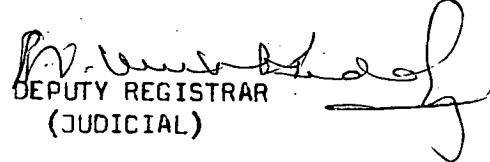
5. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

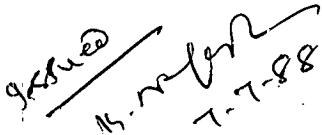
Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAN/ADJUDIX ORDER
passed by this Tribunal in the above said application(s) on 4-7-88.

Encl : As above

dc


P. Venkateshwaran
DEPUTY REGISTRAR
(JUDICIAL)


M. M. Raju
1-7-88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE FOURTH DAY OF JULY, 1988

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

APPLICATION NO. 701/1988

Shri D. Selvaraj
Peon
Account Current Section
Office of the Deputy Director
of Accounts
Bangalore - 560 009. .. Applicant
(Shri L. Narayana Swamy, Advocate)

Vs.

1. Deputy Director of Accounts (Postal)
Karnataka Circle
G.P.O. Complex
Bangalore - 560 001.
2. Accounts Officer
Office of the Deputy Director
of Accounts (Postal)
G.P.O. Complex
Bangalore - 560 001.
(Shri M.S. Padmarajaiah, S.C.G.S.C.) .. Respondents

This application has come up before
the Tribunal today. Hon'ble Vice Chairman made the
following:

ORDER

In this application made under section
19 of the Administrative Tribunals Act, 1985 ('Act'),
the applicant has challenged order No.41/Adm./Per/V/Disc
dated 29.2.1988 (Annexure-A4) of the Deputy Director
of Accounts (Postal), Bangalore ('Director').

In a departmental proceeding instituted
against the applicant under the Central Civil Services
(Classification, Control & Appeal) Rules, 1965 ('the Rules')



the Accounts Officer (AO) of the office of the Director by his order No.1682/Admn/Per.V/Disc dated 3.12.1987 (Annexure-A2) inflicted on him the penalty of stoppage of next increment accruing to him for a period of 3 months without cumulative effect. Aggrieved by this order, the applicant filed an appeal before the Director who on 29.2.1988 (Annexure-A4) had substantially accepted the same and had remitted the case to the AO for a *denovo* inquiry. Aggrieved by this order of the Director the applicant has made the application.

3. Shri L. Narayana Swamy, learned counsel for the applicant contents that the Director while rightly remitting the case to the AO, should not have expressed himself on merits.

4. Shri M.S. Padmarajaiah, learned Central Government Standing Counsel, appearing for the respondents sought to support the order of the Director.

5. In his appeal, the applicant had inter alia contended that the AO had not held an inquiry in conformity with the Rules. In upholding the Director, had rightly set aside the order of the AO and had remitted the case to the AO for fresh disposal. But while so doing, the Director had stated thus:

"Though, from the facts available, I find that there is a prima facie case against Shri D. Selvaraj".

When he was remitting the case to the AO to hold a



fresh inquiry, the aforesaid observation made by him was totally unjustified. Even otherwise an observation which prejudices the case of the applicant in the de novo inquiry cannot also be made. On this view, there is every justification to strike down the same.

6. As the appellate authority had only remitted the matter to the disciplinary authority for fresh disposal, it is not proper to interfere with the rest of the order which is otherwise legal.

7. In the light of our above discussion, we allow this application in part and strike down the portion of the impugned order in para 6 to the effect "I find that there is a prima facie case ^{& and} against Shri D. Selvaraj" and maintain the same in all other aspects.

8. Application is disposed of in the above terms. But in the circumstances of the case, there will be no order as to costs.



mr.

Sd/-

VICE CHAIRMAN 4/7/82

Sd/-

MEMBER (A) 4-7-82

TRUE COPY

R. Venkatesh
DEPUTY REGISTRAR (JD)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE