

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
II Floor, Indiranagar,
Bangalore- 560 038.

Dated: 20 SEP 1988

To

1. Shri. Sanjeev Malhotra,
All India Services Law Journal,
Hakikat Nagar, Mal Road,
New Delhi- 110 009.
2. Administrative Tribunal Reporter,
Post Box No. 1518,
Delhi- 110 006.
3. The Editor,
Administrative Tribunal Cases,
C/o. Eastern Book Co.,
34, Lal Bagh,
Lucknow- 226 001.
4. The Editor,
Administrative Tribunal Law Times,
5335, Jawahar Nagar,
(Kolhapur Road),
Delhi- 110 007.
5. M/s. All India Reporter,
Congressnagar,
Nagpur.

Sir,

I am directed to forward herewith a copy of the order mentioned order passed by a Bench of this Tribunal comprising of

Hon'ble Mr. Justice K.S. Puttaswamy Vice-Chairman/
~~Member (B)~~ and Hon'ble Mr. L.H.A. Rego Member (A)

with a request for publication of the order in the Journals.

Order dated 9-9-88 passed in A.Nos. 712/88(F)

Yours faithfully,

Sd/-
(B.V. VENKATA REDDY)
DEPUTY REGISTRAR (J).

Issued
K. Venkatarao
20.9.88

d/c

Copy with enclosure forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi- 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I.Compounds, Nungambakkam, Madras-600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O.Complex, 234/4, AJC Bose Road, Nizam Palace, Calcutta- 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex(CBD), 1st Floor, Near Kankon Bhavan, New Bombay- 400 614.
5. The Registrar, Central Administrative Tribunal, S.C.O.102/103, Sector - 34-A, Chandigarh.
6. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad- 211 001.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shilong Road, Guwahati- 781 005.
8. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur- (MP).
9. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floor, Opp. Maharaja College, M.G.Road, Ernakulam, Cochin- 682 001.
10. The Registrar, Central Administrative Tribunal, 88-A B.M.Enterprises, Shri Krishna Nagar, Patna-1.
11. The Registrar, Central Administrative Tribunal, C/o. Rajasthan High Court, Jodhpur(Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanpura, Ahmedabad.
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak- 753 001.

Copy with enclosure also to:

1. Court Officer(Court I)
2. Court Officer(Court II)

B.V. Venkata Reddy
(B.V.VENKATA REDDY)
DEPUTY REGISTRAR(J).

Issued
K. M. Venkatesh
20-9-88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

Dated the 9th day of September, 1988.

Present

THE HON'BLE MR. JUSTICE K.S. PUTTASWAMY: VICE CHAIRMAN
THE HON'BLE MR. L.H.A. REGO .. MEMBER(A)

Application No.712 OF 1988(F)

Sri B.S.Srinivasa Rao
S/o Late B.Shama Rao,
41 years,
Postal Assistant,
Frazer Town Post Office,
Bangalore-560 020. .. Applicant

(Sri C.M.Bhaktavatsala, Adv. for the applicant)

-Vs.-

1. The Director of Postal Services(SK)
Office of the Post Master General
Bangalore-560 001.
2. The Superintendent of Post Offices,
Channapatna Division,
Channapatna-571 501. Respondents.

(By Shri M.Vasudeva Rao, Addl.Standing Counsel
for Central Government for respts.)

The application coming on for hearing this
day, HON'BLE VICE CHAIRMAN made the following:

Order

ORDER

In this application made under Sec.19 of the Administrative Tribunals Act, 1985(Act), the applicant has challenged the Order No.STA/9-3/MO/87 dated 1-2-1988 of the Director of Postal Services(SK), Bangalore, and the appellate authority (AA), and Order No.F/6-2/85-86, dated 8-9-1987 of the Superintendent of Post Offices, Channapatna and the disciplinary authority (DA).

2. On the two material dates, namely, on 18-6-1985 and 24-6-1985, the applicant was working as a Postal Assistant ('PA') in the Channapatna Head Post Office, Channapatna, Bangalore District. On the performance of his duties as PA on those dates, the DA on 6-7-1987(Annexure-C) initiated disciplinary proceedings against the applicant under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('Rules') on the charge and statement of allegations served on him, to be hereinafter referred to as the 'Charge Memo', and the same reads thus:

"Statement of imputations of misconduct or misbehaviour on which action is proposed to be taken against Sri B.S. Srinivasa Rao, PA, Ramanagaram LSG S.O.

The Superintendent of Post Offices Channapatna took up inspection of Channapatna HO on 24-6-1985. During verification of balance, he observed shortage

of

of Rs.1540/- worth service stamps. The SPOs ordered enquiry into the shortage of service stamps through the ASPI/C. During enquiries the following facts came to light.

2. Sri B.S.Srinivasa Rao, had unauthorisedly took charge of the duties of the ATR on 18-6-1985 between 1.30 PM to 2.30PM from Sri M.S.Ramakrishna. During this interval, he had sold service stamps worth Rs.10,000/- to M/s S.S.Mills. It was also established that he had sold Rs.308/- worth of service stamps in excess to M/s S.S.Mills, on 18-6-1985. Even when the S.S.Mills informed him about receipt of excess stamps over phone on 18-6-1985, he had neglected to find out the correctness of service stamps balance by counting each denomination of stamps. He has admitted these lapses to his statements given before the ASP I/c on 26-6-1985 and 5-11-1986.

3. His lapses have contributed towards shortage of service stamps to the extent of Rs.1540/-. He is also alleged to have exhibited lack of devotion to duty as required by rule 3(1)(ii) of the CCS Conduct Rules, 1964.

Sd.S.Shankaranarayana Rao,
Suptdt.of Post Offices,
Channapatna Division,
Channapatna-571501."

In answer to this charge memo, the applicant filed his statement denying the charge and his liability for the shortage of service stamps on 24-6-1985 with which we are primarily concerned.

3. On an examination of the charge memo, the defence statement of the applicant and the records, the DA on 8-9-1987, holding the applicant guilty of the charge, directed recovery of Rs.770/- from the applicant in 10 equal monthly instalments

commencing

commencing from the pay of September 1987.

Aggrieved by this order of the DA, the applicant filed an appeal before the AA, who by her order made on 1-2-1988 had dismissed the same. Hence, this application.

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

5. Shri C.M.Bhaktavatsalu, learned Counsel for the applicant, contends, that the findings of the AA and DA on the charge, were manifestly perverse and that no reasonable man would have ever reached them and therefore they call for our interference on that ground.

6. Shri M.Vasudeva Rao, learned Additional Standing Counsel for Central Government appearing for the respondents, since we refused adjournment in the first round, negating his plea, that Shri M.S.Padmarajaiah, learned Senior Standing - Counsel for Central Government, who represents the respondents was out of station, sought to justify the impugned orders.

7. On 18-6-1985, the applicant sold service stamps to Channapatna Spun Silk Mills, Channapatna (S.S.Mills) in which transaction, there was an excess sale and the excess sale amount had also been recovered from that party, which fact is not in dispute. With this, the transactions on 18-6-1985 ended.

8.The

8. The gravamen of the charge was that on 24-6-1985, there was a shortage of service stamps, when one S.Nagaraju was in¹charge of the sale of stamps, and not that the applicant was in¹charge of the same, and that the recovery against Sri Nagaraju had failed. We will even assume that this charge or all the facts stated by the DA are correct. On this charge, the DA holds the applicant guilty, on what he had done on 18-6-1985. In other words, the DA holds the applicant responsible for the shortage of service stamps on 24-6-1985 on the premise, that such shortage had occurred on 18-6-1985. The AA had concurred with this.

9. What is manifest from the orders of the AA and DA is that they have held the applicant guilty of the shortage of service stamps on 24-6-1985, even though the applicant was not entrusted with the duty of vending service stamps on that date. They are seen to have arrived at this conclusion on the sole premise, that the applicant is alleged to have sold earlier, on 18-6-1985, service stamps to the S.S.Mills in excess of the amount recovered from the Mills, resulting thereby, in shortage of the service stamps held in stock on that date. Patently this reasoning is fallacious as it is seen to have been based on: "after this, therefore, because of this" - post hoc, ergo propter hoc°. Such a deduction on the face of it, is

is indeed preposterous and therefore cannot be countenanced by us on any principle of logic, reason and law. Evidently, the conclusion so arrived at by the DA and affirmed by the AA is ex facie perverse.

10. Admittedly, the applicant was in no way connected with the sale of service stamps on 24-6-1985. When that is so, the applicant cannot by any stretch of imagination be held responsible and that too vicariously, for the alleged shortage in service stamps, on a day when he was not on duty at all. Seven precious days elapsed between 18-6-1985 and 24-6-1985 and yet despite meticulous check required to be exercised at the end of each day, to ensure correctness of the balance service postage held in stock, it is strange that the alleged shortage in service stamps detected on 24-6-1985 should have been ascribed to the applicant, who was nowhere on the scene, from the end of the afternoon recess on 18-6-1985 ^{during which} ~~when~~ by his own volition, he had taken over the responsibility to vend the service stamps for a brief spell of an hour or so, perhaps with an intent to assist his colleague and not by way of duty legitimately assigned to him) upto 24-6-1985. The blame so imputed to the applicant is thus not only vicarious but manifestly perverse. We can see this clever ruse on the part of the respondents, in no other light, than to merely pass the buck and implicate an innocent employee in the manner of "giving the dog a bad name and hanging it" and that too, after "locking the stable door when the steed had fled"! Should the Postal Department continue to weave a

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30
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implication against its innocent employees in this dubious manner, we are afraid none of them shall escape its wide swinging hatchet. We can only call this defilement of justice, to guard against which, the Department would do well instead, to revamp its current procedure and devise more efficient checks and counterchecks in its day-to-day work, to help fix responsibility on its delinquent employees determinately and unequivocally in cases of the like.

11. In the above background, we cannot place our seal of imprimatur on the perverse findings of the authorities and consequently must denounce the recovery of Rs.770/- from the applicant. We must therefore necessarily direct the respondents to refund all such amounts recovered from the applicant so far.

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

- (i) We quash the impugned orders.
- (ii) We direct the respondents to refund within a period of one month the amounts so far recovered from the applicant in pursuance of the impugned orders.

13. Application is allowed in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

TRUE COPY

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

Sd/-
(L.H.A. REGO)!
MEMBER(A)

9.12.1988

DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 20 SEP 1988

APPLICATION NO. 712 /88(F)

W.P. NO. _____

Applicant(s)

Shri B.S. Srinivasa Rao

To

1. Shri B.S. Srinivasa Rao
Postal Assistant
Frazer Town Post Office
Bangalore - 560 020
2. Shri C.N. Bhakthavatsalu
Advocate
No. 28, Raja Snow Buildings
Seshadripuram
Bangalore - 560 020
3. The Director of Postal Services(SK)
Office of the Post Master General
Karnataka Circle
Bangalore - 560 001

Respondent(s)

V/s The Director of Postal Services (SK),
Bangalore & another

4. The Superintendent of Post Offices
Channapatna Division
Channapatna - 571 501
5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Recd 2 Two copies
for respondents
AS per
MNC 50/22
Bg in 9/88

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 9-9-88.

Encl : As above

for DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

Dated the 9th day of September, 1988.

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.. Applicant

(Sri C.M. Bhaktavatsala, Adv. for the applicant)

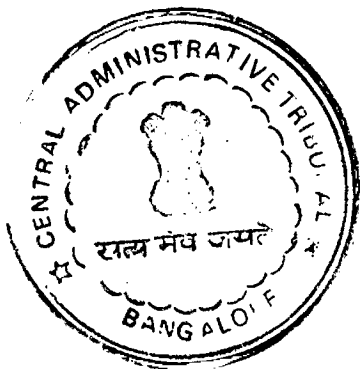
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TRUE COPY

Sal-
(K.S. PUTTASWAMY)
VICE CHAIRMAN. 9/9/88

Sal-
(L.H.A. REGO) 9.12.1988
MEMBER(A)

for DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE 20/9