

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Dated : 4 AUG 1988

714 & 727

/ 88(F)

Respondent(s)

V/s The Senior Supdt. of Post Offices, Kolar

- DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 29TH DAY OF JULY, 1988

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

APPLICATION NOS. 714 & 727/1988

1. Shri A.S. Nagaraj,
s/o Sambamurthy,
aged 26 years,
D.No.534, Kandavar Peth,
Chikballapur.

... Applicant in
A.No. 714/88
& 727/1988.

(Shri R.A. Shiraguppi, Advocate)

v.

1. The Senior Superintendent
of Post Offices, Kolar-
Division, Kolar.

... Common
Respondent.

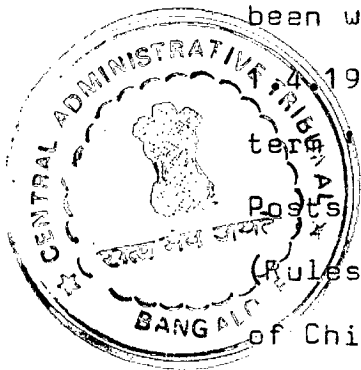
(Shri M. Vasudeva Rao, C.G.A.S.C.)

These applications having come up for hearing to-day,
Vice-Chairman made the following:

ORDER

These are applications made by the applicant under
Section 19 of the Administrative Tribunals Act, 1985 (Act).

2. The applicant, who is common in these cases, has
been working as an Extra-Departmental Mail Carrier from
4.1981, a category falling within the meaning of the
term 'Extra-Departmental Agent' (EDA) governed by the
Posts & Telegraphs EDAs (Conduct & Service) Rules, 1964
(Rules). When he was so working at a place called Ajjavara
of Chickballapur taluk, Kolar District, the Senior Superin-
tendent of Post Offices, Kolar Division, Kolar (SSPO) had
issued him a Memorandum No. B2/28-2/Ajjawara dated 2.2.1988
(Annexure-A) alluding to an incident and making his remarks



5

on the conduct and work of the applicant. - -

- - In challenging that memorandum on diverse grounds, the applicant has sought for a direction to the respondent to extend him the salary of a regular Group-D employee of the Department performing similar duties.

3. In his reply, the respondent has stated that the action proposed against the applicant in the memo dated 2.2.1988 had not been pursued and the same is treated as closed. The claim of the applicant for equal pay is resisted by the respondent.

4. Shri R.A. Shiruguppi, learned counsel for the applicant, contends that the memo dated 2.2.1988 casts a stigma on the character and work of the applicant without affording him a reasonable opportunity to state his case and is violative of the principles of natural justice.

5. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for the respondent, contends that on the statement made by the respondent in his reply, there was no necessity for this Tribunal to examine the validity of the impugned order and annul the same.

6. The order made by the SSPD on 2.2.1988 to which the applicant has taken exception, reads thus:

"It is seen from the enquiry made that you have managed to affix your initial on 19.12.87 on which day you did not practically conveyed the



Bag, somehow to show that you only have conveyed the Bags on 20.12.87. If you had actually taken the Bags from the account office, the BPMS Jathavara and potrenahally would have confirmed this. But they stated that you have not conveyed the B.C. Bag on 19.12.87. Though it is a serious lapse on your part, since you have come up the adverse notice for the first time, severe action is not taken.

You have also sent so many representations on the above subject which could have been avoided. Please explain why a copy was submitted to Assistant Labour Commissioner, Central Oorgaumpet, K.C.F.

Sd:
Sr. Supdt. of Post Offices,
Kolar Division, Kolar. "

In this order, the SSPD had undoubtedly cast a stigma on the character and work of the applicant. The SSPD does not dispute that before doing so he had not afforded the applicant a reasonable opportunity to state his case. On this short ground, this order, which is violative of the principles of natural justice, cannot be upheld.



7. But, in his reply the respondent has stated that he does not propose to pursue the matter and has treated the matter as closed. What is obvious from this is that the respondent himself, realising the infirmity of the order, does not propose to act on the same for any official or other purpose, so long as the applicant is in service. On this view of the matter, we do not consider it necessary to formally annul the same.

8. Shri Shiruguppi contends that the nature of the duties performed by the applicant were similar to the duties performed by regular Mail Carriers of the Department, drawing regular salary, and therefore, the applicant was entitled for the equal salary of a Mail Carrier of the Department. In support of his contention, Shri Shiraguppi strongly relies on the ruling of the Supreme Court in SURENDER SINGH & ANOTHER v. THE ENGINEER IN CHIEF, C.P.W.D., AND OTHERS (AIR 1986 SC 584), and DAILY RATED CASUAL LABOUR EMPLOYED UNDER P & T DEPARTMENT, THROUGH BHARATIYA DAKTAR MAZDOOR MANCH v. UNION OF INDIA AND OTHERS (AIR 1987 SC 2342).

9. Shri Rao contends that the terms of employment and the nature of duties performed by the EDAs are not similar to the regular employees of the department who are allowed to draw regular scales of pay and therefore, the claim of the applicant for equal pay was unfounded.

10. The appointment to the posts of EDAs and their terms and conditions of their appointment are regulated by the rules. A close examination of the terms and conditions of appointments of the EDAs and the rules show that the EDAs are part time employees of the Central Government and are not whole time employees of the Postal Department. In PETER D'SA AND OTHERS v. S.P.O UDIPI, & OTHERS, decided on 15.7.88, this Tribunal has explained the special characteristics of EDAs.



11. The EDAs cannot compare themselves with the regular employees of the Postal Department. If that is so, the claim of the applicant for equal pay, as if he is a regular whole time employee of the Postal Department is misconceived. We are of the view that the ratio in SURENDER SINGH's case and DAILY RATED LABOUR EMPLOYEES' case, does not really bear on the point and assist the applicant. From this, it follows that the claim of the applicant cannot be upheld.

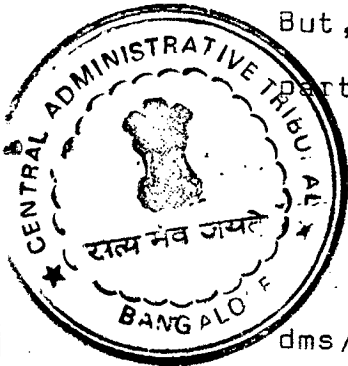
12. In the light of our above discussion, we make the following orders and directions:

(i) we declare that the memo dated 2.2.1988 issued by the SSPD, is a bad order. But notwithstanding the same, we decline to quash it for the reason stated at para 7 of our order.

(ii) We dismiss this application in all other respects.

13. Applications ^{are} ~~is~~ disposed of in the above terms.

But, in the circumstances of the cases, we direct the parties to bear their own costs.



Sd/-
VICE-CHAIRMAN 29/7/88

Sd/-
MEMBER (A)

dms/Mrv.

TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE