

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Registered

Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated :

9 JUN 1988

APPLICATION NO

10

/ 88(F)

W.P. NO.

Applicant

Shri C.G. Prasannavar  
To

Respondent

V/s The Regional Director of Postal Services,  
Dharwad & another

1. Shri C.G. Prasannavar  
ED Watchman  
Office of the Regional Director  
of Postal Services  
North Karnataka Region  
Dharwad - 580 001
2. Shri M. Raghavendra Achar  
Advocate  
1074-1075, Banashankari I Stage  
Sreenivasanagar II Phase  
Bangalore - 560 060
3. The Regional Director of  
Postal Services  
North Karnataka Region  
Dharwad - 580 001
4. The Post Master General  
Karnataka Circle  
Bangalore - 560 001
5. Shri M.S. Padmarajaiah  
Central Govt. Sing 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 on 3-6-88.

Encl : As above

DEPUTY REGISTRAR  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

DATED THIS THE THIRD DAY OF JUNE, 1988

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

APPLICATION NO. 10/88

C.G. Prasannavar,  
S/o Sri Gangappa,  
aged about 24 years,  
E D Watchman, Office  
of the RDPS, Dharwad.

Applicant

(Shri M. Raghavendrachar..... Advocate)

Vs.

1. The Regional Director of  
Post Services,  
North Kanara Region,  
Dharwad.

2. The Post Master General,  
Karnataka Circle,  
Bangalore

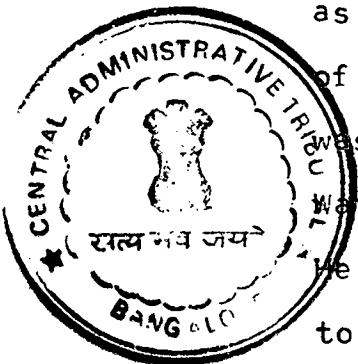
Respondents

(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 who was initially appointed  
as a Sweeper in the office of the Regional Director  
of Postal Services, Dharwad - respondent-1, in 1979  
was thereafter appointed as an Extra Departmental  
Watchman or Chowkidar in the same office in 1982.  
He continued to hold that post thereafter. According  
to the applicant, one post of Peon in the office  
of respondent-1 fell vacant in August, 1986 and



P. Srinivasan

the Regional Director asked the applicant to perform the duties of Peon from 25-8-1986 in addition to his duties as a Watchman. The applicant states further that he continued to work in the dual capacity till 26-3-1987, being paid only the salary and allowance of an Extra Departmental Watchman and not that of a regular Peon whose duties he was performing. In the application he prays that his duties should be clearly defined because he was being asked to shoulder the responsibility of two posts without being remunerated for the same. The second prayer is that steps should be taken to fill up the regular posts of Peons in Class IV which are vacant in the office of respondent-1 in accordance with law and to consider the case of the applicant for appointment to one such post.

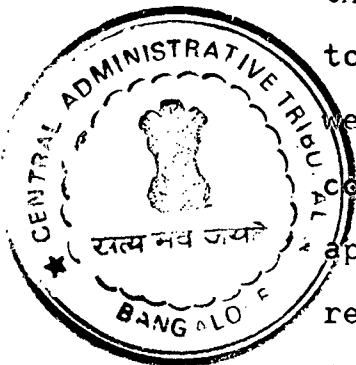
2. Sri M. Raghvendrachar, learned counsel for the applicant made the following submissions. According to the instructions of the Government, in filling up regular posts of Peons, preference has to be given to ED agents. The applicant had worked as ED agent from 1979 <sup>6/</sup> ~~and~~ onwards and was eligible for consideration for appointment to Class IV post. There were two posts of peons in the office of respondent-1. The Regional Director actually proposed to fill up these posts by holding a test for ED agents. But, this proposal had not gone through. The respondents had filled the two vacant posts by transfer of officials from some other office. The recruitment to posts of Peons was to be



PI - 10

made to the extent of 100 per cent by direct recruitment only. Therefore, the filling up of posts of Peons in the office of respondent-1 which constitutes a separate unit for this purpose by transfer of persons from other offices was, against the Rules. When eligible persons for appointment by direct recruitment like the applicant were available, the authority should not have filled up the posts by transfer.

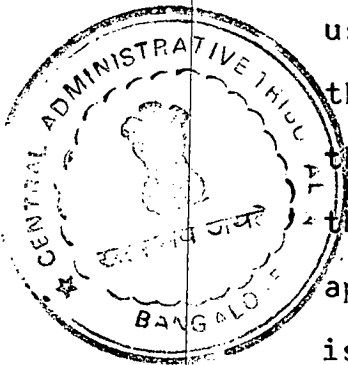
3. Sri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the respondents sought to refute the contentions of Sri Achar. The applicant was working as an ED agent in the office of respondent-1 which is a Regional Administrative Office. Under the Rules, the posts of Peons in Regional Administrative Offices should not be filled by recruitment of ED agents. Rule 18 of the Indian Posts and Telegraphs Group-D Posts (Recruitment) Rules, 1982 (hereinafter referred to as the Rules) provides that in Administrative Offices, recruitment to all Class IV posts will be made from amongst the nominees of the Employment Exchange. For recruitment to Class IV posts in those offices no relaxation of age limit admissible to ED agents was possible and so, ED agents who were beyond the maximum age for direct recruitment could not compete for such appointment. The applicant was beyond the maximum age for general recruitment and so he could not be considered for recruitment to the vacant posts in the office



*[Handwritten signature]*

of respondent-1. However recruitment of ED agents can be made to posts in subordinate offices, that is, offices subordinate to that of respondent-1. In order to help the applicant, the respondents had on 13-5-1988 transferred the applicant to Hubli Murusavira Mutt Post Office which is a subordinate office so that he will, in due course of time, get an opportunity of being absorbed as a regular peon from the quota reserved for ED agents. The applicant had joined the new post on the same day. The applicant's claim for being considered for regular post of peon in the office of respondent-1 cannot be sustained and Sri M.S. Padmarajaiah submits that this application should be dismissed for this reason.

4. We have considered the rival contentions carefully. The statement in the application that the applicant had actually carried out all the duties of a peon for the period from 25-8-1986 to 26-3-1987 in addition to working as an ED Watchman has been denied in the reply of the respondents. Sri Padmarajaiah reiterated this denial before us also. In the absence of any proof to support this statement of the applicant, we cannot assume that he carried on the duties of a peon during the said period. So far as the prayer of the applicant for a direction to the respondents to issue work allocation order is concerned, the respondents have in fact issued such an order,



P. d. 85

after this application was filed, on 4-2-1988. So far as the applicant's prayer for being considered for regular appointment of a peon in the office of respondent-1 is concerned, the respondents have given an adequate explanation as to why that is not possible. We have perused the Rules and we are satisfied that under the Rules, ED agents who are beyond the age limit prescribed in the normal Recruitment Rules, cannot be appointed under the ED agents quota to posts of peons in Administrative offices like the office of respondent-1. Moreover the respondents have filled up the two posts by transferring persons from other offices. We cannot interfere with the power of the respondents to make transfers of persons from one office to another. Sri Achar's contention that this amounted to violation of the Recruitment Rules is not sustainable because the position of vacancies is to be considered for the entire charge of the Post Master General, the Rules being applicable to the whole charge. By merely transferring two persons in the vacancies that existed in the office of respondent-1, the respondents have not filled up the vacancies in the charge as a whole. The Rules only prohibited that persons cannot be transferred from elsewhere (meaning from other departments) to fill up vacancies that arise. But, they do not prohibit internal transfers of persons in the department itself by the Head of the Department. This objection, therefore,



P. S. 12

has no merit. We have perused the records of the office of the Post Master General, respondent-2 in this connection. We find that the two posts of peons in the office of respondent-1 were filled by transfer of persons from other offices under respondent <sup>M and R-1 (one) 17</sup> 2 in accordance with the orders of the Post Master General who is competent to do so. We also find that the applicant was transferred to Hubli in order to give him an opportunity to be absorbed in the quota of ED agents to regular posts of peons in the Department in subordinate offices. In view of this, the claim of the applicant for regular appointment as peon in the office of R-1 cannot be sustained.

5. In view of what we have stated above, the application is devoid of merit and is, therefore, dismissed. Parties to bear their own costs.



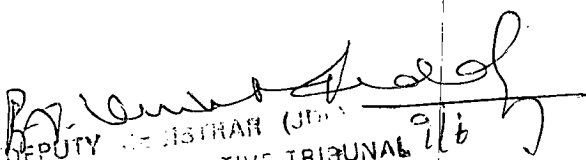
Sd/-

(K.S. PUTTASWAMY)  
VICE-CHAIRMAN 3/6

Sd/-

(P. SRINIVASAN)  
MEMBER (A)

TRUE COPY

  
DEPUTY REGISTRAR (JUNIOR)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE 11/6