

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 5 JAN 1989

APPLICATION NO.

779

/88(F)

W.P. NO.

Applicant(s)

Shri Lingegowda
To

Respondent(s)

V/s The Secretary, Postal Services Board,
New Delhi & 2 Ors

1. Shri Lingegowda
D. No. 90 B, Sanjeevinagar
Hebbal
Bangalore - 560 024
2. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
3. The Secretary
Postal Services Board
Dakh Bhavan
Sansad Marg
New Delhi - 110 001
4. The Chief Post Master
General Post Office
Bangalore - 560 001
5. The Hon. Secretary
Bangalore General Post Office
Canteen
Bangalore - 560 001
6. Shri M. Vasudeva Rao
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 2-1-89.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 2ND DAY OF JANUARY, 1989

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

APPLICATION NO. 779/1988

Shri Lingegowda,
S/o Desigowda,
aged about 24 years,
D.No.90B, Sanjeevinagar,
Hebbal, Bangalore-24.

.... Applicant.

(Dr. M.S. Nagaraja, Advocate)

v.

1. Union of India
by its Secretary,
Postal Services Board,
Dakh Bhawan, Sansad Marg,
New Delhi.

2. Chief Post Master,
General Post Office,
Bangalore.

3. Hon. Secretary.
Bangalore General Post Office -
Canteen, Bangalore.

.... Respondents.

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

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

ORDER

The applicant who was engaged as a dailywaged employee in the canteen of the General Post Office, Bangalore, in 1983 was given regular appointment in the canteen with effect from 28.7.1987 on a temporary basis as a washboy in the scale of pay of Rs.750-12-870. It appears that even after such appointment he was not paid salary in the scale for some time but that omission has been rectified by the



P. S. Srinivasan

respondents. However, the services of the applicant were terminated with immediate effect by order dated 14.5.1988 (Annexure-D page 16 of the application). This application is directed against this order by which the applicant's services were terminated.

2. In their reply the respondents have resisted the claim of the applicant and have stated that his services had to be terminated for want of sanction of an additional post of Washboy by the Post Master General (PMG), Bangalore. The PMG, it is stated, declined to sanction the additional post on the ground that the selection and appointment of the applicant on regular basis on 28.7.1987 was not proper since his name had not been sponsored by the Employment Exchange (EE).

3. Dr. M.S. Nagaraja, learned counsel for the applicant, submits that the applicant answered a notification issued by the respondents on 12.12.1986 calling for applications for the post of Washboy and he was appointed on a regular basis from 28.7.1987 after going through a regular process of selection. The appointment was, therefore, perfectly legal. Merely because the applicant's name had not been sponsored by the EE his appointment did not become illegal. Therefore, the reason given by the respondents that the initial regular appointment of the applicant was irregular does not hold water.

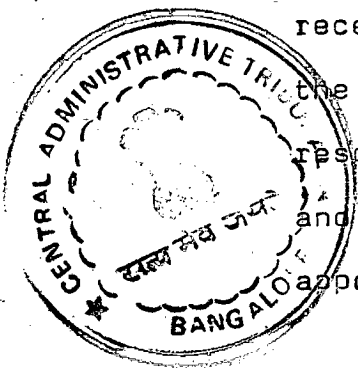
4. Shri M. Vasudeva Rao for the respondents relies on the reply of the respondents and submits that under the relevant recruitment rules only persons sponsored by the EE could be appointed. The applicant's name not having

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been so sponsored his appointment was irregular and his services were, therefore, rightly terminated. Shri Rao also submits that there is no post of washboy at present available in which the applicant can be accommodated.

5. We have considered the rival arguments carefully. We have perused rule 5(2) of the Canteen Staff (Recruitment, Conditions and Service) Rules, 1980, on which reliance was placed by Shri Rao on behalf of the respondents. It does not state anywhere that appointments can be made only of persons sponsored by the EE. Moreover dealing with the provisions of Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, the Supreme Court held in UNION OF INDIA v. N. HARGOPAL 1988 (1) SLR 5 that the Act "does not oblige any employer to employ those persons only who have been sponsored by the Employment Exchanges". In view of this the reasons urged on behalf of the respondents for terminating the services of the applicant is no longer valid. However, it has been urged on behalf of the respondents that there is at present no post of Washboy available to which the applicant can be appointed. Dr. Nagaraja on the other hand submits that recently a post of Washboy has fallen vacant against which the applicant can be accommodated. We leave it to the respondents to ascertain whether there is such a vacancy and if there is one we would direct the respondents to appoint the applicant to that post.

6. We are, therefore, satisfied that the impugned order dated 14.5.1988 is not a valid order but we refrain from quashing the same because according to the respondents



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there is no post available at present in which the applicant can be accommodated. Instead of quashing the order, we direct the respondents to accommodate the applicant in a vacancy of Washboy if one such post is available now or immediately on such a vacancy arising in future. The applicant will, however, not be eligible for any backwages till the date of fresh appointment.

7. The application is disposed on the above terms. But, in the circumstances of the case parties to bear their own costs.

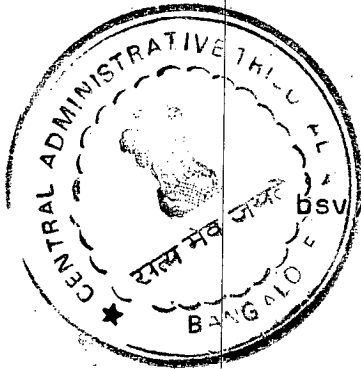
Sdl-

VICE-CHAIRMAN

24/01

Sdl-

MEMBER (A)



TRUE COPY

bsv/Mrv.

B. V. Venkatesh
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE