

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 7 JUN 1988

APPLICATION NO 90 / 88(F)

W.P. NO. _____

Applicant

Shri K.H. Jayappa

To

Respondent

V/s The Sub-Divisional Inspector(Postal), Shimoga
East Sub-Division & another

1. Shri K.H. Jayappa
S/o Shri K. Hanumappa
Thippegonadanahalli
Chennagiri Taluk
Shimoga District
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
3. The Sub-Divisional Inspector (Postal)
Shimoga East Sub-Division
Shimoga
4. The Senior Superintendent of
Post Offices
Shimoga Division
Shimoga
5. 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/~~SKK/ INTERIM ORDER~~
passed by this Tribunal in the above said application on 2-6-88.

Encl : As above

d/c
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 2nd DAY OF JUNE, 1988

Present : Hon'ble Justice Sri K.S.Puttaswamy

Vice-chairman

Hon'ble Sri P.Srinivasan

Member (A)

APPLICATION No. 90/88.

K.H.Jayappa,
Ex.EDMC,
Thippegonadanahalli,
Chennagiri Taluk,
Shimoga.

...

Applicant

(Sri M.R.Achar

...

Advocate)

vs.

1. Sub-divisional Inspector
(Postal), Shimoga East
Sub-Division, Shimoga.

2. Sr.Superintendent of
Post Offices, Shimoga Division,
Shimoga.

...

Respondent

(Sri M.V.Rao

...

Advocate)

This application has come up before the Tribunal
today. Hon'ble Sri P.Srinivasan, Member (A) made the following :

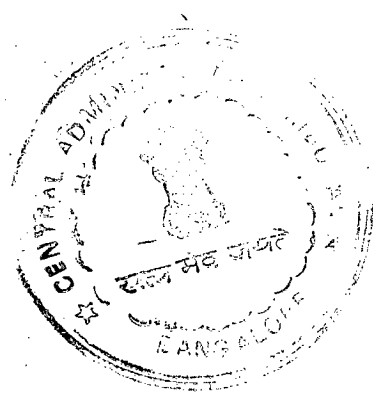
ORDER

The applicant before us in this case was working
as Extra Departmental Mail Carrier(EDMC) at Tippagondanahalli,
Channagiri Taluk, Shimoga District till 11.5.1987 when he was
dismissed from service by an order of that date with immediate
effect. In the first place he is aggrieved with this order.
He filed an appeal against this order which was rejected by
the Appellate Authority (AA) by order dated 16.10.1987. He
is also aggrieved with this order.

2. Sri M.R.Achar, learned counsel for applicant
submitted that the order of the Disciplinary Authority (DA)
dated 11.5.1987 (Annexure A) is illegal because in respect

P. Srinivasan

...2/-



of some of the findings in favour of the applicant recorded by the Inquiry Officer (IO) in the inquiry conducted against the applicant, the DA had disagreed with those findings without giving the applicant an opportunity of being heard. Relying on the judgement of this Bench of the Tribunal reported in 1987 (3) ATC 854 P.K.SHIVANANDA v. COLLECTOR OF CENTRAL EXCISE, Sri Achar urged that when the DA disagrees with the findings in favour of a government servant recorded by the IO, he should give the government servant concerned an opportunity of being heard and that not having been done in this case the order of the DA was illegal and consequently the order of the AA confirming the order of the DA was also illegal.

3. Sri M.Vasudeva Rao, learned counsel for the Respondents supported the orders of the DA and the AA.

4. Having heard counsel on both sides we are of the view that the contention of Sri Achar has to be upheld. There is no dispute that in this case certain findings recorded by the IO which were favourable to the applicant did not find favour with the DA. That being so, for the reasons recorded by us in P.K.Shivananda's case we are of the view that the order of DA suffers from a legal flaw in that he did not give the applicant an opportunity of being heard.

We, therefore, set aside the order of the DA as well as that of AA and issue the following directions :

- (i) We quash the order dated 11.5.87 passed by the DA as well as the order dated 16.10.87 passed by the AA.
- (ii) We declare that the order passed by the DA be treated as a provisional order giving notice to the applicant of the reasons on which the AA proposed to disagree with the IO and to hold the applicant guilty of all the charges levelled against him. It is open to the



P. S. Rao

applicant to file his written representation and objections to the said proposal within one month from today.

(iii) We direct the DA to consider the written representation, if any, to be filed by the applicant as above, accord the applicant an opportunity of oral hearing on such date as he may find convenient and then to decide the matter afresh.

5. In the result, the application is disposed of on the above terms. Parties to bear their own costs.

Sd/-

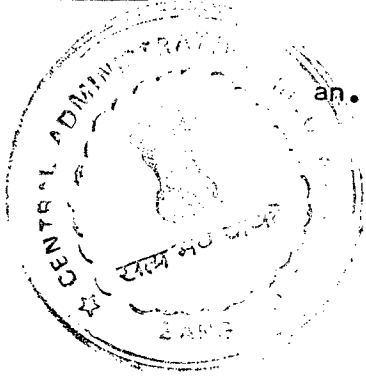
Sd/-

VICE-CHAIRMAN

2/6/98

MEMBER (A)

TRUE COPY



B. V. S. Rao
DEPUTY REGISTRAR (JDL) 7/6/98
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE