

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 13 JUN 1988

APPLICATION NO.

91

/ 88(F)

W.P. NO.

Applicant(s)

Shri K. Anjanappa

To

1. Shri K. Anjanappa
Branch Post Master
Kannamangala
Devanahalli Taluk
Bangalore District
2. Shri R. Shivaprasad
Advocate
C/o Shri K. Sreedhar
Advocate
730, 6th Main
Srinagar
Bangalore - 560 050
3. The Superintendent of Post Offices
Chennapatna Division
Chennapatna - 571 501

Respondent(s)

v/s The Supdt. of Post Offices, Chennapatna,
& another

4. Shri M.R. Venkateshamurthy
S/o Shri Rama Pandith
Uganavadi
Devanahalli Taluk
Bangalore District
5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001
6. Shri S. Vasantha Kumar
Advocate
9/1, R.V. Shetty Layout
Sheeshadripuram
Bangalore - 560 020

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAN/INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 7-6-88.

Encl : As above

getted
2/6/88
13-6-88
D.R. - *R. Venkatesh*
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 7TH DAY OF JUNE, 1988.

PRESENT:

The Hon'ble Mr. Justice K.S.Puttaswamy, .. Vice-Chairman.

And:

The Hon'ble Mr.P.Srinivasan, .. Member(A).

APPLICATION NUMBER 91 OF 1988

K.Anjanappa,
S/o H.Krishnappa,
Aged 35 years,
Branch Post Master,
Kannamangala,
Devanahalli Taluk,
Bangalore District. .. Applicant.

(By Sri R.Shivaprasad, Advocate)

v.

1. Superintendent of Post Offices,
Chennapatna Division,
Chennapatna-571 501.
2. M.R. Venkateshmurthy,
S/o Rama Pandith,
Uganavadi, Devanahalli Taluk,
Bangalore District. .. Respondents.

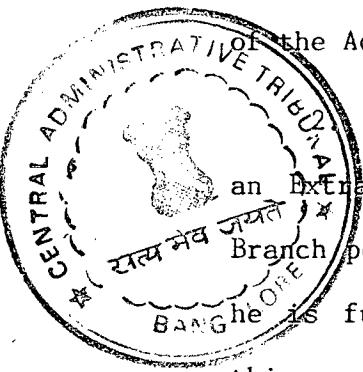
(By Sri M.Vasudeva Rao, Standing Counsel for R-1
Sri S.Vasanth Kumar, Advocate for R-2).

—
This application having come up for hearing this day, Vice-Chairman made the following:

ORDER

This is an application made by the applicant under Section 19

of the Administrative Tribunals Act,1985 ('the Act').


Shri K.Anjanappa, the applicant before us, was appointed as an Extra-Departmental Branch Post Master ('EDBPM') of Kannamangala Branch post office on 4-7-1985 on a temporary basis in which capacity he is functioning ever since then. With the object of filling up this post on a regular basis, the Superintendent called for applications from the eligible persons. In response to the same, the applicant and respondent-2 made their applications.

3. But, on the basis of observations made by this Tribunal in A.No.633 of 1987 the Superintendent in his order No.B/BPM/793 dated 14-1-1988 (Annexure-C) appointed respondent-2 to the post held by the applicant thus necessarily displacing the latter from that post. Hence, this application.

4. In justification of the impugned order, respondent-1 has filed his reply. Respondent-2 has adopted the same.

5. R.Shivaprasad, learned counsel for the applicant, contends that the observations of this Tribunal in A.No.633 of 1987 did not justify the Superintendent to terminate the services of his client and appoint respondent-2 in his place.

6. Sriyuths M.Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for respondent-1 and S.Vasanth Kumar, learned counsel appearing for respondent-2 refuting the contention of Sri Prasad, contend that the Superintendent had selected and appointed respondent-2 on an independent evaluation of his merit vis-a-vis the applicant and, therefore, there was no justification to interfere with the impugned order.

7. The impugned order made by the Superintendent reads thus:

"As per the orders of the Central Administrative Tribunal, Bangalore dated 20-10-1987, Sri M.R.Venkateshmurthy, Son of Sri Ramapandit, Uganavadi/Devanahalli is selected as BPM, Kannamangala a/w Devanahalli".

In this order, the Superintendent has relied on the order made by this Tribunal in A.No.633 of 1987. We must now examine what was the order made by this Tribunal.

8. In A.No.633 of 1987, filed by respondent-2 against his termination, a Division Bench of this Tribunal consisting of one of us (Mr.Justice K.S.Puttaswamy), while upholding his termination, however, observed thus:

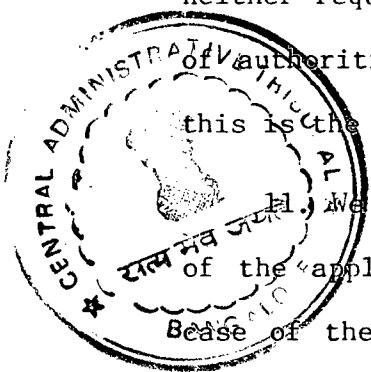
"But, before parting with this case, we consider it proper to observe that as and when a vacancy arises in Uganavadi or any nearby village and if the applicant is willing to be appointed in another village also his case for appointment has to be considered with sympathy. We have no doubt that the authorities will do so as and when a vacancy arises".

In this observation, we have not directed the Superintendent to displace the applicant and appoint respondent-2 in his place at all. In this observation we have also expressed that the authorities may accommodate respondent-2 against an existing vacancy or a vacancy to arise in future. We never directed the Superintendent to create a vacancy by displacing another person and appoint respondent-2 in his place. We have no doubt, that the Superintendent has totally misread our observations and has created a situation, which we never intended and directed. On this view, we cannot uphold the impugned order.

9. We find that the applicant had been appointed on a purely temporary basis and that steps had been taken to fill up that post on a regular basis which the authority was undoubtedly entitled to do.

10. That whenever more than one person has applied for a post and their applications are in order or are found eligible, then there should be a selection from among them is well settled and the same neither require a detailed elaboration nor a reference to the catena of authorities on that point. Whether the Superintendent has done this is the next question.

11. We find that the Superintendent has not considered the case of the applicant for selection at all. He refused to consider the case of the applicant and had selected respondent-2 as if that was the imperative of our observation in A.No.633 of 1987 which is totally wrong. In its earlier order, the Tribunal did not make any such direction at all. We need hardly say that this Tribunal could not have



also issued such a direction.

12. On the foregoing discussion, it follows that there was no legal and proper selection and appointment of respondent-2 so as to enable us to uphold his appointment also.

13. What emerges now is that the Superintendent has to make a fresh selection and make an appointment in accordance with law. But, till then also, we must necessarily quash the impugned order reserving liberty to the Superintendent to make a fresh selection on the basis of the notification already issued by him, applications made before him and then make an appointment in accordance with law.

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

- (a) We quash Order No.B/BPM/793 dated 14-1-1988.
- (b) We declare that the Superintendent is now free to make a fresh selection to the post of EDBPM, Kannambara Branch Post Office on the basis of the notification already issued by him and the applications filed before him, make a fresh and proper selection to the same and then appoint the selected person in accordance with law.

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

Sd/-

VICE-CHAIRMAN. (b)

Sd/-

MEMBER(A)

TRUE COPY

By
Date: 13/6/1988
CENTRAL APPEAL TRIBUNAL (C.A.T.)
BANGALORE