

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 12 AUG 1988

APPLICATION NO. 911 / 88(F)

W.P. NO. _____

Applicant(s)

Shri B.T. Srinivasa
To

V/s

Respondent(s)

The Sr. Supdt. of RMS, Bangalore
Sorting Divn. Bangalore & another

1. Shri B.T. Srinivasa
Mail Man RMS
Bangalore Sorting Division
Bangalore - 560 023
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
3. The Senior Superintendent of RMS
Bangalore Sorting Division
Bangalore - 560 026
4. The Additional Post Master General
Karnataka Circle
Bangalore - 560 001
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 ~~STAY~~ ~~IN ORDER~~
passed by this Tribunal in the above said application(s) on 9-8-88.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 9th DAY OF AUGUST, 1988

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

Hon'ble Sri P. Srinivasan Member (A)

APPLICATION No. 911/1988(F)

B.T. Srinivasa,
Mail Man, RMS,
Bangalore Sorting Division,
Bangalore.

Applicant

(Sri M.R. Achar ... Advocate)

vs.

1. Sr. Supdt. of RMS,
Bangalore Sorting Division,
Bangalore.

2. Addl. Post Master General,
Karnataka Circle,
Bangalore. ...

Respondents

(Sri M. Vasudeva Rao ... Advocate)

This application having come up for hearing
today, Hon'ble Member (A) made the following :

ORDER

The applicant before us who is working as a
Mailman in the Postal Department, appeared for an exami-
nation for promotion to the post of Lower Grade Official
on 24.5.1987. The invigilator found that he was copying
answer to Question No.4 from a book entitled "Swamy's
guide to Promotion Examination Clerks and Sorters".
Disciplinary proceedings were initiated against him on
the ground that he had taken ^{H a} book to the examination hall
which he was not permitted to take and had copied from
that book. The applicant submitted that he was not aware



P. Srinivasan

that it was not a permitted book, because the examination was with books. The disciplinary authority did not accept this explanation, held the applicant guilty of the charge and imposed the penalty of withholding of promotion for a period of five years. It is this order dated 17.6.1987 and the appellate order dated 7.12.1987 passed by the Additional Post Master General, Karnataka, rejecting the applicant's appeal, that are challenged in this application.

2. Shri M.R.Achar contended that there was no justification for holding the applicant guilty of the charge. He further submitted that the penalty imposed was excessive. The Respondents had not announced in advance what books would be allowed into the examination hall. Not having done so, the disciplinary authority is not right when he says in his order that the applicant should have known which books could have been taken to the hall and which not. Moreover the particular book which the applicant was referring to did not contain the answer to Question No.4 which related to Speed Post because Speed Post was introduced after the book was published. Therefore, the applicant could not have derived any advantage by copying from the book. Since the applicant was a Class IV employee and he genuinely believed that Swamy's guide is allowed to be taken into the examination hall, he should not have been held guilty and even if held guilty the punishment imposed should not have been so excessive.

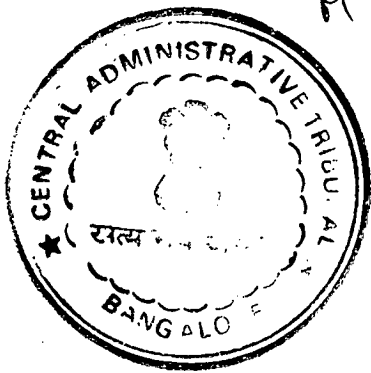
3. Shri M.Vasudeva Rao, learned Additional



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Standing Counsel appearing for the Respondents submitted that this was a case where moral turpitude was involved. No guide can be allowed into an examination hall. The applicant was surely aware of this and that is why on the wrapper over the book, he had written the title as "P&T Manual Volume VII" which was a permissible book. From this itself it was clear that the applicant tried to smuggle in an inadmissible book into the examination hall by writing an admissible title on the wrapper to make it appear as if it was a permitted book. This was a serious offence. The Respondents had been considerate in imposing only a minor penalty of withholding of promotion for five years. He submitted that this Tribunal should not interfere with the orders passed by the Disciplinary and Appellate Authorities.

4. We have considered the matter carefully. We must straightaway agree that a guide to a promotion examination containing model questions and answers can certainly not be allowed to be taken into the examination hall. What is normally permitted is a text of a Statute^t or of rules or instructions but not a key to an examination. We have seen the book that was seized from the applicant. On the wrapper over the book we find the title written as "P&T Manual Vol.VII". Such a manual was permitted to be taken into the examination hall. The very action of the applicant in writing a wrong title to the book on the wrapper shows that he was aware that the book he was carrying into the hall



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was not permitted. But somehow he wanted to take it and use it. The fact that this book did not contain the answer to the question which the applicant had to tackle is neither here nor there. That only shows that while he was guilty of taking an impermissible book into the hall and copying from the same he did not know which book had to be referred to for a particular question. In view of the above we uphold the finding of the authorities that the applicant was guilty. We also find that the penalty imposed was a minor penalty while the action of the applicant amounted to dishonesty. We, therefore, do not see any justification to interfere with the quantum of penalty also.

5. In the result the application is dismissed.
Parties to bear their own costs.



an.

Sd/-
VICECHAIRMAN
9/8/88
TRUE COPY

Sd/-
MEMBER (A) 9/8/88

DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE