

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BOA)
Indiranagar
Bangalore - 560 038

Dated :

6 DEC 1988

APPLICATION NO.

940

/88(F)

W.P. NO.

Applicant(s)

Shri R.C. Menasgi

To

v/s

Respondent(s)

The Senior Superintendent of Post Offices,
Dharwad & another

1. Shri R.C. Menasgi
C/o Shri B.B. Kelageri
Gollara Colony
Mruthinjaya Nagar
Dharwad - 580 006
2. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
3. The Senior Superintendent of
Post Offices
Dharwad Division
Dharwad - 580 008

4. The Director of Postal Services
North Karnataka Region
Dharwad - 580 001
5. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

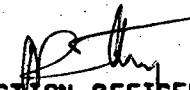
Please find enclosed herewith the copy of ORDER/~~STAY/INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 28-11-88.

Recd for sl. 3 & 4
2 dec

ASPLC
pwg's office

Encl : as above

Issued by K. M. L. R. (Pandit) 7-2
6-12-88


SECTION OFFICER
REXXXXXREXXXXXREXXXXX
(JUDICIAL)

(S. I. Srinivasan)
Advocate

6/12/88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 28TH DAY OF NOVEMBER, 1988

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY... VICE-CHAIRMAN
HON'BLE SHRI P. SRINIVASAN ... MEMBER (A)

APPLICATION NO. 940/88

Sri R.C. Menasgi,
Aged 38 years,
S/o. Late R. Chennabasappa,
Working as Postman,
Office of the Senior
Superintendent of Post Office,
Dharwad.

APPLICANT

(Dr. M.S. NagarajaAdvocate)

Vs.

1. The Senior Superintendent of Post Office,
Dharwad Division,
Dharwad.
2. The Director of Postal Service,
North Kanara Region,
Dharwad.

RESPONDENTS

(Sri M.S. Padmarajaiah....Advocate)

This application having 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 joined service in the
Postal Department in 1973 as a Class IV employee was
promoted to Class III as Postman in February 1981.

By memorandum dated 12.3.1987 the Post Master, Dharwad
proposed to initiate an inquiry against the applicant.

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....2/-

The charge in respect of which the inquiry was to be conducted was that the applicant did not deliver six ordinary letters entrusted to him ~~from~~ ^{on} 17.1.1987 ~~to till~~ ^{on} 20.1.1987, and he retained the same in his possession during this period. Before the Inquiry Officer the applicant admitted his guilt and so the Inquiry Officer returned a finding that the charge was proved. Thereupon the Senior Superintendent of Post Offices, who was the disciplinary authority, imposed the punishment of removal from service on the applicant with immediate effect by his order dated 24.2.1988. An appeal filed against the order having been rejected by the appellate authority by order dated 27.4.88, the applicant has come before us challenging the orders of the disciplinary authority and the appellate authority dated 24.2.1988 and 27.4.88 respectively. He prays for a direction from this Tribunal to the respondents to reinstate him in service.

2. When the matter came up for hearing Dr. M.S. Nagaraja, learned counsel for the applicant, very fairly confined his objections to the quantum of punishment. He submitted that what the applicant had been charged with was only a dereliction of duty for a couple of days not involving any moral turpitude. He had not destroyed the letters. He had not defalcated any property of the Postal Department. Because of his illness he could not return the letters which he could not deliver. No doubt such events had

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happened in the past also. But that only showed that the applicant was not equal to the task of a Postman. He had himself represented to the authorities in 1985 that he be reverted ~~for~~^{M to} a class IV post. The misconduct proved against him was not such as to warrant his removal from service. The punishment was grossly disproportionate to the misconduct of which the applicant was found guilty.

3. Sri M.S. Padmarajaiah, learned counsel for the respondents, vehemently opposed the contentions of Dr. Nagaraja. This was not the first occasion that ~~that~~^{M to} applicant failed to do his duty as Postman. After all, the main function of a Postman is to deliver letters and if he does not do that he could no longer be retained in service. The authorities had taken into account the fact that the applicant had failed in his duties even on earlier occasions and therefore, considered him unfit to be retained in service. Sri Padmarajaiah therefore submitted that this Tribunal should not interfere with the quantum of penalty.

4. After careful consideration, we are of the view that the punishment awarded in this case and upheld by the appellate authority was indeed disproportionate to the misconduct alleged against the applicant. The applicant no doubt failed in his duty to deliver six letters and he does not deny that he had been guilty of similar omissions in the past also. As urged by Dr. Nagaraja, he had not destroyed the letters or defalcated any money thereby causing loss to the



P. 3/4

Postal Department. We notice that in his appeal the applicant has stated that he had requested ~~that~~ in 1985 ^{he} be reverted to class IV due to his ill health. Even in the inquiry against him the applicant had, while accepting the charge, pleaded that because of ill-health he could not return the letters which he could not deliver. The applicant is a member of a Schedule Caste and has three small children. He, therefore, deserved some consideration in the matter of punishment to be imposed on him. On the other hand it is clear that the applicant is not fit to hold the post of Postman which requires delivery of letters. Taking all these facts into account we feel that ^{it} would meet the ends of justice if the punishment imposed on the applicant is reduced to one of reduction in rank to a class IV post with effect from the date the disciplinary authority ^{of} removed ^{from} service i.e. from 24.2.1988.

5. In the result we pass the following orders and directions :-

- 1) The findings of the disciplinary and appellate authorities holding the applicant guilty of the charge levelled against him are upheld.
- 2) The punishment is modified to one of reduction to a class IV post with effect from 24.2.1988.
- 3) Respondents are directed to give the applicant a posting in a class IV post Chawad Post Office itself if possible

P. D. ^{the}

-: 5 :-

M.C
or at place near Dharwad in the Dharwad
Division as early as possible but not later
than 31.12.1988.

- 4) The applicant will join the lower post in class IV immediately on receipt of posting orders as at 3 above.
- 5) The reduction in rank will be permanent and the applicant will not be eligible to promotion to a class III post hereafter.
- 6) The pay of the applicant on his joining the class IV post as at 4 above should be fixed at Rs. 820 in the revised scale of Rs. 750-12-870-EB-14-940 but he will be eligible for the next increment on ^{M intervals} 24.2.1989 and at annual increments thereafter.
- 7) The applicant will not be entitled to any pay or allowances for the period 24.2.1988 till he rejoins duty in pursuance of this order. But this period will not be treated as break of service for any other purpose.
- 8) The applicant's seniority in class IV will be restored to the same position as ^{it} was in 1981 immediately before his promotion to class III.

6. The application is disposed on the above terms, but in the circumstances we direct the parties to bear their own costs.

6/12/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
VICE-CHAIRMAN
28/12/88

Sd/-
MEMBER (A) *28/12/88*