

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 17 MAR 1989

APPLICATION NO (S) 222 / 89(F)

W.P. NO (S) _____

Applicant (s)

Shri Ramakrishna
To

V/s

Respondent (s)

The Asst. Supdt. of Post Offices, Gadag South
Sub-Division, Gadag & 4 Ors

1. Shri Ramakrishna
Postal Assistant
No. 3-C, Postal Colony
Gadag - 582 101
Dharwad District
2. Shri S.R. Kulkarni
Advocate
'Ananda Nilaya'
Bagur Road (Near Jamia Masjid)
Bommanahalli
Bangalore - 560 068
3. The Assistant Superintendent
of Post Offices
Gadag South Sub-Division
Gadag - 582 101
Dharwad District
4. The Superintendent of Post Offices
Gadag Division
Gadag - 582 101
Dharwad District

5. The Assistant Superintendent of
Post Offices (INV) and Inquiry Officer
Dharwad - 580 001
6. The Enquiry Officer and ASRM Hubli
RMS/2
Hubli - 580 020
7. The Director of Postal Services
M.K. Region
Dharwad - 580 020

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 10-3-89.

Issued
K.V. [Signature]
17-3-89

OK

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 10TH DAY OF MARCH, 1989

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY... VICE-CHAIRMAN

HON'BLE SHRI L.H.A. REGO

... MEMBER (A)

APPLICATION NO. 222/89

1. Ramakrishna,
aged: Major,
Occupation: Postal Assistant,
S/o late Srinivasa Rao,
KULKARNI,
residing at No.3-C,
Postal Colony,
at post,
GADAG-582 101,
District: Dharwad.

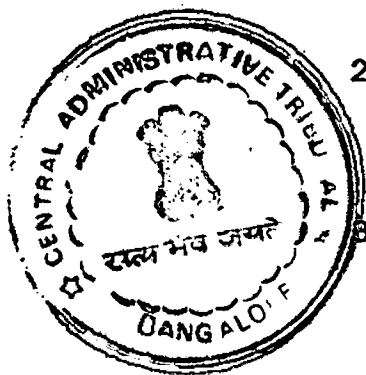
... APPLICANT

(Shri S.R. Kulkarni..... Advocate)

Vs.

1. The Assistant Superintendent
Of Post Offices,
In-charge, Gadag South
Sub-Division,
at post: Gadag-582 101.
District: Dharwad.
2. The Superintendent of Post
Offices, Gadag Division,
At Post, Gadag-582 101,
District: Dharwad.
3. The Assistant Superintendent
Of Post Offices (INV) and
Inquiry Officer,
Dharwad -580 101.
4. The Enquiry Officer and
ASRM Hubli, RMS/2,
HUBLI-580 020.
5. The Director of Postal
Services, N.K. Region,
Dharwad-580 020.

... RESPONDENTS



This application having come up for hearing before this Tribunal to-day, Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman, made the following :-

O R D E R

Applicant by Shri S.R. Kulkarni.

2. Respondents by Shri B. Venkatesh, Assistant Superintendent of Post Offices.

3. This case was posted before us today, to await service of notices on the respondents and continuance or otherwise of the ex parte ad interim order made by us on 24.2.1989. But as agreed to by both sides, this case is treated as listed for final hearing today and is accordingly heard.

4. Shri Ramakrishna, the applicant before us, is working as a Postal Assistant in the Head Post Office, Gadag, for some time past. Before that, he was working as Sub-Post Master at Mulgund Naka Post Office of Gadag town.

5. On the performance of his duties at Mulgund Naka Post Office, the Superintendent of Post Offices, Gadag Division, Gadag and the Disciplinary Authority (DA), initiated disciplinary proceedings against the applicant

under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (Rules) on the charges appended to his Memorandum No.F2/IV/2/87-88 dated 9.3.1988 (Annexure A-4) which is being contested by him on all such grounds as are available to him.

6. In that proceedings, the DA had appointed one Shri V.R.Joshi as the Inquiry Officer (IO) to inquire into the truth or otherwise of the charges and submit his report. In that inquiry before the I.O., the applicant made an application to permit him to engage the services of one Shri S.N. Pujar, who is working in some capacity in the Karnataka Government, which the I.O. by his order made on 19.12.1988 (Annexure A-12) had rejected. In this application made on 23.2.1989, the applicant has challenged the same.

7. Shri Kulkarni contends that when the applicant had chosen Shri S.N. Pujar in whom he had confidence, to be his Defence Assistant, it was not open to the I.O. to refuse permission for the same and the same was illegal and improper.

8. Shri Venkatesh contends that since Shri Pujar, was an employee of the Karnataka State Government and not that of the Union Government, the refusal of permission by the I.O. was legal and valid.



9. Both sides do not dispute that Shri S.N. Pujar is employed in the Karnataka State Government. We are of the view that whether he is actually on duty or not, is irrelevant in deciding whether the order made by the I.O. is correct or not. We proceed to examine the order of the I.O., as if he had rejected the request of the applicant to engage the services of Shri Pujar only on the ground that he was an employee of the Karnataka State Government and not an employee of the Union Government.

10. Rule 2(h) of the Rules defines the term "Government servant". On this definition, only a Government servant working in the Union Government, will be a Government servant for purposes of the Rules. This definition should be applied in interpreting that term, whenever the same occurs in the Rules. On this it follows that an employee of Central Government, facing a disciplinary proceedings, can engage the services of another Central Government employee whether he is in service or retired and not of any other State Government in the Country. If this is the correct legal position, then the I.O. has rightly denied permission to the applicant to engage the services of Shri S.N. Pujar and this action of his is legal. We must therefore uphold the

same on this ground.

11. On this it is open to the applicant to nominate any other Central Government employee whether ~~in~~ in service or retired, as his Defence Assistant. Shri Kulkarni prays for three months' time to be given to the applicant to nominate another person as his Defence Assistant. We are of the view that the time sought for by Shri Kulkarni is unreasonable. On an examination of all the facts and circumstances, we feel it is reasonable to grant one month's time for this purpose from this day.

12. Shri Kulkarni next contends that the very initiation of disciplinary proceedings against the applicant was unjustified and calls for its annulment by us at the very threshold.

13. Shri Venkatesh contends that on principle and authority, the prayer of the applicant cannot be granted.

14. On a preliminary investigation, the D.A. had initiated disciplinary proceedings against the applicant. Before the D.A. and other authorities decide the same it is not proper for us to arrogate their



~~note~~ ^{note} and annul the proceedings. Even otherwise, we see no justification to interfere with the proceedings at this stage.

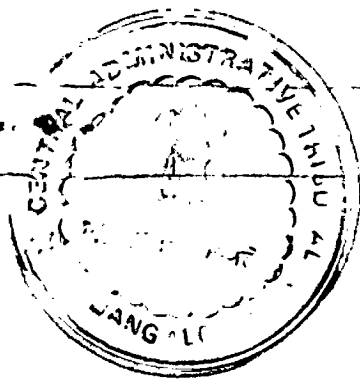
15. In the light of our above discussion, we make the following orders and directions:

(1) We uphold the order dated 19.12.1988 of the I.O. and dismiss this application. But this however does not prevent the applicant from nominating any other Central Government servant employee whether in service or retired as his Defence Assistant and that the same shall be examined and decided in accordance with law.

(2) We grant one month's time from this day to the applicant to nominate another person as his Defence Assistant. But till then, the I.O. shall not proceed with the inquiry.

(3) We leave open all other questions.

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



Sd/-

VICE-CHAIRMAN

Sd/-

MEMBER (A)

SB.

TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDLY)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANG

