

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Dated: 21 JAN 1994
APPLICATION NO(s) 1009 | 93 .

APPLICANTS:

V.M. Nagendragowda. vs. S.P.O.
T.O.

RESPONDENTS:

1. SRE. S.M. Balu, Advocate, NO. 242
Kanaka Mandir, 5th Main Road
Goudi Nagar, Bangalore-9.

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.
-xxx-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 7-1-94.

Copy fixed
S. S. Balu (Signature)
gm* 26/1/94

Se Shanthi 21/1/94
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATION No.1009/93

THIS THE 7TH DAY OF JANUARY, 1994

SHRI JUSTICE P.K. SHYAMSUNDAR .. VICE CHAIRMAN

SHRI V. RAMAKRISHNAN .. MEMBER (A)

V.M. Naganagouda,
Major, 28 years,
S/o. Siddaramegowda,
Branch Postmaster,
residing at Belichinthia B/O A/W
Via Moka - Bellary Dist. 583 171. ... Applicant

(By Advocate Shri S.M. Babu)

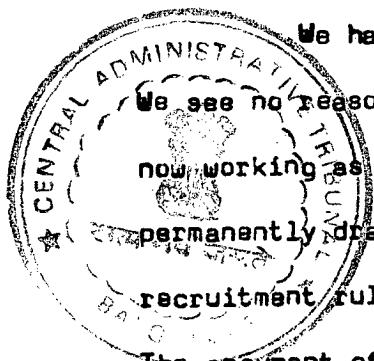
Vs.

1. Superintendent of Post Offices,
Bellary Division,
Bellary.

2. Asst. Suptdt. of Post Offices,
Bellary Sub-Division,
Bellary. ... Respondents

O R D E R

Shri Justice P.K. Shyamsundar, Vice Chairman.



We have heard Shri S.M. Babu for the applicant for admission.

We see no reason to admit this O.A. which is at the behest of a person now working as an E.D. Postmaster on ad-hoc basis and wants to be permanently drafted into the department, although, according to the recruitment rules now in force, he is not educationally qualified.

The argument of Shri S.M. Babu that his client who was appointed six years ago on ad-hoc basis as an E.D. Branch Postmaster, on the basis of the educational qualification prescribed at that time which was something less than what is now prescribed and that he has at present the lower qualification. Counsel, therefore, asks that mere variance in the rules prescribing higher qualification should not affect the

applicant's prospects for permanent appointment because at the time he was appointed on temporary/ad-hoc basis, he was otherwise qualified.

2. We need hardly point out, all said and done the applicant's appointment was purely on temporary or ad-hoc basis pending filling up of the post on regular basis. The department's action at present to fill it up on a regular basis and being enjoined to fill up now the same according to the recruitment rules/in force, it is not open to the applicant to ask us to stop the department from obeying the new rules so that he can continue, although, certainly not qualified for becoming a permanent incumbent of the post. The fact that he got a foothold in the department on the basis of whatever qualification he had will not serve to support the argument that the department should be happy with whatever qualification he has and should not look for other candidates better qualified and equipped

than himself. We see no substance in any of the arguments advanced by the applicant, and the application is therefore dismissed. However, the department can continue the applicant in the post of the E.D. till the regular appointee takes over as such a move will be conducive to proper administration.

Sd/-

(V. RAMAKRISHNAN)
MEMBER (A)

(P.K.SHYAMSUNDAR)
VICE CHAIRMAN

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ppp.

SC Branch
21/1/94

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

B-678

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

R.A.NO.23/94

OA 1009/93

THURSDAY THIS THE FOURTEENTH DAY OF JULY 1994

Shri Justice P.K. Shyamasundar ... Vice-Chairman

Shri V. Ramakrishnan ... Member [A]

V.M. Nadanagouda,
Aged 34 years,
S/o siddaremana Gowda,
Branch Post Master,
R/a Belachinta,
B/o A/w Via Moka,
Bellary District-583 171.

... Applicant

[By Advocate Shri M.R. Achar]

v.

1. The Superintendent of Post Offices,
Bellary Division, Bellary.
2. The Assistant Superintendent
of Post Offices,
Bellary Sub-Division, Bellary. ... Respondents

O R D E R

Shri Justice P.K. Shyamsundar, Vice-Chairman:

1. We have heard Shri M.R. Achar, counsel for the Review Applicant. We regret our inability to accept the contention of Shri Achar that the applicant not being qualified for the appointment in question in terms of later notification is of no avail since on the basis of the earlier notification his claim for appointment could have been considered and as a matter of fact the applicant having applied for selection the earlier occasion but his application was not considered for some reason with the result when he



got the chance for being inducted into service he could not now be told that because of the change of the basis for selection he cannot be considered for appointment. While we do see the emphasis laid on the changed circumstance to the detriment of the applicant but we are afraid that we cannot assist him. The fact that on the first occasion he might have had the chance of securing the job had his application been cleared is no ground for contending that when the posts were renotified the fact that he was not then qualified should not be taken and that his entitlement for appointment should be considered on ex-post facto basis. We do not agree. We must point out that when he was not appointed on the earlier occasion and the post was again notified, his entitlement for the selection on the basis of the earlier notification comes to an end with the lapse of the earlier notification. With the result he can and must be considered only on the basis of the new parameters specified in the later notification. Admittedly he does not satisfy those parameters and in consequence if he has not been considered and, therefore, he cannot make any grievance is what we have said while disposing of O.A. No.1009/93 out of which this review application purport to arise. We see no reason to differ from the ~~the~~ earlier order. We say this inspite of the submissions made by Shri Achar relying on the decision of the Supreme Court in Y.V. RANGAIAH V. J. SREENIVASA RAO reported in AIR 1983 SC 805 as that decision

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is clearly distinguishable.

Sd/-

.....

MEMBER [A]

Sd/-

VICE-CHAIRMAN

TRUE COPY

S. Bhawar 26/7
SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

