

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated: 19 JUL 1993

APPLICATION NO(s).

330

93

Applicant(s)

Respondent(s)

T. J. Mangunath vs

CPMG. B'lour-1.

1. J. Mangunath, Resident of Yedurur Village, Yedurur Post, Kolar Dist.
2. The Chief Post Master General - Karnataka Circle, B'lour-1.
3. The Senior Superintendent of Post Office, Chintamani Circle, Chintamani, Kolar Dist.
4. Sri. C. Jagdish, No. 11. Jeevan Building, Kumaras Park, East, Bangalore-1.
5. Sri. G. Shantappa, Advocate, Central Govt Standing Counsel, High Court Building, Bangalore.

Referred to No 1 & 4
Referred to No 5 & 6 Q. H. J.

SUBJECT:- Forwarding of copies of the Order passed by
the Central Administrative Tribunal, Bangalore Bench
Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY/INTERIM ORDER passed by this Tribunal in the above said
application(s) on 7.7.93.

O/c [Signature]

[Signature]
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS DAY THE 7TH OF JULY, 1993

Present: Hon'ble Justice Mr.P.K. Shyamsundar Vice Chairman
Hon'ble Mr.V. Ramakrishnan Member (A)

APPLICATION NO.330/1993

Shri J. Manjunath,
Aged 24 years,
Resident of Yedur Village,
Yeldur Post,
Kolar District

Applicant

(Shri E. Bagadish... - Advocate)

v.

1. The Chief Post Master General,
Karnataka Circle,
Bangalore - 560 001
2. The Senior Superintendent of
Post Office, Chinthamani Circle,
Chinthamani,
Kolar District

Respondents

(Shri G. Shanthappa - Advocate)

This application has come up today
before this Tribunal for orders. Hon'ble
Justice Mr.P.K. Shyamsundar, Vice Chairman made
the following:

ORDER

Having heard the learned counsel for
the applicant and the respondents, who asked for
time to file a reply, we think it is not necessary
to wait for the Department to file their reply
herein. for the simple reason that facts are not in
dispute. The relief sought in this application



is for compassionate appointment in Group 'D' post. Shri G, Shanthappa for the respondents submits that the applicant's elder brother is already employed. It is not denied that elder brother was employed even during the life time of his father. Counsel for the applicant also tells us that the elder brother is divided in status and the other members of the family of the deceased are not looked after by the elder brother. In the circumstances, all that we do is to direct the Department to consider the case of the applicant without taking into consideration the fact that his elder brother is holding a job under the Government and see if anything can be done to help him within the four walls of the law within six months from the date of receipt of a copy of this order. The case of the applicant should be considered for ^a Group 'D' post and not for something in the higher slot. With these observations, this application stands disposed off finally with no order as to costs.

Sd-

MEMBER (A)

Sd-
VICE CHAIRMAN

TRUE COPY



SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

10/7/93

O/A 330/93

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

REVIEW APPLICATION NO.31/1994 IN
O.A.NO.330/1993

THURSDAY THIS THE TWENTIETH DAY OF OCTOBER, 1994

MR. JUSTICE P.K. SHYAMSUNDAR : VICE CHAIRMAN

MR. V. RAMAKRISHNAN : MEMBER (A)

Shri J. Manjunath,
S/o late H. Junjappa,
Yedharur, Yeldur Post,
Srinivasapura Taluk,
Kolar District

Applicant

(By Advocate Smt. Shantha Chellappa)

v.

1. The Senior Superintendent of
Post Offices, Kolar

2. The Chief Post Master General,
Karnataka Circle,
Bangalore - 1

Respondents

(By learned Standing Counsel)
Shri Shanthappa

O R D E R

MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

We have heard Smt. Shantha Chellappa for
the applicant and the learned Standing Counsel
Shanthappa for the Postal Department. This
purports to be a review application arising out
of an order made by us while disposing of O.A.
No.330/93 on 7.7.1993 under which we directed
the Department to consider the case of the
applicant for a position in the Group 'D'
category with the Department. The direction
was made on the basis that the applicant was

bereaved by the death of his father who died in harness and that is the reason why we felt that the applicant should be considered for an appropriate position in the Department. We made it clear that he should be appointed to a group 'D' post. It transpires that the Department notwithstanding on two earlier occasions had turned down the applicant's claim for appointment, on this occasion granted his request and gave a group 'D' post thus complying with the directions of the Tribunal. We are told he has since assumed charge of that post. He has now made this review application inviting attention to the fact that appointment on compassionate grounds need not necessarily be restricted to a group 'D' job only but if the applicant is qualified, he can be appointed to a group 'C' post also. It is the case of the applicant that he is qualified for a group 'C' post having passed PUC in support of which he produces a certificate. While undoubtedly, he is probably fit and educationally qualified for a group 'C' post, even so, it does not imply that he could not be employed to a group 'D' post to which he is also qualified. In the O.A. he never made a claim for appointment to a group 'C' post on any ground and no argument on that occasion was advanced asserting that a compassionate appointment could also be made to a group 'C' post as well. Be that as it may, we did direct the Department to consider the applicant's claim for a group 'D' post only and they have honoured our direction and appointed him to a group 'D' post. Merely because he was also eligible for a

group 'C' post and it was probably open to the Department to entertain a claim if made to a group 'C' post as well, we think it is inappropriate on the part of the applicant now to ask for something more to what he has got. The instructions/rules provide although a person can be appointed to a group 'C' post on compassionate grounds but if he has already accepted a post under the compassionate appointment category, any later claim for a change in post cannot be entertained and has to be rejected. The rule in question reads as under:

"Once a person has accepted a post under compassionate appointment, any later claim for a change in post should be rejected, as the circumstances leading to the initial appointment should be deemed to have ceased to exist."

2. The above rule is a complete answer to the claim now made that he should have been given a group 'C' post and not a group 'D' post. Having accepted the group 'D' post, his claim for appointment on compassionate grounds having been satisfied, that fact extinguishes the right of the applicant albeit for a different position. It must be understood that appointments on compassionate grounds are not had for the mere asking and are actually made in opposition to the recruitment rules. But they are still made because the Government finds somewhat responsible to ensure that the family of an employee who dies in harness is not reduced to dire circumstances and in order

to help them to lead a decent life and to prevent them to go in a state of total penury, such appointments are made virtually against the recruitment rules. These appointments are an exception to the rule and the rule says that such appointments can be made only once. As a matter of fact, these aspects are covered by the decision of the Supreme Court in the case of UMESH KUMAR NAGPAL v. STATE OF HARYANA AND ORS - 1994(2) ATJ 387. The following observations at page 389 bring out the object of making appointment under the compassionate category.

Their Lordships say:

"The only ground which can justify compassionate employment is the penurious condition of the deceased family. Neither the qualifications of his dependent nor the post which he held is relevant."

They further say:

"If the dependant of the deceased-employee finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity."

3. What therefore becomes clear from the aforesaid decision of the Supreme Court is that it is not open to a person seeking appointment on compassionate grounds to insist on a position of his choice. If he gets it, it is well and good and if not, he cannot make a grievance of it. In that situation, we find the claim now made for a group 'C' post on the ground that the compassionate ^{category} also comprises of group 'C' posts as well is not tenable. This is the only point raised and argued in this review application

which stands rejected. Hence the review application fails and is dismissed. No costs.

Sd-

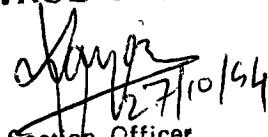
MEMBER (A)

Sd-

VICE CHAIRMAN

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27/10/64
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore