

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560038.

Dated: 13 OCT 1993

470 of 1993.

APPLICATION NO(S)

APPLICANTS:

T.Ramakrishnaiah
TO.

RESPONDENTS: Assistant Superintendent,
Channapatna Sub-Division, Post Offices,
and Others.

1. Sri.V.Narasimha Holla,
Advocate, No.317, 12th-A-Main,
75th Cross, Sixth Block,
Rajajinagar, Bangalore-10.
2. Assistant Superintendent of Post Offices,
Channapatna Division, Channapatna-571501.
3. Sri.M.Vasudeva Rao, Central Govt. Stng. Counsel,
High Court Building, Bangalore-560 001.

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

Please find enclosed herewith a copy of the
ORDER/STAY/INTERIM ORDER, passed by this Tribunal in the
above said application(s) on 05-10-1993.

Deputy Registrar
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

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of
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for
of

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH : BANGALORE

DATED THIS THE 5TH DAY OF OCTOBER, 1993.

PRESENT

HON'BLE JUSTICE MR. P.K. SHYAMSUNDAR .. VICE CHAIRMAN

HON'BLE MR. V. RAMAKRISHNAN .. MEMBER (A)

APPLICATION No.470/93

T. Ramakrishnaiah,
(Ex.EDDA, Bevur),
C/o. Fashionable Hair Dresses,
Raghavanagar,
New Timbaryard Layout,
Mysore Road,
Bangalore - 560 026. .. Applicant

(Shri V.N. Holla .. Advocate)

Vs.

1. Assistant Superintendent of
Post Offices,
Channapatna Sub-Division,
Channapatna-571501.

2. Assistant Superintendent of
Post Offices (HQRs),
C/o. S.P.O. Channapatna,
Channapatna-571501.

3. Superintendent of Post Offices,
Channapatna Division,
Channapatna-571501. .. Respondents

(Shri M.Vasudeva Rao .. Advocate)

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

ORDER

We have heard Shri Holla for the applicant and the learned standing counsel, in this application wherein the applicant seeks to challenge the order made by the respondents



Disciplinary Authority removing him from service as an Extra Departmental Agent on grounds of having mis-appropriated money orders transmitted to certain persons within the sphere of activity of the applicant.

2. After having heard Shri Holla, we think that probably nobody has done more than his client to ensure that the noose was placed around his neck and now that it is tightened he cannot complain that he was wrongly strangulated. Indictment against him was in the allegation reporting that he had on as many as four occasions pocketed money orders remitted to payees in some villages under his jurisdiction. To all the indictments which were later transformed into charges during the course of that enquiry, he recorded a plain and unmitigated admission admitting that he had misappropriated the money and asked for mercy be shown to him asserting that it was the first time in which he had been tempted to take the evil step of misappropriating money orders, recalling his 12 year tenure in the department.

3. Relying on the plain faced confession aforesaid by the applicant, the same obviously prompted the department to disband with a formal enquiry with the enquiry authority recommending his removal from service, which was promptly accepted by the Disciplinary Authority who acted on the recommendation, directed his removal from service based on the allegation of misconduct accepted without any demur by the applicant himself.

4. From the resultant punishment, the applicant filed an appeal to an Appellate Authority. Even there the man pleaded

guilty and asked for mercy which did not materialise but, only resulted in the appeal being dismissed. On these facts nobody could probably ask for any different result. But, nonetheless, Shri Holla says that the Disciplinary Authority who imposed the punishment could not have proceeded to do so because the two other Disciplinary Authorities nominated on earlier occasions had disabled themselves from participating in the investigation. We are unable to appreciate this argument at all. Because the other two persons are named earlier as witnesses had voluntarily relinquished charge but asked the department to entrust the work to somebody else because they had some role to play in the investigation, we do not see how the third man Earaiah who finally delivered the verdict could be treated also having been disabled like his predecessors. Shri Holla drew our attention to Rule 12 of the C.C.S. C.C.A. Rules. We do not see any assistance from that rule. That rule reads as under:

..."(ii) When the competent authority is unable to function as the disciplinary authority:- In a case where the prescribed appointing or disciplinary authority is unable to function as the disciplinary authority in respect of an official, on account of his being personally concerned with the charges or being a material witness in support of the charges, the proper course for that authority is to refer such a case to Government in the normal manner for nomination of an ad-hoc disciplinary authority by a Presidential Order under the provisions of Rule 12(2) of CCS(CCA) Rules, 1965."

What the above rule says is that if somebody is disabled from holding an enquiry or functioning as the Disciplinary Authority the matter will have to be reported to the higher ups for indenting a substitute to function as Disciplinary Authority and that is what the first two persons had done when asking to relieve them of this burden and accordingly it is the third man who was substituted in their place and he functioned as



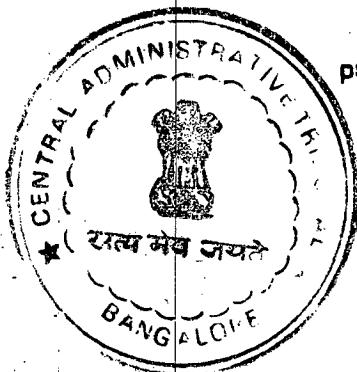
Disciplinary Authority and presided over the proceedings without any predisposition and did not suffer from any disability at all and therefore his order could not be attacked on the ground that it was biased, prejudiced, etc. and does not transgress any principles of natural justice. No such thing has happened. The applicant having confessed to the guilt right from the beginning cannot now turn around and attack the proceedings from start to finish and ask for a fresh enquiry. This endeavour does not earn merit and hold the same to have failed. Hence, we dismiss this application.

Sd/-

MEMBER (A)

Sd/-

VICE CHAIRMAN



psp.

TRUE COPY

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

13/10/93