

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 3 SEP 1993

APPLICATION NO(s). 553 of 1993.

Applicant(s) T.N.Haleappa v/s. Respondent(s) Senior Supdt. of Post Offices, Shimoga, & Others.

To:-

1. Sri.T.N.Haleappa, S/o.Sri.Neelappa, B-14, Postal Staff Quarters, Kuvempu Road, Shimoga-577201.
2. Dr.M.S.Nagareja, Advocate, No.11, 1st Cross, Second Floor, Sujatha Complex, Gandhinagar, Bangalore-9.
3. The Senior Superintendent of Post Offices, Shimoga Division, Shimoga.
4. The Director of Postal Services, Southern Karnataka Region, Office of the Post Master General, Bangalore-560 001.
5. The Chairman, Postal and Telegraphs Board, New Delhi.
6. Secretary, Ministry of Communications, Sanchar Bhavan, New Delhi.
7. Sri.G.Shanthappa, Addl.Central Govt.Stng.Counsel, High Court Bdg, Bangalore-1.

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 17-08-93.

On *Issued* *of*
10

for *Deputy Registrar* *Judicial Branches.*
319/83

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS DAY THE 17TH OF AUGUST, 1993

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

APPLICATION NO.553/1993

Shri T.N. Halappa,
S/o Shri Neelappa,
B-14, Postal Staff Quarters,
Kuvempu Road,
Shimoga-577201

Applicant

(Dr. M.S. Nagaraja - Advocate)

v.

1. The Senior Supdt. of Post Offices,
Shimoga Division,
Shimoga
2. The Director of Postal Services,
Southern Karnataka Region,
Office of the Post Master General,
Bangalore - 560 001
3. The Chairman,
Postal & Telegraphs Board,
New Delhi
4. Union of India
represented by Secretary to Govt.,
Ministry of Communications,
Sanchar Bhavan,
New Delhi

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



We have heard Dr. M. S. Nagaraja for the applicant and Shri G. Shanthappa for the respondents in this application which arises from an order passed by the Disciplinary Authority (DA for short) holding that the applicant is guilty of the charges framed against him and imposing in consequence the punishment of withholding the next increment due to the applicant for a period of two years which will also have the effect of postponing of such increments permanently. The impugned order reads as follows:

"I, Bishnupada Sarangi, hereby order that the next increment of Shri T. N. Halappa (AGS) be withheld for two years which will have the effect of postponing all increments falling due during the period."

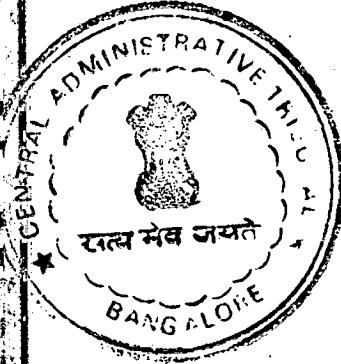
2. From the above order, the applicant preferred an appeal to the Appellate Authority (AA for short) which has also been rejected and he is now before us seeking that we should quash both the impugned orders that of the DA as well as AA produced at Annexures A-4 and A-6.

3. The challenge to this order rests on the ground that the applicant has been awarded the punishment of stopping of increments due over a period of two years but it in fact tantamounts to imposition of a major penalty within the meaning of Rule 11(v) which penalty cannot be imposed without holding an enquiry. It is pointed out the Department initiated proceedings with a view to impose a minor penalty under Rule 16 of the CCS (CCA) Rules but have ended up by imposing a major penalty under Rule 11(v).

Considerable reliance is placed in this connection on the decision of the Supreme Court in the case of KULWANT SINGH GILL v. STATE OF PUNJAB 1991 SCC(L&S) 998. That was a case in which the DA had imposed the punishment of stopping of increment for a specified period stipulating that it would have the effect of affecting future increments. The matter was taken before the Punjab & Haryana High Court. The Punjab High Court held that the punishment imposed was a minor one and, therefore, no preceding enquiry was necessary but the Supreme Court, however, reversed the decision of the Punjab High Court and held that withholding of increments with cumulative effect is squarely covered by Rule 11(v) and is therefore a major penalty which could not be imposed without holding an enquiry. In the normal course we would not have had any difficulty in persuading ourselves to follow the Supreme Court decision referred to supra by making an order quashing the impugned order of punishment and remitting the case back for appropriate consideration under the law but in this case the respondents have filed a statement which reads:

✓ "The respondents submit that the punishment awarded is only withholding of next increment for two years and not two increments with cumulative effect as claimed by the applicant. Nowhere in the order it is stated that withholding of increment will have the cumulative effect. The punishment is holding of next increment for two years so the applicant without getting the next increment will not naturally earn any increment in the next two years. But after two years he will get all his accrued increment and this will not be any reduction in stage etc.

4. According to the Department, the impugned order is not intended to operate with cumulative



effect and that no such disaster was contemplated by the Department in passing the said order. We however makes it very clear that the stoppage of increments is limited to a period of two years on the expiry of which the applicant will get all the accrued increments and there will be no reduction in the stage during the process. This statement which is signed and authenticated by an officer of the Department is relied upon by the learned Standing Counsel. Under the circumstances, we are bound to accept the submission made by the learned Standing Counsel based on statement of the Department that the impugned order of punishment was not intended to be given cumulative effect so as to affect the career prospects of the applicant as a whole and that on the contrary the intention was to ensure, the applicant did not earn any increment for a period of two years but after the completion of the period of ban as aforesaid, he could claim back the increments held in abeyance for a period of two years in which event the stoppage of increments for a period of two years would not have any disastrous affect on the applicant's career in the long run.

5. Now that we are told that the Department's intention was to withhold increments without cumulative effect and such withholding was only for a period of two years and not beyond, it becomes clear that the Department is justified in imposing such penalty without holding an

enquiry since it tended purely to be a minor punishment. This is all the point involved in this application. In the light of our views as aforesaid, we do not agree with the applicant's contention that he has been imposed a major punishment without holding an enquiry. We see no substance in the aforesaid contention, and, therefore, dismiss this application with no order as to costs. The learned Standing Counsel says that the applicant could have filed a revision petition before the appropriate authority as enjoined under Rule 29 of the CCS(CCA) Rules. That is, however, a matter for the applicant to consider. We do not wish to say anything in that behalf.

Sd/-

Sd/-

MEMBER (A)

VICE CHAIRMAN

TRUE COPY

M. Deo S

3/9/83

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

