CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 23 FEB 1994

APPLICATION NO(s) 662 of 1993

APPLICANTS: M.S.Subramanya Bhatta RESPONDENTS: Sr.Supdt.of Post Offices, Shimoga divn & Others.

TO.

1. Sri.G.Venkatachala, Advocate,
No.15, Second Floor,
Sarpabushana Mutt Building,
Tank Bund Road, Bangalore-9.

2. The Asstt.Post Master General(Staff),
Karnataka Circle, Bangalore-560 001.

3. The Senior Superintendent of Post,
Shimoga Division, Shimoga-577202.

4. Sri.M.Vasudeva Rao, Central Govt.
Stng.Counsel, High Court Bldg,
Bangalore-1.

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

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Please find enclosed herewith a copy of the ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal in the above mentioned application(s) on 10-02-1994.

Issued
24/2/94

for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

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CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH

ORIGINAL APPLICATION NUMBER 662 OF 1993

THURSDAY THIS THE 10TH DAY OF FEBRUARY,1994.

Mr.Justice P.K.Shyamsundar, ... Vice-Chairman.

Mr.T.V.Ramanan, ... Member(A)

Sri M.S.Subramanya Bhatta,
S/o Shesha Bhatta, Major,
Post Master, residing at
Maligemane, Aralasurali Post,
Thirthahalli Taluk,Shimoga District. .. Applicant.

(By Advocate Shri G.Venkatachala)

v.

1. The Senior Superintendent of Post,
   Shimoga Division, Shimoga.
2. The Assistant Superintendent of Post,
   Shimoga West Sub-Division, Shimoga.
3. Smt. B.S.Kamalakumari,
   W/o A.P.Suryanarayana Bhatta,
   Major, At & Post: Aralasurali,
   Thirthahalli Taluk, Shimoga District. .. Respondents.

(By Standing Counsel Shri M.Vasudeva Rao)

O R D E R

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

Heard. Admit.

1. This application is by an Extra Departmental Delivery Agent who was in the run for manning a post of Extra Departmental Branch Postmaster, Aralasurali village, Thirthahalli Taluk, Shimoga District. As a matter of fact he was and now is an EDDA of that Aralasurali village. We are told the work done by an EDDA is that of a Postman simpliciter who delivers postal communications received at the Branch Post Office. An occasion arose for appointing somebody to mann ED Branch Post Master, Aralasurali when Smt. A.V.Pankajakshi who was in fact EDBPM of that village was indicted at a departmental inquiry and placed

under suspension or in the language of the postal department was put off duty. On account of the disability imposed on that lady from working, the post of the Post Master of that Post Office became vacant. The applicant who was already working in that Branch Post Office as EDDA applied for the same as per Annexure-A1 dated 30-1-1993. The application refers to the experience acquired as EDDA in that Post Office from 1971 claiming that his services have been throughout satisfactory and therefore canvassed for appointment as ED Branch Post Master. This application was directed to be forwarded to the Senior Superintendent of Post Offices, Shimoga tramitted through the Assistant Superintendent of Post Offices, Shimoga. In fact, the Assistant Superintendent of Post Offices through whom the application was transmitted lateron, recommended the appointment of the applicant as EDBPM as per communication dated 4-2-1993 (Annexure-A2) pointing out inter alia that the man had been working as EDDA since 1991 and was functioning very satisfactorily and that being a resident of Aralasurali village he was quite eligible to fill in the vacancy caused by the former Branch Post Master Smt. Pankajashi. Along side the villagers of Aralasurali village who were favourably disposed towards the applicant also throw in their weight behind the applicant in commending his claim for appointment as Branch Post Master, to the Senior Superintendent of Post Offices, as per Annexure-A3, a memorial dated 9-4-1993 sent to that office. In these circumstances when probably the applicant was expecting orders of appointment any moment, it was not an order of appointment, but a notification stemmed from the office of the Senior Superintendent of Post Offices, Shimoga Division, Shimoga, as per Annexure-A4 inviting applications from eligible candidates for being appointed as ED Branch Post Master Aralasurali Village. The said notification also referred to the prescribed qualifications. In column

11 of the notification details regarding experience of a candidate in a postal department is also called for. The applicant would have been probably more wiser had he then come directly to the Tribunal and sought for annulment of the notification calling for applications in Annexure-A4 in the light of the earlier developments starting from his own application which had been actually commended for acceptance by the Assistant Superintendent of Post Offices. But, instead he also joined the crowd and made an application pursuant to Annexure-A4. We are told, vis-a-vis the applications received apropos that notification, now the plum post of Branch Post Master had gone to respondent-3 Smt. Kamalakumari who has since been appointed as Branch Post Master and is working as such for over an year as of now. It is the appointment of Smt. Kamalakumari at Annexure-A5 that is challenged in this application.

2. Sri G.Venkatachala, learned counsel for the applicant maintained that despite his client having passed up the opportunity of having his application accepted earlier to steps taken by the department to notify the office of the Branch Post Master, he contends that on the basis of the Notification (Annexure-A4) his client being over possessing superior qualification should have been preferred as against Smt. Kamalakumari who appears to have stolen a march over him only on grounds of an higher marks average in the S.S.L.C examination and also appears to have prevailed on a ground which is not quite germane viz., having been a graduate. The learned Standing Counsel who appeared in support of the department, apart from supporting the appointment of Smt. Kamalakumari, respondent-3 invites attention to the statement of objections filed in opposition to the application wherein it is pointed that Smt. Kamalakumari was preferred to the applicant, Subramanya Bhatta on two grounds viz., that Bhatta was not a resident of the village of Aralasurali being

a resident of the Hamlet of Aralasurali Village and that Smt. Kamalakumari had secured higher marks in the S.S.L.C. examination besides being a graduate as well.

3. It seems to us the appointment of Smt. Kamalakumari is vitiated by taking into consideration irrelevant factors and by the same token discarded the claim of the applicant on unjust, irrelevant and on totally unjustifiable ground.

4. Going back to the rejection of the applicant's claim resting principally on the ground that he is a resident of the hamlet of Aralasurali and not the resident of Aralasurali village proper, we need hardly emphasise the man was the resident of a hamlet which is an annexe of the village of Aralasurali and is therefore actually a resident of the village itself. Therefore, on the ground of nativity, the applicant could not have been discarded from consideration. The other aspect of the matter is whether Smt. Kamalakumari could have triumphed over Sri Bhatta on the ground that she had higher marks average, per se the ground is ofcourse tenable. But, then the notification inviting applications for filling up the vacancy made reference to one particular qualification namely experience in the postal department as one of the requirements. It was beyond dispute that the applicant had adequate experience acquired in the service of the postal department having worked as EDDA from 1971 vis-a-vis Smt. Kamalakumari who was a first timer and that is not in dispute. If all the relevant inputs were taken together and the claim of each of them viz., Sri Bhatta and Smt. Kamalakumari is weighed it may well be the balance would swing in Mr.Bhatta's favour. But, what the injustice done to Bhatta is in discarding him at the start itself by treating him as an outsider and not an insider, as resident of a hamlet of Aralasurali which we have pointed out it an erroneous

assumption. In residential qualification if Mr. Bhatta is equal to Kamalakumari, then having had more experience of working in the postal department as against Kamalakumari who was a total fresher, whether in such circumstances Smt. Kamalakumari's claim could have been accepted merely on the ground of higher marks than Sri Bhatta who appeared to have scored 353 as against the total marks of 393 obtained by Smt. Kamalakumari, a relevant aspect which necessarily calls for attention. We therefore, think the selection of Smt. Kamalakumari and the non-selection of the applicant is vitiated by taking into consideration irrelevant and totally wrong inputs with the result it will have to be redone again.

5. In the light of the foregoing, we allow this application and quash the appointment of Smt. Kamalakumari as per Annexure-A5 and direct respondents 1 and 2 to redo the selection confining it only to the applicant Sri Subramanya Bhatta and the third respondent Smt. Kamalakumari and to pass appropriate orders thereafter taking into consideration the observations made hereinbefore. Respondent-3 Smt. Kamalakumari will however continue to work as Branch Post Master till a fresh selection is made. The fresh selection will have to made within 6 weeks from the date of receipt of a copy of this order. There will be no order as to costs.

Sd-

MEMBER(A)

Sd-

VICE-CHIARMAN

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SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL : BANGALORE BENCH

REVIEW APPLICATION NO.13/1994 OA NO. 662/93

DATED THIS THE EIGHTEENTH DAY OF APRIL, 1994.

Mr. P.K. SHYAMSUNDAR, VICE CHAIRMAN

Mr. T.V. RAMANAN, MEMBER (A)

Smt. B.S. Kamalakumari
W/o. A.P. Suryanarayana Bhatta,
At & Post : Aralasurali
Thirthahalli Taluk, Shimoga District. .... Applicant
By
(Shri S. Ranganatha Jois, Advocate)

Vs.

1. Shri M.S. Subbramanya Bhatta
   Post Master, Residing at Maligemane
   Aralasurali Post, Thirthahalli Taluk
   Shimoga District.

2. The Senior Superintendent of Post
   Shimoga Division, Shimoga.

3. The Assistant Superintendent of Post
   Shimoga West Sub-Division, Shimoa. .... Respondents

O R D E R

(Mr. Justice P.K. Shyamsundar, Vice Chairman)

This application for review is sought to be sustained on the grounds that in the main application to which the applicant was a party, she remained absent despite service of notice. The order made in the main application no.662/1993 decided on 10th February, 1994 is that the appointment of the applicant as Branch Post Master be set aside and the department to redo the selection confining it only to the applicant and respondent no.3 therein. Subsequently, we find that the department has redone the selection. This time it

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selected Shri Subramanya Bhatta, applicant in the main application, as the Branch Post Master. That order has been again challenged by Smt. Kamalakumari, the applicant in a fresh application. As we are going to consider the legality of the selection of the said Subramanya Bhatta as Branch Post Master, in that original application, there is little or no reason at all why we should interfere in this Review Application directed against our order in O.A. 662/1993. All points raised in support of this Review Application have been fully considered and covered by our judgement sought to be reviewed. As such we find no reason at all to review our earlier judgement. This review application is accordingly dismissed.

Sd-
(T.V. RAMANAN)
MEMBER(A)

Sd-
(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

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SECTION OFFICER 29/4
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

mr.