

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- 20 JUL 1994

APPLICATION NUMBER: 787 of 1993.

APPLICANTS:

Sri.H.G.Dhanoji Rao
To.

RESPONDENTS:

v/s. The Sub-Divisional Inspector (Postal),
Chitradurga District. and Other.

1. Sri.B.M.Siddappa, Advocate,
No.292, Tenth Main, Fourth Block,
Rajajinagar, Bangalore-560 016.
2. Sri.M.S.Padmarajaiah, Senior Central
Govt. Stng. Counsel, High Court Bldg,
Bangalore-560 001.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on First July, 1994.

Issued on
20/7/94
B

o/c

for *[Signature]* 20/7
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO.787/ 1993

FRIDAY, THE 1ST DAY OF JULY, 1994

Shri V. Ramakrishnan ... Member (A)

Shri A.N. Vujjanaradhya ... Member (J)

Shri H.C. Dhanoji Rao,
S/o Shri Ganesh Rao H.D.,
C/o Shri B.M. Siddappa, Advocate;
No. 293-51, 10th Main,
4th Block, Rajajinagar,
Bangalore-560 010. ... Applicant

(By Advocate Shri B.M. Siddappa)

Vs.

1. The Sub-Divisional Inspector (Postal),
Hosadurga - 577 573,
Chitradurga District.
2. The Sub-Post Master,
Holalkere Post Office,
Holalkere - 577 526,
Chitradurga District. ... Respondents

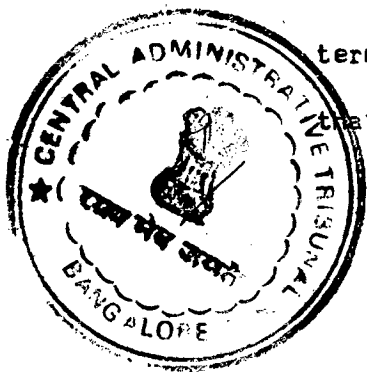
(By Advocate Shri M.S. Padmarajaiah, Senior
Standing Counsel for Central Govt.)

ORDER

Shri V. Ramakrishnan, Member (A)

The applicant who has been working as E.D.M.C. at Holalkere from January 1992 is aggrieved by the order of termination of his service by notice dated 27.8.93 (Annexure A-2) by the Department of Posts. This notice was given under Rule 6 of EDA Conduct and Service Rules informing the applicant that his services would stand terminated on the expiry of one month from the date of receipt of that notice. Accordingly, the applicant's service stood terminated

....2/-



in September, 1993. The applicant has challenged this order on the ground that it is illegal and arbitrary.

2. We have heard the learned counsel for the applicant and the learned Senior Standing Counsel for the Central Government. We have also perused the records which led to issue of notice as at Annexure A-2. On receipt of a complaint from one Shri Srinivasa and on the basis of an enquiry, the Sub-Divisional Inspector (Postal) of that area had intimated Superintendent of Post Offices vide letter dated 16.7.93 that the applicant, Shri Dhanoji Rao had admitted that he received one rupee from Shri Srinivasa ^{for delivering a telegram}. He was then asked to put his signature on a statement which was prepared by one Shri G. Shivanna. The applicant refused to sign the same. The main allegation against the applicant was that despite his admission of having taken one rupee, he refused to sign the statement and this amounted to disobedience of orders. There is also a letter dated 18.8.93 from the Sub-Divisional Inspector, Hosadurga to the Superintendent of Post Offices which inter alia stated that there are two clear charges against E.D.M.C., viz:

- (i) Demand and acceptance of illegal gratification for delivery of a telegram.
- (ii) Refusal to give explanation during inquiry and thus he exhibited gross disobedience.

The letter goes on to say that when there are clear charges of misconduct it is not proper to take action under Rule 6 and that ^{a clear case} it is warranting Rule 8 enquiry.

3. The department had further examined the matter and took the view that this was a fit case for taking action under Rule 6. The file does not indicate any other incident involving the applicant where he had come to adverse notice. Rule 6 of the EDA rules

.....3/-

empowers the department to terminate the services of any employee who had not rendered more than three years continuous service from the date of his appointment by giving one month's notice in writing. The Director General's ~~General~~ Instruction below this Rule make it clear that this Rule has to be invoked in case of unsatisfactory service or for administrative reasons as per DG P&T letter dated 13.4.83. There is a further instruction as per P.M.G., Madras letter No. 29.4.83 read with DG P&T's letter dated 19.4.79 incorporated as one of the instructions below Rule 6 which stipulates ~~that~~ Rule 6 should not be invoked in case of specific misconduct committed by an employee who has ^{less} ~~less~~ than three years of service.

4. In the present case, from the material made available ^{is} to us, it ~~is~~ seen that the department has invoked Rule 6 solely for the reason that the applicant has accepted one rupee from Srinivasa and that he had refused to give a written statement and had thus committed gross disobedience. In the absence of any other instance, the department cannot substantiate that the applicant's service has been unsatisfactory. In the context of the instructions referred to above, ~~the~~ department was not right in holding that the applicant's service can be terminated under Rule 6 on account of a solitary instance, ^{without further inquiry or} In fact, this may at the most amount to a specific act of misconduct. Even the departmental officer at certain level has taken the view that it is not a fit case for taking action under Rule 6, but despite the same, the department had issued order terminating the applicant's service by giving one month's notice in terms of Rule 6.

...4/-

5. In the light of the position explained above, we hold that the department's action in issuing the impugned notice was unjustified. We accordingly, quash the notice dated 27.8.93 as at Annexure A-2 and direct the department to take further necessary action accordingly. It is, however, open to the department to take appropriate action as per law if they are still of the view that the applicant's action amounts to misconduct. The application is accordingly allowed with no order as to costs.

Sd/-
11/7/94
(A.N. Vujjanaradhya)
Member (J)

Sd/-
11/7/94
(V. Ramakrishnan)
Member (A)



TRUE COPY

Sd/-
SECTION OFFICER 20/7
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE