

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 27 OCT 1994

APPLICATION NO: 652 of 1994.

APPLICANTS:- Sri. Parameshwar Rama Naik,
V/S.

RESPONDENTS:- The Superintendent of Post Offices, Karwar Division,
Karwar and Others.

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1. Dr. M. S. Nagaraja, Advocate, No. 11, Second Floor,
First Main, Sujatha Complex, Gandhinagar,
Bangalore-560 009.
2. Sri. G. Shanthappa, Addl. Central Govt.
Standing Counsel, High Court Bldg,
Bangalore-560 001.

Subject:- Forwarding of copies of the Order 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 20-10-1994.

Issued O/C
on 28/10/94 Gah

for Agayya
DEPUTY REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO 652/1994

THURSDAY THIS THE TWENTIETH DAY OF OCTOBER, 1994

MR. JUSTICE P.K. SHYAMSUNDAR VICE CHAIRMAN

MR. T.V. RAMANAN MEMBER (A)

Parameshwar Rama Naik,
aged 22 years,
S/o R.D. Naik
Post Jali,
Bhatkal,
North Kanara District,
Karnataka

Applicant

(By Advocate Dr, M.S. Nagaraja)

v.

1. Superintendent of Post Offices,
Karwar Division,
Karwar

2. Sub-Divisional Inspector (Postal),
Honavar Sub-Division,
Honavar,
North Kanara District,

3. Union of India,
represented by
Secretary to Govt. of India,
Ministry of Communications,
Dak Bhavan,
New Delhi

Respondents

(By learned Standing Counsel)
Shri G. S. hanthappa

ORDER

MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

Heard. Admit.

2. The applicant who was virtually appointed
on a stop-gas basis as a Branch Post Master now
finds himself turned out from that appointment
pursuant to Rule 6(b) and the note below 6(b)



of P&T Extra Departmental Agents (Conduct and Service) Rules, 1964, which enables the Department to terminate the services of a temporary or ad hoc appointee on payment of a month's salary etc. etc. Admittedly, the applicant was appointed on an ad hoc basis as per appointment order which reads:

"Whereas the post of Extra-Departmental Branch Post Master at Jali B.O. a/w Bhatkal S.O. has become vacant and it is not possible to make regular appointment to the said post immediately. The Supdt. of Post Offices, Karwar Division, Karwar-581301 has decided to make provisional appointment to the said post for a period of four(4) months w.e.f. 15.2.1992 to 14.6.1992 or till regular appointment is made, whichever period is shorter.

2. Shri Parameshwar Rama Naik, Post Jali, Tq Bhatkal is offered the provisional appointment. He should clearly understand that the provisional appointment will be terminated when regular appointment is made and he shall have no claim for appointment to any post.

3. The SPDs Karwar also reserves the right to terminate the provisional appointment at any time before the period mentioned in para 1 above without notice and without assigning any reason.

4. Shri Parameshwar R. Naik, will be governed by the ExtraDepartmental Agents(Conduct and Service) Rules, 1964 as amended from time to time and all other rules and orders applicable to Extra-Departmental Agents.

5. Shri Parameshwar R. Naik should produce documentary proof from school as regards to his actual date of birth.

6. In case the above conditions are acceptable to Shri Parameshwar R. Naik, he should sign the duplicate copy of this memo and return the same to the undersigned immediately."

3. It may be noticed that appointment order itself made it clear that albeit the option open to the Department to continue the appointment beyond the stipulated time frame even so it was still open to the Department to terminate the

services of the applicant at any time without notice and without assigning any reason. There is no denial that the Department has now taken recourse to the aforesaid term of the appointment in ordering the termination of the applicant's services. *Prima facie* we do not see anything wrong in the impugned order made in exercise of powers given to the appointing authority to pass such an order, such condition having been stipulated in the order of appointment itself. Recently, the Supreme Court explored the tenability of legality of orders made as in the instant case where an appointee holds a job subject to a tenure fixed under law but which also carries a stipulation that it will be open to the Department to terminate the services of the appointee even after the expiry of the time frame. The apex court held in the case of State of U.P. v. Prem Lata Misra - 1994 SCC(L&S) 934 held that even in such cases it will be open to the appointing authority to terminate the services of an ad hoc appointee without issuing any notice, without holding an enquiry since it was all done in accordance with the stipulation found in the appointment order itself.

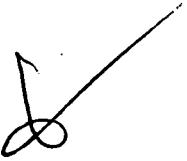
4. If that be the position, the submission of Dr. Nagaraja that this is a case in which the authority should have held an enquiry, issued a show cause notice to the applicant before terminating his services cannot be sustained.

Dr. Nagaraja tells us that termination order came about because of some discrepancy in the date of birth pertaining to the applicant and the



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authorities thought he was a minor regard being had to the declared date of birth provided to the Department by the applicant himself. May be that fact might have loomed at the back of the appointing authority's mind but then it cannot be said that termination was a direct result of the situation under which a person had been appointed to a government job. It transpires the applicant had filed a suit seeking declaration that he was born in the year 1972 and not in the year 1974 viz. the date of birth furnished by him to the Department. We are told that the said suit is still pending in the Civil Court awaiting a decision therein and apparently, the applicant, who was a recipient of a number of notices asking him to furnish information regarding his proper date of birth had not responded to such notices hoping probably to get a decree from the Civil Court preponing his date of birth to a convenient year on the basis of which he could claim his appointment now being properly made and not resting on any furnished intimation regarding his date of birth as suspected by the Department. All these are not of any relevance to us.



5. Suffice it to notice that the impugned order has been passed in exercise of powers given to the appointing authority under the order of appointment itself and is otherwise also in accordance with the rules as mentioned in the appointment order. Therefore, there is no reason

why such an order should be interfered with
and hence we see no grounds to intervene.
In the result, this application fails and is
dismissed. No costs.

Sdr

Sdr

MEMBER (A)

VICE CHAIRMAN



TRUE COPY

Copy 1/27/10/94
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore