

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
BANGALORE - 560 033.

Dated: 9 MAR 1995

APPLICATION NO.

1117 of 1994.

APPLICANTS: Sri.B.Radhakrishna,  
V/S.

RESPONDENTS: The Deputy Director, Postal Accounts,  
Karnataka Circle, Bangalore and others.

To

1. Dr.M.S.Nagaraja, Advocate, No.11,  
First Cross, Second Floor,  
Sujatha Complex, Gandhinagar,  
Bangalore-560 009.
2. Srm.M.S.Padmarajaiah, Senior Central  
Govt.Standing Counsel, High Court Bldg,  
Bangalore-560 001.

Subject: - Forwarding copies of the Orders passed by the  
Central Administrative Tribunal, Bangalore-38.

---xxx---

Please find enclosed herewith a copy of the Order/  
Stay Order/Interim Order, passed by this Tribunal in the above  
mentioned application(s) on 02-03-1995.

Issued on  
9/3/95

*Shay*  
for DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

*Shay*

*Shay*

m\*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGAIORE BENCH

O.A. No.1117/94

THURSDAY THIS THE SECOND DAY OF MARCH 1995

Shri V. Ramakrishnan ... Member [A]

Shri A.N. Vujjanaradhya ... Member [J]

B. Radhakrishna,  
Aged 35 years,  
S/o Sri B. Chinnapothanna,  
666, 10th 'B' Main, 6th Block,  
Rajajinagar, Bangalore-560 010  
Working as Senior Accountant,  
O/o the Chief Master General [Post],  
Karnataka Circle,  
Bangalore.

...Applicant

[By Advocate Dr. M.S. Nagaraja]

v.

1. The Deputy Director  
of Accounts [Postal],  
Karnataka Circle,  
Bangalore-560 001.
2. The Chief Post Master General,  
Karnataka Circle,  
Bangalore-560 001.
3. Union of India represented  
by Secretary to Government,  
Ministry of Communications  
[Post], New Delhi.

... Respondents

[By Advocate Shri M.S. Padmarajaiah, Senior Standing Counsel for Central Government]

O R D E R

Shri A.N. Vujjanaradhya, Member [J]:

1. Aggrieved by the order passed by the Respondent [R' for short] No.2 on 23.5.1994 modifying applicant's date of promotion as 1.3.1988 instead of 1.4.1987 as in Annexure A-5 which amounts to reversion, and



consequent order of recovery of Rs.8440/- [Annexure A-6], applicant has come up with this application under Section 19 of the Administrative Tribunals Act, 1985.

2. Consequent to restructuring of cadre of Junior Accountants in Postal Accounts Office vide Directorate letter No.37[8]/P7-Admn.-I/111 dated 11.8.87, 80% of the posts in the Junior Accountant cadre were upgraded to the higher functional grade of Sr. Accountants. As a result 235 officials were promoted as Sr. Accountant at a time with effect from 1.4.87. As the applicant was undergoing punishment of withholding of one increment for a period of two years without cumulative effect, the punishment was current upto 28.2.88 which has been lost sight of by the admn. section. Internal Check Section while verifying the service book of the applicant pointed out that the promotion of the applicant when the punishment was current was erroneous and irregular under Rule 135 of P&T Manual Vol. III ['Rules' for short]. Applicant was, therefore, issued a show cause notice and after considering his representation, R-2 had passed the impugned order. While the applicant seeks to assail the said order as illegal and arbitrary, respondents seek to justify the same under FR 31A, Government of India instruction dated 13.12.1976 and Rule 135 of the Rules.

3. We have heard Dr. M.S. Nagaraja for the applicant

and Shri M.S. Padmarajaiah for the respondents. Relying on the decision in PARVEEN KUMAR AGARWAL wherein Chandigarh Bench of this Tribunal has struck down rider in Government of India instruction dated 13.12.1976 as violation of Articles 14 and 16 of the Constitution which is similar to Rule 135 of the Rules, Dr. Nagaraja contended that withholding of increment and withholding of promotion amounts to double jeopardy and the same is arbitrary, illegal and unjustified particularly when DPC had recommended the promotion of the applicant. He has also sought to challenge the action of the Department on the ground of delay. But Shri Padmarajaiah drawing reference to FR 31A justified the action of R-2 contending that erroneous and irregular promotion of the applicant was regularised.

4. Applicant was duly promoted to the cadre of Senior Accountant with effect from 1.4.1987 along with others after he was duly recommended by DPC in 1987. This is tried to be disturbed by the impugned order in the year 1994 after the alleged Internal Check having found that the punishment inflicted on the applicant withholding one increment for a period of two years without cumulative effect was current till 28.2.1988. As such, promotion is now ordered to be revised with effect from 1.3.1988. Government of India instructions dated 13.12.1976 which is similar to Rule 135 of the Rules instructs "event where, however, the competent



authority considers that in spite of penalty the officer is suitable for promotion the officer should not be promoted during the currency of the penalty." In PARVEEN KUMAR AGGARWAL v. I.C.A.R. reported in [1988]8 ATC 496, relied on by Dr. Nagaraja, this rider was struck down by Chandigarh Bench of this Tribunal as violative of Article 14 and 16 of the Constitution apart from being contrary to the letter and spirit of provisions contained in the Rules which contemplates imposition of only one penalty at a time. Following this decision, Bombay Bench of this Tribunal in S.K. MAIICK V. UNION OF INDIA reported in [1992]19 ATC 592 held that promotion cannot be withheld on the ground of currency of minor penalty to which our attention was brought by the learned counsel for the applicant. Dr. Nagaraja further contended that the action of R-2 revising the promotion of the applicant with effect from 1.3.1988 which in effect amounts to withholding of promotion is virtually imposing another penalty and the said action is wholly unjustified and arbitrary. He further contended that the applicant cannot be put to double jeopardy of stoppage of increments and stoppage of promotion which are two distinct minor penalties particularly when the applicant came to be promoted on the recommendation of the DPC during the year 1987.

5. Apart from what is contended on behalf of the applicant, we notice that the applicant was promoted to the functional post in November 1987 effective from 1.4.1987 and the applicant had discharged the said function. The department after lapse of so many years has now sought to revise the date of promotion which is clearly unjust and arbitrary. The applicant had discharged the duties on promotion and the post was indicated as a functional one. Therefore, we do not think that it is just and proper for the department to reopen the matter at this distance of time. Under the circumstances we are unable to uphold the contention of the learned Standing Counsel that R-2 has only rectified the alleged erroneous order of promotion after due notice to the applicant and on consideration of his representation under Rule 135 of Rules read with FR 31A and order of Government of India thereunder.

In the result, the applicant succeeds and his application is allowed. The order of R-2 dated 23.5.1994 is hereby quashed. Respondents are directed to maintain statusquo in respect of the date of promotion of applicant as 1.4.1987. Consequently the memo dated 29.6.1994 ordering recovery of Rs.8,440-00 from the applicant as in Annexure A-6 is also quashed.

Parties are directed to bear their own costs.

**TRUE COPY**  
10/3/95  
Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangalore

bsv

Sd/-  
MEMBER [J]

Sd/-  
MEMBER [A]

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH : BANGALORE

REVIEW APPLICATION No.59/1995  
IN  
ORIGINAL APPLICATION No.1117/1994

THURSDAY, THIS THE 7TH DAY OF SEPTEMBER, 1995

SHRI JUSTICE P.K. SHYAMSUNDAR .. VICE CHAIRMAN

SHRI V. RAMAKRISHNAN .. MEMBER (A)

1. The Deputy Director of Accounts (Postal), Karnataka Circle, Bangalore-560 001.
2. The Chief Postmaster General, Karnataka Circle, Bangalore-560 001.
3. Union of India, represented by Secretary to Government, Ministry of Communications (Posts), New Delhi. .. Review Applicants (By Advocate Shri M.S. Padmarajaiah, Senior Central Govt. Stg. Counsel)

Vs.

B. Radhakrishna, Aged 35 years,  
S/o Sri B. Chinnapothanna,  
Senior Accountant,  
O/o the Chief Postmaster General (Post),  
Karnataka Circle, Bangalore. .. Respondent

O R D E R

Shri Justice P.K. Shyamsundar, Vice Chairman :

We have heard the learned Standing Counsel, Shri M.S. Padmarajaiah, who appears in support of this Review Application. It purportates to arise from our decision in O.A. No.1117/94 disposed off on 2.3.1995. This Review application is accompanied by another miscellaneous application seeking condonation of delay in filing the Review petition. Admittedly, there is a delay of 120 days. On behalf of the review applicant, viz., the Assistant Postmaster General has filed an affidavit in which she seeks to explain the reasons under which the delay has occurred and states that the same has occurred

contd. ..2..

due to some administrative reasons. We accept the affidavit filed by the officer concerned and condone the delay in filing this review application and therefore treat this application as being in time. Hence, application requires to be disposed off on merits.

2. The original application is one in which a grievance made by an employee of the Postal Department who is respondent herein maligning action taken for rescinding his promotion resulting in loss of status and receipt of a lower pay packet. That application as having been accepted and an order was made quashing the order impugned in the application as mentioned earlier which is one of reverting the applicant to a lower position and also fixing his pay in a lower time scale. At the hearing of this application, it is argued that on the basis of the decision of the Chandigarh Bench of this Tribunal in Parveen Kumar Agarwal Vs. ICAR reported in 1988) 8 ATC 496 that an order of reversion followed by reduction of pay amounted to double jeopardy and the same was arbitrary, illegal and unjustified, etc. etc. Reference is also made to the decision of the Bombay Bench of this Tribunal in S.K. Mallick Vs. Union of India reported in (1992) 19 ATC 592. But, then the decision in the O.A. out of which this review arises do not entirely turn on the dictum of the decisions in Chandigarh and Bombay Benches, in that, the impugned order was not quashed on the ground that it amounted to

double jeopardy. It was vacated because the Court found that the applicant who was promoted in November, 1987 was functional in the promoted post and was actually reverted from that post had interalia, discharged the higher responsibilities and duties of a superior office. Apparently, as a consequence thereof, he had been in receipt of a higher pay also. Taking notice of the aforesaid development, the Court took exception to the impugned order and observed as follows:

5. Apart from what is contended on behalf of the applicant, we notice that the applicant was promoted to the functional post in November, 1987 effective from 1.4.1987 and the applicant discharged the said function. The department after lapse of so many years has now sought to revise the date of promotion which is clearly unjust and arbitrary. The applicant had discharged the duties on promotion and the post was indicated as a functional one. Therefore, we do not think that it is just and proper for the department to reopen the matter at this distance of time. Under the circumstances we are unable to uphold the contention of the learned Standing Counsel that R-2 has only rectified the alleged erroneous order of promotion after due notice to the applicant and on consideration of his representation under Rule 135 of Rules read with FR 31A and order of Government of India thereunder.

6. In the result, the applicant succeeds and his application is allowed. The order of R-2 dated 23.5.1994 is hereby quashed. Respondents are directed to maintain status quo in respect of the date of promotion of applicant as 1.4.1987. Consequently the memo dated 29.6.1994 ordering recovery of Rs.8,440.00 from the applicant as in Annexure A-6 is also quashed. Parties are directed to bear their own costs.

*b* ✓  
The above excerpt from the judgment of the Tribunal in ~~abu~~ <sup>hansy</sup> the O.A. lays down that as the applicant ~~had~~ discharged the responsibilities of the higher functional post, he was entitled to the pay of the higher post and that the department cannot reopen the matter after so many years

contd. ...4...

and withdraw the benefit given to the officer earlier. On behalf of the Review applicant, it is now contended that the legal dicta of withholding promotion in addition to withholding of increment would amount to double jeopardy has been negatived by the Supreme Court. It is not denied the later decision of the Supreme Court in Civil Appeal No.4718/1991, disposed off on 20.11.1991, the Apex Court has taken the view that in the circumstances, an order made therein, there was no case of double jeopardy and there was also no need to bring in the concept of double jeopardy in such matters. However, the decision of this Tribunal did not rest on the assumption that withholding of promotion would amount to double jeopardy precluded by a constitutional mandate, but was rendered on other grounds.

3. What we would like to point out is *while* the department may be justified in relying on the decision of the Supreme Court referred to supra to rebuff the order of this Tribunal under consideration. But, the Tribunal's decision in this case did not turn entirely or substantially on the ground of double jeopardy to which there is ofcourse some advertence in the judgment. Ultimately, what turned the tide in favour of the applicant is the fact that the man had worked in the higher post for a long time and therefore it was found to be unjust to now pull him down pleading a case of mistaken identity. While the Tribunal had taken a view

contd. ..5..

different from what the administration had done for reasons mentioned in the orders to which we ~~have~~ adverted enjoins us to hold that this is not a fit case for a review of the judgment for we cannot find any error apparent on the face of the record. The decision of the Supreme Court bearing on the question of double jeopardy does not avail to assist the administration because the O.A. succeeded on an alternative ground on the basis of which there was not merely a finding adverse to the department but favourable to the applicant. We therefore see no grounds to review our order for granting any relief in the Review application.

For these reasons, this application fails and is dismissed. No costs.

Sd/-

(V. RAMAKRISHNAN)  
MEMBER (A)

Sd/- *Subba Reddy*

(P.K.SHYAMSUNDAR)  
VICE CHAIRMAN

psp.

TRUE COPY

*20/1/99*  
Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangalore

SECTION IV-A

From:

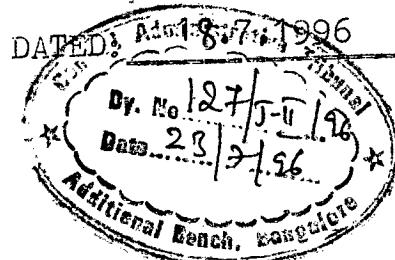
The Assistant Registrar,  
Supreme Court of India,  
New Delhi.

To:

The Registrar,  
Central Admn. Tribunal,  
Bangalore Bench.

D. No. 2212-13/96/IV-A.

SUPREME COURT OF INDIA  
NEW DELHI.



PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 13470-71 OF 1996

(Petition under Article 136 of the Constitution of India for  
Special Leave to appeal from the Judgment and Order dated

2.3.1995 of the Central Admn. Tribunal Bangalore Bench

in O.A. No. 1117/1994 read with order dt. 7.9.1995 in R.P. No. 59/1995)

*DR 24/7/96*  
*SO (S)*  
*firm 24/7/96*  
*C: B.*  
Union of India & Ors.

..Petitioner

-Versus-

B. Radhakrishna

..Respondent

Sir,

I am directed to forward herewith a certified copy of the  
Order of this Court dated  
8.7.1996 passed in the matter above-mentioned, for  
your information and necessary action.

Please acknowledge receipt.

Yours faithfully

ASSISTANT REGISTRAR

Copy to:

arun/IV-A/

Certified to be a true copy

Sup. C. 52

Sambhu Mathur  
Registrar (Jud.)

--18-7---1996

Supreme Court of India

06953

IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL APPELLATE JURISDICTION

INTERLOCUTORY APPLICATION NOS. 1-2

(Applications for condonation of delay in filing Special Leave Petitions.)

No. I N of 199

PETITIONS FOR SPECIAL LEAVE TO APPEAL (CIVIL) NOS. 13470-13471  
OF 1996.

(Petitions under Article 136 of the Constitution of India from the Order dated 2nd March, 1995 of the Central Administrative Tribunal, Bangalore Bench in O.A. Nos. 1117 of 1994 read with Order dated 7.9.1995 in Review Application No. 59 of 1995.)

WITH

INTERLOCUTORY APPLICATION NOS. 3-4

(Applications for stay with a prayer for an ex-parte Order.)

1. Union of India represented by Secretary to Government, Ministry of Communications (Post), New Delhi.
2. The Chief Post Master General, Karnataka Circle, Bangalore-560 001.
3. The Deputy Director of Accounts (Postal), Karnataka Circle, Bangalore-560 001. ..Petitioners.

- Versus -

B. Radhakrishna, s/o Shri B. Chinnapothanna,  
666, 10th 'B' Main, 6th Block,  
Rajajinagar, Bangalore-560 001.

..Respondent.

Dated the 8th July, 1996.

CORAM:

HON'BLE MR. JUSTICE S.C. AGRAWAL  
HON'BLE MR. JUSTICE G.T. NANAVATI

For the Petitioners : Mr. P.P. Malhotra, Senior Advocate.  
(M/s. Hemant Sharma and C.V. Subba Rao,  
Advocates with him.)

THE APPLICATIONS FOR CONDONATION OF DELAY IN FILING  
SPECIAL LEAVE PETITIONS ALONGWITH PETITIONS FOR SPECIAL LEAVE  
TO APPEAL AND APPLICATIONS FOR STAY above-mentioned being  
called on for hearing before this Court on the 8th day of

July, 1996, UPON hearing counsel for the Petitioners herein THIS COURT while directing issue of Notice to the Respondent herein to show cause why delay in filing the Petitions for Special Leave to appeal be not condoned and Special Leave be not granted to the Petitioners herein to appeal to this Court from the Orders of the Tribunal above-mentioned, DOTH, in the meanwhile, ORDER that pending the hearing and final disposal by this Court of the applications for stay after notice, the operation of the impugned Orders dated 2.3.1995 passed by the Central Administrative Tribunal, Bangalore Bench in O.A.No.1117 of 1994 read with Order dated 7.9.1995 of the said Tribunal passed in Review Application No.59 of 1995, be and is hereby stayed;

AND THIS COURT DOTH FURTHER ORDER THAT THIS ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Aziz Mushabber Ahmadi, Chief Justice of India, at the Supreme Court, New Delhi, dated this the 8th day of July, 1996.

THAKUR DAS  
DEPUTY REGISTRAR

1.1.2. 01/07/96

1.1.2. 01/07/96

**SUPREME COURT**

~~CRIMINAL/CIVIL APPELLATE JURISDICTION~~

**INTERLOCUTORY APPLICATION NOS. 1-2**

(Applications for condonation of delay in filing S.L.P.)

I N

No.

of 199

**SPECIAL LEAVE PETITIONS(CIVIL)NOS.13473-13471 OF 1996**

WITH

**INTERLOCUTORY APPLICATION NOS. 3-4**

(Applications for ex-parte stay)

Appellant

Petitioner **s**

Union of India & Ors.

Versus

B. Radhakrishna

Respondent

**ORDER DIRECTING ISSUE OF SHOW CAUSE NOTICE AND  
GRANTING EX-PARTE STAY**

Dated this the 8th day of July, 1996.

Dated the \_\_\_\_\_ day of \_\_\_\_\_

Engrossed by **arun/ SHRI C.V.Sutba Rao,**

Examined by **Advocate on Record for the Petitioners.**

Compared with **SHRI**

No. of folios **Advocate on Record for**

**SEALED IN MY PRESENCE**

*✓ 18/7/96*

## SEC.IV-A.

D.N.O. 2212-13/96/IV-A.

From:

*Recd on Regd  
22.11.96*  
The Assistant Registrar,  
Supreme Court of India,  
New Delhi.

To:

*1. The Registrar,  
Central Administrative Tribunal,  
Bangalore Bench at Bangalore.*

CIVIL APPEAL NOS. 14808-14809 OF 1996

(Arising out of SLP(C)No.13470-71 of 1996 (order dt.2.3.95 of  
the Central Admn. Tribunal, Bangalore Bench in O.A.No.1117 of 1994  
read with Order dt.7.9.95 in R.P.No.59 of 1995.)

Union of India &amp; Ors.

...Appellant s

- Versus -

B.Radhakrishna

...Respondent

Sir,

In pursuance of Order XIII, Rule 6, S.C.R.1966, I am  
directed by their Lordships of the Supreme Court to transmit  
herewith a certified copy of the *Judgment* /Signed Order dated the  
22.11.1996 in the appeal above-mentioned. The  
certified copy of the decree made in the said appeal will  
be sent later on.

Please acknowledge receipt.

Yours faithfully

*Rashu*

ASSISTANT REGISTRAR

Copy to:

arun/23.9.1996/IV-A.



135353

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEALS NOS. 14808-14809

(arising out of S.L.Ps.(Civil) Nos. 13470-471 of 1996)

OF 1996

Union of India & Ors.

...Appellants

versus

B. Radhakrishna

...Respondent

O R D E R

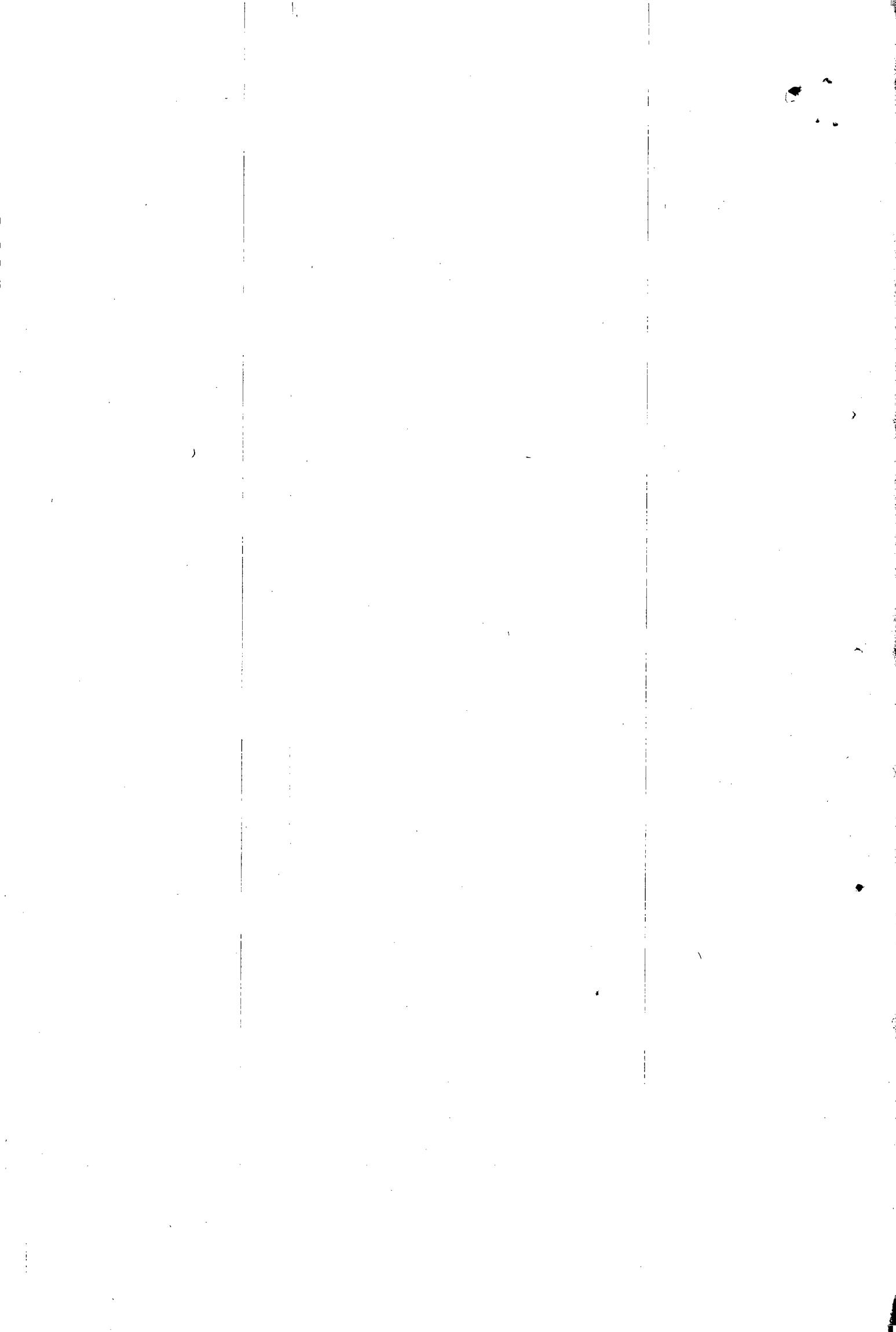
Delay condoned.

The respondent has been duly served. He has sent his reply/statement of the special leave petition by post.

Special leave granted.

100  
200  
300

The respondent was working as junior Accountant in the Postal Accounts Services of the Government of India (Karnataka Division). By order dated December 17, 1985 passed in departmental proceedings initiated against him the penalty of withholding of increment for a period of two years was imposed on the respondent. The said penalty was current up to February 28, 1988. In the meanwhile the Departmental Promotion Committee (DPC) met for the purpose of promotion to the posts of Senior Accountant. On the basis of the recommendation of the DPC, the respondent was promoted as Senior Accountant by order November 11, 1987 with effect from April 1, 1987. Subsequently, by order dated May 23, 1994, the said order was modified and the promotion of the respondent was made effective from March 1, 1988, i.e., from the date on which the penalty of withholding of increment ceased to operate. Feeling aggrieved by the said order dated May 23, 1994, the respondent filed a petition (O.A. No. 1117 of 1994) before the Central Administrative Tribunal, Bangalore Bench (hereinafter referred to as 'the Tribunal'). The said petition of the respondent has been allowed by the Tribunal by the impugned judgment dated March 2, 1995. The Tribunal has held that the respondent was promoted to the functional post of in November 1987 with effect from April 1, 1987 and that since he had discharged the said function it would be unjust and arbitrary to reopen the matter at this distance of time and revise the date of promotion. The Tribunal directed that the date of promotion of the



respondent be maintained as April 1, 1987. The Tribunal, in its judgment, has referred to its earlier decisions in Praveen Kumar Agarwal v. I.C.A.R., (1988) 8 ATC 496; and S.K. Mallick v. Union of India, (1992) 19 ATC 592. Feeling aggrieved by the said judgment of the Tribunal, the appellants filed a review application which was dismissed by the Tribunal by order dated September 7, 1995. Hence these appeals.

The learned counsel for the appellants has invited our attention to the judgment of this Court in Union of India & Ors. v. K. Krishnan, 1992 Supp. (3) SCC 50. In that case this Court was dealing with the provisions of Rule 157 of the Posts and Telegraphs Manual Vol. III which provides that even where the competent authority considers the candidate fit for promotion in spite of punishment given in a departmental proceeding the promotion shall not be given effect to during the currency of the penalty. The impugned judgment of the Tribunal in that case was based on the decision in Praveen Kumar Agarwal (supra). This Court, while setting aside the judgment of the Tribunal, has laid down :-

"We have considered the matter closely and in our opinion the view taken by the Tribunal both in the impugned judgment and in the earlier decisions holding that as a result of the provisions of Rule 157 forbidding the promotion of a State employee during the currency of the penalty results in a second punishment, is not correct. There is only one punishment visiting the respondent as a result of the conclusion reached in the disciplinary

proceeding leading to the withholding of increment, and the denial of promotion during the currency of the penalty is merely a consequential result thereof. The view that a government servant for the reason that he is suffering a penalty or a disciplinary proceeding cannot at the same time be promoted to a higher cadre is a logical one and no exception can be taken to Rule 157. It is not correct to assume that Rule 157 by including the aforementioned provision is subjecting the government servant concerned to double jeopardy. [p. 52]

The order dated November 11, 1987 promoting the respondent as Senior Accountant with effect from April 1, 1987, on which date the punishment of withholding of two increments imposed on the respondent was operative, was, therefore, not correct and it has rightly been rectified and the promotion has been granted with effect from March 1, 1988, i.e., the date on which the said punishment ceased to operate.

The respondent, in his written reply, has placed reliance on the decision of this Court in C.S.I.R. v. K.G.S. Bhat, AIR, 1989 SC 1972, wherein this Court has laid down that in exercise of its power under Article 136 of the Constitution, the Court normally does not interfere in individual disputes of seniority, promotion, reversion, suspension, pay fixation, etc. It is no doubt true that normally this Court does not interfere in such matters but having regard to the facts of this case, we are of the view that the Tribunal was in error in setting aside the order dated May 23, 1994 altering the date of promotion of the respondent from April 1, 1987 to March 1, 1988 and, since it



is likely to affect other employees, we are of the view that it is a fit case which calls for interference by this Court under Article 136 of the Constitution. The impugned judgment of the Tribunal dated March 2, 1995 passed in O.A. No. 1117 of 1994 and dated September 7, 1995 passed in R.A. No. 59 of 1995 are, therefore, set aside in so far as the quashing of the order dated May 23, 1994 altering the date of promotion of the as Senior Accountant from April 1, 1987 to March 1, 1988 is concerned. The respondent will, however, not be required to refund the excess amount received by him towards the pay for the post of Senior Accountant in respect of period from the date he worked as Senior Accountant after the passing of the order of promotion dated November 11, 1987 till February 28, 1988.

The appeals are disposed of accordingly. No order as to costs.

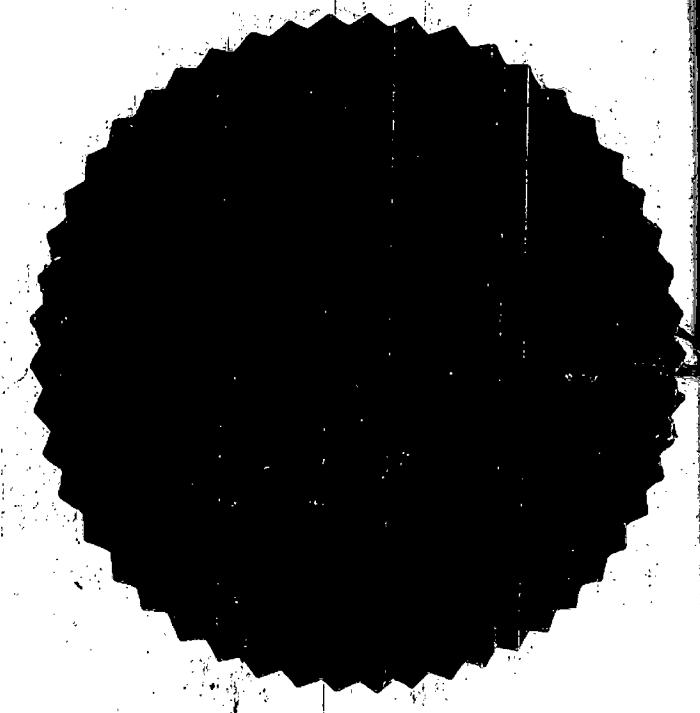
Sd/-

.....  
(S.C. AGRAWAL)

Sd/-

.....  
(G.T. NANAVATI)

NEW DELHI,  
NOVEMBER 22, 1996.



SEALED IN MY PRESENCE

✓  
SMP

All communications should be  
addressed to the Registrar,  
Supreme Court, by designation.  
NOT by name  
Telegraphic address :—  
"SUPREMECO"

D. No. 6954/96/IV.

SUPREME COURT  
INDIA  
NEW DELHI

Dated. the 10th day of January, 1998.

From: The Registrar (Judicial),  
Supreme Court of India,  
New Delhi.

To: The Registrar,  
Central Administrative Tribunal,  
Bangalore Bench,  
Bangalore.

CIVIL APPEAL NOS. 14808 AND 14809 OF 1996.

O.A 1117/98 & Note  
Enter in Registry's

..Appellants.

Add Copy to file

APK 59/158 & Note  
Enter in Registry's

..Respondent.

In continuation of this Registry's letter of even number  
dated 2nd December, 1996, I am directed to transmit herewith  
for necessary action a certified copy of the Decree dated the  
22nd November, 1996 of the Supreme Court in the said appeals.

Please acknowledge receipt.

Yours faithfully,

*MM*  
for REGISTRAR (JUDIC)

SA/ Shri B.  
(Smt. P.M.)  
In continuation  
10th Jan 98

## IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL APPELLATE JURISDICTION

232545

Certified to be a true copy

XMAX

XX5XX

Assistant Registrar (Judi.)

..... 10/11/98 ..... 19

Supreme Court of India

A89X

CIVIL APPEAL NOS. 14808 AND 14809 OF 1996.

(Appeals by Special Leave granted by this Court by its Order dated the 22nd November, 1996 in Petitions for Special Leave to Appeal (Civil) Nos. 13470 and 13471 of 1996 from the Judgment and Order dated the 2nd March, 1995 of the Central Administrative Tribunal, Bangalore Bench in O.A. No. 1117 of 1994 read with Order dated 7th September, 1995 of the said Tribunal in Review Application No. 59 of 1995 in O.A. No. 1117 of 1994).

1. Union of India,  
represented by Secretary to Government,  
Ministry of Communications (Post),  
New Delhi.
  2. The Chief Post Master General,  
Karnataka Circle,  
Bangalore-560 001.
  3. The Deputy Director of Accounts (Postal),  
Karnataka Circle,  
Bangalore-560 001.
- ..Appellants.

## Versus

B. Radhakrishna,  
S/o Shri B. Chinnapothanna,  
666, 10th 'B' Main, 6th Block,  
Rajajinagar,  
Bangalore-560 001.

..Respondent.

22nd November, 1996.CORAM:

HON'BLE MR. JUSTICE S.C. AGRAWAL  
HON'BLE MR. JUSTICE G.T. NANAVATI

For the Appellants: M/s. Hemant Sharma and C.V. Subba Rao,  
Advocates.

The Appeals above-mentioned being called on for hearing before this Court on the 22nd day of November, 1996; UPON perusing the record and hearing counsel for the appellants herein, the respondent herein not appearing though served,  
THIS COURT DOTH in disposing of the appeals ORDER:

1. THAT the Judgment and Order dated the 2nd March, 1995 of the Central Administrative Tribunal, Bangalore Bench in O.A. No. 1117 of 1994, Order dated 7th September, 1995 of the said Tribunal in

Review Application No.59 of 1995 in so far as it quashed the Order dated the 23rd May, 1994 passed by the Appellant No.2 herein altering the date of promotion of the Respondent herein as Senior Accountant from 1st April, 1987 to 1st March, 1988 be and is hereby set aside but the Respondent herein shall not be required to refund the excess amount received by him towards the pay for the post of Senior Accountant in respect of the period from the date he worked as Senior Accountant after the passing of the order of promotion dated 11th November, 1987 till 28th February, 1988;

2. THAT there shall be no order as to costs of this appeal in this Court;

AND THIS COURT DOETH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned;

WITNESS the Hon'ble Shri Aziz Mughabber Ahmadi, Chief Justice of India, at the Supreme Court, New Delhi, dated this the 22nd day of November, 1996.

58-  
(R.P.DUA)  
JOINT REGISTRAR.

✓ 1/12/96

RECORDED AND INDEXED

12/12/96

**SUPREME COURT**

XXXXXX  
CRIMINAL/CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 14808 AND 14809 OF 1996.

XXXX  
NOS.

XXXXX  
87199

Union of India & Ors. Appellant e.  
Petitioner

Versus

B. Radhakrishna      Respondent

CENTRAL ADMINISTRATIVE TRIBUNAL,  
BANGALORE BENCH, BANGALORE.

O.A. No. 1117 of 1994 read with  
Order dated 7th September, 1995 of  
the said Tribunal in Review Application  
No. 59 of 1995 in O.A. No. 1117 of 1994.

REB/ME      XXXXX      798X

DECREE DISPOSING OF THE APPEALS WITH  
NO ORDER AS TO COSTS.

Dated this the 22nd day of November, 1996.

SHRI C. V. Subba Rao,

Examined by      Advocate on Record for      the Appellants.

Compared with      SARF

No. of folios      Advocate on Record for

an/08-01-1998.

SEALED IN MY PRESENCE

12/11/98  
16/11/98