

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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

Dated:- 28 JUL 1994

APPLICATION NUMBER: 12/94

APPLICANTS:

Smt. Satyarathi M. Swamy
To.

RESPONDENTS:

Y/s. The Post Master General,
South Canara Region,
Bangalore and Others

1. Sri. M. Nayanaswamy, Advocate, No. 844, Upstairs,
17-G-Main, Fifth Block, Rajajinagar, Bangalore-10.
2. Sri. G. Shanthappa, Addl. C.G.S.C,
High Court Bldg, Bangalore-1

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 21-07-94

Issued on

29/7/94

12.

of

for S. Shanmugam 28/7
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.12/1994

THURSDAY THIS THE TWENTY FIRST DAY OF JULY, 94

MR. JUSTICE P.K. SHYAMSUNDAR VICE CHAIRMAN

MR. T.V. RAMANAN MEMBER(A)

Smt. Satyavathi M. Swamy,
W/o D.M. Mahadeva Swamy,
aged about 30 years,
Kodlipet,
Dist: Kodagu - 571 231 Applicant

(By Advocate Shri M.N. Swamy)

v/.

1. The Post Master General,
South Canara Region,
Bangalore - 560 001
2. The Director of Postal Services
South Canara Region,
Bangalore - 560 001
3. The Senior Superintendent of
Post Offices,
Mysore Division,
Mysore
4. Superintendent of Post Offices,
Kodagu Division,
Madikeri Respondents

(By learned Standing Counsel)
Shri G. Shanthappa

ORDER

MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

Heard.

2. The applicant is aggrieved by an order made by the respondents removing her from service on the ground of unauthorised absence from the post of duty, for over two years.



Alleging that the applicant was unauthorisedly absent from duty, the respondents initiated a disciplinary enquiry at which the presence of the applicant was solicited by issuance of a notice which however remained un-served despite considerable effort by the Department because the applicant was not found at the address notified presumably at the time of service of notice.

3. If the applicant was not available, we would have thought that the authorities would have taken steps to serve the applicant through issue of a public notice which is ordinary^{il} the mode resorted to in such matters. Unfortunately, the Department initiated disciplinary enquiry placing reliance on some rules of the Department which, we are told, enjoined holding of an enquiry ex-parte in cases where the official concerned could not be served despite an endeavour diligently made. Whatever be the rule, the vires of which we strongly suspect, it is an axiomatic principle of law that nobody can be removed for unauthorised absence without holding an enquiry. An enquiry cannot be held without serving the delinquent official and the official cannot be removed from service without holding an enquiry. If that is not done but, nonetheless, the enquiry is held and the same had resulted in an order detrimental to the government servant, the person is certainly entitled to complain against the validity of such an order. Admittedly, this is a case in which the applicant was not served with notice of the enquiry at any stage. It is an

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TRUE COPY

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE