

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- 28 JUL 1994

APPLICATION NUMBER:

12/94

APPLICANTS:

Smt. Satyavathi M. Swamy v/s. The Post Master General,
To. South Canara Region,
Bangalore and Others

RESPONDENTS:

1. Sri. M. Narayanaswamy, Advocate, No. 844, Upstairs,
17-G-Main, 7th Block, Rajajinagar, Bangalore-10

2. Sri. G. Shastryappa, 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

28/7/94

P.

of

S. Shanmugam 28/7
for 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 - 571 232
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 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

aspect on which there is no dispute and so much becomes clear after reading the reply statement. In such circumstances, what becomes obvious is the enquiry resulting in the removal of the applicant which is admittedly ex parte fails.

4. Therefore, this application succeeds and is allowed. The impugned order removing the applicant from service, produced at Annexure A-1 dated 20.7.90 issued by the Senior Superintendent of Post Offices, Mysore Division, Mysore and later up-held by the Appellate Authority by order dated 22.11.93 (Annexure A-4) are both quashed. The Department will be at liberty to hold a fresh enquiry after due service of notice on the applicant, provided they wish to pursue this matter. The applicant to be re-instated in service with all consequential benefits as may be admissible under law. No order as to costs.

Sd/-

(T.V. RAMANAN)
MEMBER (A)

Sd/-

(P.K. SHYAMSUNDAR)
VICE CHAIRMAN



TRUE COPY
S. D. Naik
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE