

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 4 APR 1995

APPLICATION NO. 1201 of 1994.

APPLICANTS: Sri.K.Narayanachari,
V/S.

RESPONDENTS: The Senior Supdt.of Post Offices,
Mysore Division, and four others.

To

1. Dr.M.S.Nagaraja, Advocate,
No.11, First Cross, Second Floor,
Sujatha Complex, Gandhinagar,
Bangalore-560 009.
2. Sri.G.Shanthappa, Addl.C.G.S.C.
High Court Bldg, Bangalore-1.

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

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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 24-03-1995.

Issued on
5/4/95

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATION No.1201./1994

FRIDAY, THIS THE 24TH DAY OF MARCH, 1995

SHRI V. RAMAKRISHNAN .. MEMBER (A)

SHRI A.N. VUJJANARADHYA .. MEMBER (J)

Sri K. Narayanachari,
S/o Sri Karichari,
(aged about 45 years)
G.B. Sargur Post Office,
Heggadedevanakote Taluk,
Mysore District.

... Applicant

(By Advocate Dr. M.S. Nagaraja)

Vs.

1. The Senior Superintendent of
Post Offices,
Mysore Division, Mysore.
2. The Senior Superintendent of
Post Offices,
Nanjangud Division, Nanjangud,
Mysore District.
3. The Director of Postal Services
in Karnataka,
Mysore Division(Region) Mysore.
4. The Post Master General,
S.K. Region, Bangalore.
5. The Union of India,
represented by the
Secretary to Government,
Department of Communications,
New Delhi.

... Respondents

(By Advocate Shri G. Shanthappa,
Addl. Central Govt. Stg. Counsel).

ORDER

Shri V. Ramakrishnan, Member (A):

The applicant herein is aggrieved by the fact that despite being selected for the post of Postman, he had not been given this appointment by the department.

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2. The applicant, while working as E.D. Branch Postmaster, G.B. Sargur, was proceeded against by the department in connection with certain allegations pertaining to disbursement of some money orders. Meanwhile, he had been declared successful in the examination for promotion to the cadre of Postman vide their order dated 9.9.1983 as at Annexure-A1. The case against him in connection with the alleged money order irregularity continued and the disciplinary authority dismissed him vide memo dated 15.11.1988. He appealed against this order which was disposed off by the Appellate Authority on 21.3.1989 setting aside the orders of the Disciplinary Authority which is enclosed as Annexure-A2. The last portion of the Appellate order reads as follows:

"Based on the fact that the inquiry itself is improper and there is no documentary evidence, I set-aside the punishment order and employ Sri K. Narayanachar with immediate effect in view of his very long service of about 20 years in the department."

3. After getting this order, the applicant moved the department to consider him for the post of Postman on the basis of the results declared on 9.9.1983. He also highlighted the fact that his name stood at Sl.No.1 in the merit list and persons who were ranked lower than him had been appointed as Postman. This representation was rejected by the Senior Superintendent of Post Offices, Nanjangud Division, Nanjangud, by his letter dated 7.11.1989, which communicated the orders of the Director of Postal Services (SK) which reads as follows:

"Shri K. Narayanachari has stated that he should be appointed as Postman. The appellate orders are confined merely to the fraud case. To take an administrative decision now to appoint him as Postman, would not be within the perview of the provisions of Rules. Hence, his request for appointment as Postman is rejected."

He seems to have been pursuing this matter with the various authorities including the Member, Postal Board. We find that he had

also represented on 30.6.92 and the Postmaster General, S.K. Region, took the view that when he was dismissed from service, his selection to the cadre of Postman stood annulled and while on the basis of the appellate order, he was re-employed, but, this did not entitle him to be appointed as Postman unless he passed the examination again. The Postmaster General does not go into the question as to whether or not the applicant is within the prescribed age limit. His subsequent representation in June, 1993, as at Annexure-A8 to the Postmaster General also elicited no favourable response. Aggrieved by the stand of the department, the applicant has filed the present application.

4. We have heard Dr. Nagaraja for the applicant and Shri G. Shanthappa for the Postal authorities.

5. Dr. Nagaraja submits that once the Appellate Authority had set aside the earlier order of dismissal, it is not justified on the part of the department to deny him appointment as Postman to which he was duly selected. As regards, the contention of the respondents that he remained absent unauthorisedly for the training for 2 days in September, 1993, Dr. Nagaraja says that he was put off duty as E.O. Branch Postmaster on 21.9.1993, and because of this position, he could not attend the training for the last 2 days while he attended the training for 8 days and that was because the proceedings initiated against him had weighed in his mind. Now, that he has been exonerated from the charge, Dr. Nagaraja says that he is entitled for appointment as Postman. If there is any shortfall in the training undergone by him, the department could direct him to complete the training, but, cannot deny him the appointment as such. When it was enquired of the learned counsel as to why the applicant did not move the Tribunal soon after his request for appointment as Postman was rejected by the department on 7.11.1989



as at Annexure-A4, Dr. Nagaraja submits that he had been pursuing the matter with the department and even represented to the Member, Postal Board, etc. When his last representation dated 10.6.1993 did not meet with any favourable response, he has filed this application.

6. Shri Shanthappa, opposes the application on two grounds. He says that the applicant, if ^{he} ~~was~~ aggrieved by the rejection by the department of his request as at Annexure-A4, should have approached the Tribunal within one year and there is considerable delay in filing the application. He also states that the applicant did not complete the training which he was called upon to do ~~so~~. He remained absent for 2 days. He was served with a notice to explain the reasons for such absence, but did not take any action therein. In view of this, the department had not considered him for appointment as Postman. He, however, states that there was no formal order cancelling the appointment order of the applicant as Postman.

7. The main grounds on which the application is resisted by the department, apart from the question of limitation is that he had not completed the prescribed training which he was called upon to do. The fact that he had remained absent for 2 days from the training course is not denied by Dr. Nagaraja, who, however, submits that there were extraneous circumstances which should condone such a lapse. There is some force in the submission of the learned counsel. We also notice that the Postmaster General has taken a stand vide his letter dated 14.12.1992 that when the E.D. Agent was dismissed from service his selection to the cadre of Postman stood annulled. If so, on the orders of the appellate authority, the annulment is also set aside and his selection gets restored. The fact that there is no formal order cancelling his

appointment either in 1993 or at any time thereafter is also a factor that has to be taken note of. We however have to keep in view of the fact that after his representation was rejected on 7.11.1989, the applicant had not approached the Tribunal but had been making only persistent representations to the department itself.

8. In the facts and circumstances of the case, we hold that it will be just and proper to direct the department to give him an appointment as Postman whenever a vacancy arises in Nanjangud Division, without insisting on his appearing in an examination again. As the applicant had not completed the prescribed training, the department would be at liberty to ask him to undergo the training once again. We also make it clear that the applicant will not be entitled to any other reliefs such as retrospective seniority and retrospective financial benefits, etc. as his appointment as Postman is to be done only prospectively.

9. With the above observations, this application stands disposed off. No costs.

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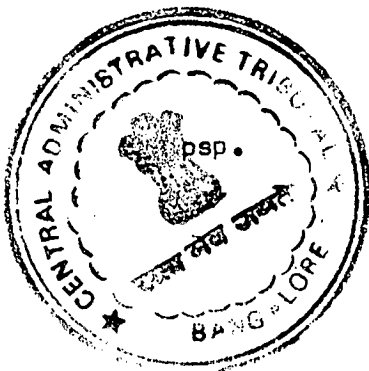
24/12/95

(A.N.VUJJANARADHYA)
MEMBER (J)

Sr-

24/12/95

(V. RAMAKRISHNAN)
MEMBER (A)



TRUE COPY

[Signature]
04/12/95

Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore