

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE - 560 030.

Dated: 29 MAR 1995

APPLICATION NO.

1251 of 1994.

APPLICANTS: **Sri.B.S.Srinivasa Rao,**

V/S.

RESPONDENTS: **The Director of Postal Services,
Karnataka Circle, Bangalore Region and another.**

To

1. **Sri.D. Leelakrishnan, Advocate,
No.G-5, Brigade Links, No.54/1,
First Main Road, Seshadripuram,
Bangalore-560 020.**
2. **Sri.M.Vasudeva Rao, Additional
Central Government Standing
Counsel, High Court Building,
Bangalore-560 001.**

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 16-03-1995.

Issued on
29/03/95

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

'CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: :BANGALORE

ORIGINAL APPLICATION NO. 1251/1994

THURSDAY, THE SIXTEENTH DAY OF MARCH, 1995

SHRI V.RAMAKRISHNAN.
SHRI A.N.VUJJANARADHYA.

... MEMBER (A)
... MEMBER (J)

B.S.Srinivasa Rao,
S/o Shri B.Shama Rao,
Aged about 48 years,
working as the Postal Assistant,
Ramanagaraam Post Office,
BANGALORE-571 511.

... Applicant

By Advocate Shri D.Leelakrishnan.

Versus

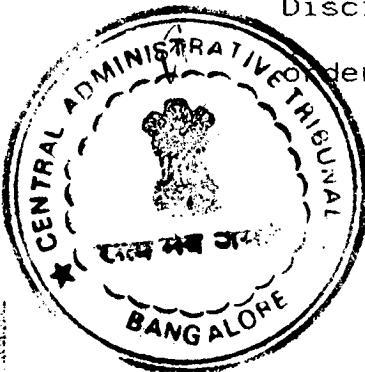
1. The Director of Postal Services,
Bangalore Region,
Karnataka Circle, Palace Road,
BANGALORE - 560 001.

2. The Superintendent of Post Offices,
Channapatna Division,
CHANNAPATNA -m 571 501. ... Respondents

By A.C.G.S.C. Shri M.V.Rao.

O R D E R	
Shri V.Ramakrishnan. Member (A)	

We have heard Shri D.Leelakrishnan for the applicant and Shri M.V.Rao for the respondents. The applicant herein, who is a Sub Accounts Postal Assistant in Ramanagaram post office is aggrieved by the decision of the Disciplinary authority in not acceding to his request for ordering a full dress enquiry, even though the



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proceedings have been initiated against him for imposing a minor penalty under Rule 16 of the CCS (CCA) Rules.

2. The applicant is charged with lapse leading to missing of ₹0 cash bag containing two thousand rupees, and it was alleged that this loss has taken place on account of negligence on the part of the applicant. He was accordingly issued with a memo dated 11th May, 93, and it was proposed to take action against him under Rule 16. He submitted his reply 21.6.93 as at Annexure 'C', where he had explained his role and contended that there was no negligence or any mistake on his part. He further stated that according to his belief, the mistake would have taken place only at the post office to which cash remittance was made. He, therefore, requested that the proceedings against him should be dropped and made a specific prayer that in case his explanation was not accepted, a full dress enquiry under rule 14 may be conducted to get to know the truth and to punish the guilty. The DA further proceeded to issue orders without specifically going into the request made by the applicant and ordered recovery of Rs.1000/- from the applicant's pay by order dated 29.6.93 as at Annexure 'D'. The applicant filed an appeal against this order to the Appellate Authority and the Appellate Authority by order dated 19th January, 94 as at Annexure 'F' noticed that the Disciplinary Authority has not recorded any reasons for rejecting the request of the applicant for full dress enquiry and set aside the order of the Disciplinary

Authority and directed the Disciplinary Authority to conduct a fresh enquiry from the stage at which the charged official had requested for personal hearing vide letter dated 21.6.93. The Disciplinary Authority however stuck to his stand and rejected the request for full dress enquiry on the ground that the applicant had admitted that the cash bag was sealed by a group 'D' employee, which he held to be violative of rules contained in P & T Manual. The Disciplinary Authority, however, directed the applicant to submit a fresh representation within 10 days. This is by order dated 17.2.94 as at Annexure 'G'. The applicant submitted a detailed representation against the order of the Disciplinary Authority rejecting his prayer for an enquiry under rule 14 by his letter as at Annexure 'H'. This was again turned down by the Disciplinary Authority by order dated 28.6.94 as at Annexure 'J'. The applicant is before us challenging the orders as at Annexure 'J'. *Annexure G, J and H*

3. We find that the applicant had clearly stated in his representation as at Annexure 'C' that according to his belief the mischief would have taken place at the receiving post office. Shri Leelakrishnan for the applicant submits that the stand of the applicant can be substantiated only if a proper enquiry is ordered to felicitate the department to find out as to who was actually responsible and to punish the guilty. He also brings to our notice a number of court decisions where it was held that if the nature of charges so warrant it to

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is mandatory on the part of the Disciplinary Authority to hold full dress enquiry. In particular, he relies on the judgement of Karnataka High Court (1989 (4) ILR 3455). Shri Leelakrishnan also disputes the view taken by the Disciplinary Authority that the applicant had in fact admitted the charge ^{that he} ~~having~~ violated rules contained in P & T Manual.

4. Shri M.V.Rao, the learned standing counsel submits that keeping in view the nature of charges and as what is involved is only minor penalty proceedings it is not necessary to hold a detailed inquiry. Under rule 16(1) ^{of CCS (CCS) Rules} (b) it is necessary to the Disciplinary Authority to form an opinion as to whether a full dress enquiry is required or not. The Disciplinary Authority has concluded that such an enquiry is not needed in this case. Shri Rao also submits that in case, the applicant was aggrieved by the order of the Disciplinary Authority, he could have approached the Appellate Authority again instead of coming to the Tribunal straightaway.

5. We have carefully considered the submission of both sides. The only reason for which the Disciplinary Authority had refused to order a full dress enquiry as

per his order as at Annexure 'B' is that the Disciplinary Authority states that the applicant had admitted that the VO bag containing cash bag was sealed by a group 'D' employee in his presence and the same is in violation of P & T Rules ~~rule 52~~. Rule 27.5 of the P & T Manual says:

"As far as practicable, the sub-account Assistant should not be either the main or sorting Assistant but when the combination of these duties cannot be avoided, all the account bags, whether they contain cash bags or not should be sealed with the cash seal by the treasures and with the sub-account seal by the sub-account Assistant. The cord for the cash seal should be tied tightly round the neck of the account bag just above the sub-account seal, and the cash seal should be impressed on good red sealing wax. Whenever, under this arrangement, it is necessary to put two seals on each account bag, the post-master must be careful to see that red sealing-wax is used for the cash seal on the account bag to distinguish it from the black seal on the cash bag, and that all S.Os in account with the H.O. in account with the H.O. are informed that two seals will be placed on all account bags from the office."

In the present case, the applicant had contended that the concerned bag was sealed by a group 'D' employee in his presence as per usual procedure followed in the post office. The stand of the Disciplinary Authority that the applicant had admitted the charges in his representation is *prima facie* not borne out. As regards appeal, the applicant has done so and the Appellate Authority had directed the Disciplinary Authority to ~~accede to the~~ ^{examine *affidavit*} the request of the applicant. The Disciplinary has turned ~~it~~ down.

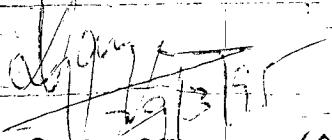
6. In the facts and circumstances of the case, we are of the view that it is proper to order a regular full

dress enquiry as sought for by the applicant and the request should have been conceded by the Disciplinary Authority. In view of this position, we quash the order of the Disciplinary Authority dated 17.2.94/1.3.94 as at Annexure 'B' as also the subsequent order as at Annexure "J". The Disciplinary Authority is directed to accede to the request of the applicant and order for a regular enquiry as contemplated under rule 16 (1)(b) of the CCS (CCA) Rules.

7. Shri Leelakrishnan brings to our notice that in pursuance of the order of the Disciplinary Authority as at Annexure "D" a sum of Rs.1000/- has been recovered from the salary of the applicant. The said order has been set aside by the Appellate Authority as at Annexure "F", but the money has not been refunded to him. If such is the position, the applicant may make a suitable representation to the concerned authorities ventilating his grievance and if such a representation is made, the same should be disposed by the concerned authority by an appropriate order.

8. With the above observation the application is finally disposed of with no orders as to cost.

TRUE COPY


Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore

Sd/-
16/11/94
(A.N.VUJJANARADHYA)
MEMBER (J)

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Sd/-
16/11/94
(V.RAMAKRISHNAN)
MEMBER (A)