

BANGALORE BENCH

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

Dated:-27 SEP 1994

APPLICATION NUMBER: 645 of 1994.

APPLICANTS:

RESPONDENTS.

Dr. K.S. Gurubasave Gowda v/s. Secretary, Union Public Service Commission,
New Delhi and two others.

1. Sri. B. Rudragowda, Advocate,
No. 68/8, Krishna Block,
First Main Road,
Seshadripuram, Bangalore-560020.
2. Sri. M.S. Padmarajaiah,
Senior Central Govt. Stng. Counsel,
High Court Bldg, Bangalore-560 001.

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 Eighth September, 1994.

Issued on

27/9/94

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 645/ 1994

THURSDAY, THE 8TH DAY OF SEPTEMBER, 1994

SHRI V. RAMAKRISHNAN

...

MEMBER (A)

SHRI A.N. VUJJANARADHYA

...

MEMBER (C)

Dr. K.S. Gurubasave Gowda,
Reader-cum-Research Officer,
Central Institute of Indian
Languages,
Manasa Gangotri,
Mysore-6.

...

Applicant

(By Advocate Shri Rudra Gowda)

Vs.

1. Union Public Service Commission,
by its Secretary, Dholpur House,
Shahjahan Road,
New Delhi - 110 0011.
2. Union of India by its
Ministry of Human Resource Development
by its Secretary,
Shastri Bhavan,
New Delhi - 110 011.
3. Director of Central Institute of
Indian Languages,
Manasa Gangotri, Mysore-6.

...

Respondents

(By Advocate Shri M.S. Padmarajaiah, Senior
Standing Counsel for Central Government).

O R D E R

Shri V. Ramakrishnan, Member (A)

The applicant herein has prayed that the respondents should be directed to consider him for the post of Professor-cum-Deputy Director in pursuance of the notification issued by the UPSC Advertisement No. 20 as at Annexure A-4 and that he should be interviewed by the UPSC on the relevant date. He had also sought for an interim direction that the respondents should interview him pending disposal of the application finally. The Tribunal by its order dated 30.3.94



had directed the UPSC to call up the applicant and interview him alongwith others, but it should not publish the result of the interview till the disposal of the case.

2. The applicant who is Reader-cum-Research Officer in the Central Institute of Indian Languages, Mysore is eligible for being considered for the post of Professor-cum-Deputy Director for which the post was advertised by the UPSC. He sent his application by registered post on 21.10.93. The Respondent No.1, UPSC submits that this was received by them on 1.11.93 whereas the last date of receiving the application was 28.10.93 as clearly brought out in the advertisement. His application was, therefore, summarily rejected on the ground that it was received after the last date.

3. We have heard Shri B. Rudragowda for the applicant and Shri M.S. Padmarajaiah, Senior Standing Counsel for the Respondents.

4. The grounds adduced by the applicant in support of his prayer are that he had despatched the application which he claims was received by the 1st Respondent before the last date. He also contends that he has all the necessary qualifications and experience to be considered for the post. Besides, while he was not given the interview card, his juniors were called for interview. He has also produced some annexures in support of his application.

5. The only issue to be considered is whether the UPSC had in fact, received the application before the last date, namely 28.10.93. The respondents have submitted that the application form of Shri K.S. Gurubasave Gowda was received by the Commission on 1.11.93. In support thereof they have produced the certificate dated 24.8.94 given by the Under Secretary (Receipt), UPSC which encloses copies of the postal office record dated 1.11.93 which indicates that the registered letter

No. 10241 addressed to UPSC was received on 1.11.93. They have also produced a copy of the proforma for forwarding of application maintained by the Receipt and Issue Section of the UPSC where at Sl. No.47 the name of the applicant is shown as also the Registration No. 10241 in respect of his letter. This copy shows that the date of receiving the application was on 1.11.93. The learned Standing Counsel also produced the envelope in which the applicant had sent his application to the UPSC. This original envelope, inter alia, shows that this registered letter was despatched by the Manasagangotri post office, Mysore on 21.10.93 and the registered number is given as 10241. There is also a seal of UPSC on the envelope which shows that it was received by them on 1.11.93.

6. In the light of the materials submitted by the respondents, there is no room for doubt that the application reached UPSC only on 1.11.93, which is later than the last date of receiving such application for the concerned post. It is unfortunate that the applicant had to miss his chance for being considered for the higher post on account of the time taken by the postal department, i.e. about 10 days after despatching the registered letter. However, as it now established that the application was received only after the last date, we are left with no alternative but to hold that the UPSC was right in rejecting the application as it was received late.

7. In view of the above, the application is dismissed. The interim order restraining the publication of results automatically stands vacated. No costs.

Section Officer

Central Administrative Tribunal

Bangalore Bench

Bangalore

(A.N. Vujjanaradhya)
Member (J)

(V. Ramakrishnan)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

REVIEW APPLICATION NO. 2/ 1995

IN

ORIGINAL APPLICATION NO. 645/ 94

FRIDAY, THE 28TH DAY OF APRIL, 1995

SHRI V. RAMAKRISHNAN ... MEMBER (A)

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

Dr. K.S. Gurubasave Gowda,
Reader-cum-Research Officer,
Central Institute of Indian
Languages,
Manasa Gangotri,
Mysore-6.

... Review Applicant

(By Advocate Shri Rudra Gowda)

Vs.

1. Union Public Service Commission
by its Secretary, Dholpur House,
New Delhi - 110 011.
2. Union of India by its
Ministry of Human Resource Development
by its Secretary,
Shastri Bhavan,
New Delhi - 110 031.
3. Director of Central Institute of
Indian Languages,
Manasa Gangotri,
Mysore -6.

... Respondents

(By Senior Standing Counsel for Central
Government, Shri M.S. Padmarajaiah)

ORDER

Shri V. Ramakrishnan, Member (A):

Delay condoned.

2. This review application has been filed seeking a review of our order dated 8.9.94 in DA 645/94. In that DA, the applicant had contended that even though he had sent his application for the post of Professor-cum-Deputy Director in the Central Institute of Indian Languages in time to the UPSC he was not called for interview on the ground that his application was received late. He had challenged the stand taken by the UPSC and contended that the application was received in time by the UPSC and he had sought a direction that he should be considered for the post in question and that the UPSC should be directed to interview him. When the case came up before the Tribunal on 30.3.94 a direction was given by the Tribunal to the UPSC to call up the applicant and interview him alongwith others, but it should not publish the result of the interview till the disposal of the case. The Tribunal disposed of the case on 8.9.94 holding that the application was received by the UPSC on 1.11.93 which is later than 28.10.93 which had been fixed as last date for receiving such applications for the concerned post. The Tribunal therefore dismissed the application on the ground that the UPSC was right in rejecting the same on account of its late receipt. The Tribunal also had vacated the interim order restraining the publication of the results.

3. The review applicant contends at present that the UPSC had in fact received his application for the post of Professor-cum-Deputy Director on 25.10.93. He has produced a certificate from the Senior Superintendent of Post Offices, Mysore to that effect which is enclosed as Annexure R-1 to the review application. He, therefore, prays that the basis on which his application was dismissed, namely,

that his application for the said post was received late by the UPSC no longer holds good and as such our order should be reviewed.

4. We have heard Shri B. Rudra Gowda for the applicant and Shri M.S. Padmarajaiah for the respondents. We have also gone through the communications from the UPSC.

5. Shri Padmarajaiah now submits that even though the application was received late the UPSC had nevertheless interviewed the review applicant alongwith others on 5.4.94 in compliance with the directions of this Tribunal dated 30.3.94. The learned standing counsel further submits that on the basis of performance of the candidates in the interview, some other candidate was selected and the applicant was not recommended for the post. The standing counsel shows us a letter dated 4.4.95 from the UPSC addressed to him which encloses a copy of letter No. F.5/5283/94-95 received from the Sub-Post Master, DHQ Post Office, New Delhi which says that as per the office record the said registered letter was delivered only on 1.11.93. The standing counsel undertakes to furnish a copy of this letter dated 22.3.95 alongwith the UPSC's letter dated 4.4.95 to Shri Rudra Gowda. Shri Padmarajaiah submits that in view of the fact that the applicant had in fact been interviewed which was the main prayer in OA 645/94 but was not selected, there is no merit in this review application and the review application may be disposed of accordingly. Shri Rudra Gowda for the review applicant admits that the applicant was interviewed on the concerned date. This fact was not brought to our notice by the counsel for the applicant nor by the applicant himself who was present in Court when the order dated 8.9.94 was dictated in the open Court.

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6. We find that there is a conflicting version regarding the date of receipt of application in UPSC as the statement of postal department in Mysore is contradicted by the Post Office in New Delhi. Whatever may be ^{the} correct position in this regard it is not very material for disposal of the present review application, as we find that the applicant was in fact interviewed for the post of Professor-cum-Deputy Director in the Central Institute of Indian Languages on 5.4.94 along with a number of others. The UPSC however had selected some other candidate on the basis of the performance of the candidates in the interview.

7. The relief sought for in OA 645/94 was that the applicant should be considered for the post and that UPSC should be directed to call him for interview. As the applicant in fact was interviewed on the basis of the interim orders of the Tribunal, irrespective of the question as to whether his application was received in time or not, there is no point in pursuing the review application, As the relief he had sought in OA 645/94 was made available to him, even though some other candidate was selected on the basis of performance in the interview.

8. Shri Rudra Gowda takes objection to the averment of the department in the reply statement that the applicant has not been found suitable for appointment. We have seen the communications from the UPSC and we notice that the applicant was interviewed provisionally on 5.4.94 for the concerned post as per the Tribunal's order dated 30.3.94. The report of the Interview Board further submits that a total of 18 candidates were considered and 13 candidates were interviewed and that the Commission recommended for appointment to the post

some other candidate. It further says that those people who were called for interview were considered prima facie suitable. As such the averment in the reply statement that the applicant had not been found "suitable" is obviously intended to convey that he was not selected as according to UPSC some other candidate was assessed as having performed better than the applicant. Obviously, it was not intended to mean that the applicant was not eligible to be considered for the post or that he was unfit to hold the post.

9. Shri Rudra Gowda further submits that liberty may be given to challenge the selection. The applicant can take action as he desires, as per law.

10. With the above observations the review application is disposed of.

Sd-

(A.N. VUJJANARADHYA)
MEMBER (J)

Sd-

(V. RAMAKRISHNAN)
MEMBER (A)

TCV

TRUE COPY

[Signature]
29/5/95
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore