

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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

Dated:- 4 AUG 1994

APPLICATION NUMBER: 868/94

APPLICANTS:

Sri. M.P. Pillikatti  
To.

RESPONDENTS:

V/s. Secretary, Dept of Posts, N.Delhi and Others

- 1) Sri. K. Govindaraj, Advocate, No. 95, 815 Coors down,  
Near Baok of Baroda, Mallewaran, Bangalore-560003.
- 2) Sri. G. Shanthappa, Advocate of Addl. C.G.S.C  
High Court Bldg, Bangalore-1

Received copy for Sl. No. 1  
and copy  
9/8/94

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 25-7-94

of

S. Shantappa  
a/8  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.868/1994

MONDAY THIS THE TWENTY FIFTH DAY OF JULY, 1994

MR. JUSTICE P.K. SHYAMSUNDAR VICE CHAIRMAN  
MR. T.V. RAMANAN MEMBER (A)

Sri M.P. Pillikatti,  
aged about 25 years,  
Occ: Branch Post Master,  
Hirehullal,  
Taluk: Hanagal,  
district: Dharwad

Applicant

( By Advocate Shri K. Govindaraj )

v.

1. Union of India,  
represented by its Secretary,  
Department of Posts,  
Ministry of Communication,  
New Delhi - 110 001
2. The Post Master General,  
North Karnataka Region,  
Dharwad, District Dharwad-580001
3. The Superintendent of Post  
Offices, Haveri Division,  
Haveri,  
District Dharwad - 581110
4. The S.D.I.(P),  
Byadagi,  
Byadagi Taluk,  
Dharwad District - 581106
5. The Post Master,  
Haveri Head Office,  
Haveri, Dharwad District-581110

Respondents

( By learned Standing Counsel )  
Shri G. Shanthappa

ORDER

MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

The applicant had the good fortune of  
being selected as a Branch Post Master of the



Hirehullal Branch Post Office, Hanagal Taluk,  
Dharwad District. His selection was made  
pursuant to a notification issued on behalf of  
the Department calling for applications from  
qualified SC candidates. The notification  
admittedly set a dead-line as the last date  
for receipt of the application. But, then a  
perusal of the notification indicates that it  
was not accompanied by the usual warning that  
applications received after the due date will  
not be considered. The notification reads:

"No.83/30/H.HLL/II dated 2.9.92 Haveri

Department of Posts  
O/O The Supdt. of Post Offices, Haveri Div.  
Haveri - 581110

NOTICE

Applications are invited for the post of  
an Extra Departmental Post Master at  
Hirehullal Post Office in a/w Sangur.  
It is a Part time job on an allowance of  
Rs.275/- + AA per month.

The application in the own hand writing  
of candidates and containing the  
following information should reach the  
undersigned on or before 17.9.92.

PREFERENCE WILL BE GIVEN TO SC/ST CANDIDATES

NOTE: 1) Attested copies of certificates  
should accompany in respect of items 4,5,6  
8 and 13. Incomplete applications will be  
rejected.

2) Canvassing in any form will be  
disqualification.

3) Furnishing of false information etc.  
will be a disqualification and if this  
fact comes to the notice during the service  
of the persons, his services will be liable  
to be terminated.

4) Candidates should be within the age  
limits of 18 to 65 years. He should  
have passed VIII Std. but Matriculate is  
preferred.

Sd/-  
SUPERINTENDENT OF POST OFFICES  
HAVERI DIVISION, HAVERI

Copy to:

1. Mandal Panchayat ) This may be displayed on  
Kamchinelgalur ) NB and give wide publicity.
2. SDI(P) Bydagi      Wide publicity may be given  
                            in the village by arranging  
                            Tom Tom by deputing the MO.

FORM OF APPLICATION

1. Name of the candidate in full
2. Name of his father & Address
3. Place of residence of the candidate and full address
4. Whether SC/ST (Certificate from competent authority should be produced.
5. Educational Qualifications
- 6) Date of Birth
7. Occupation
8. Annual Income of the candidate from other sources and particulars of movable and immovable properties (i.e. land, house etc.
9. Past experience in PO work, if any, give particulars
10. Name of two responsible persons of your locality or two references to whom you know.
11. Whether you are able to provide proper accommodation for PO without rent?
12. 2 conduct certificates to be attached.
13. Are you local resident? Certificate may be furnished.

SIGNATURE OF THE APPLICANT

2. It becomes clear from the foregoing that there was no ban on receiving a belated application although the deadline set was 17.9.92. There is no dispute about it that the applicant stirred up a little belatedly for he made the application on 17.9.92, posted it on the 18th of September, 1992 and the same addressee post was received in the office on 19.9.92 but actually reached the Department on the 21st of September,



1992. It appears the position in regard to one Shri T.P. Channagoudar is also similar. Be that as it may, admittedly four persons were on the run for the post of BPM before the Department and out of them, the applicant Shri M.P. Pillikatti had scored the highest marks at the SSUC examination having secured 53.16% as against the others who had scored considerably less than him. Apparently, the applicant was the most meritorious of the four candidates in the field. As a result, an order came to be passed by the Superintendent of Post Offices, notifying the selection of the candidate for the post and directing the Sub-Divisional Inspector(Post) (SDI(P) for short), Byadgi to take action to appoint the applicant. Although no formal order appointing the applicant as BPM on a regular basis was issued by the SDI(P), Byadgi, the records show that the applicant took charge of the post of BPM in the afternoon of 14th of December, 1992(AN) and had been manning that post ever since and until the Department terminated his appointment by issue of an order dated 23.5.94. The aforesaid communication was issued about  $1\frac{1}{2}$  years after the applicant took charge of the office on a regular basis pursuant to the order of Superintendent of Post Offices, Haveri Division at Annexure A-1. His selection to that post has now been undermined by the communication at Annexure A-2. Hence, the grievance in this application.

3. After notice, the Department came forward with a statement asserting that after the applicant began working in that office, the Employee's Union raised an objection stating that the application made by the applicant for the post was tendered belatedly and therefore could not have been considered for selection along with others who did not suffer from that disability. It was mentioned one more person by name Shri Chikkappa Tirakappa Kottananda was also stated to be suffering from the same disability. The reason now adduced for terminating the applicant's services is that he had submitted his application long after the due date and hence his selection was irregular. Whatever be the merit in the view taken by the Department in axing the applicant's appointment, it needs to be mentioned that the notification inviting application did not say that any application received beyond the due date should not be considered at all. Under those circumstances, the delay in making the application could not possibly be treated as fatal. At any rate, the conduct of the Department in having accepted his application and the selection being well justified having been made on the basis of a criterion of the marks obtained at the SSLC examination termination of the applicant's services cannot be compounded on any valid ground. In that view of the matter, we think the action of the Department in denying the right of the applicant to continue in the Department on the ground that his application was belated is not feasible. As pointed out earlier,

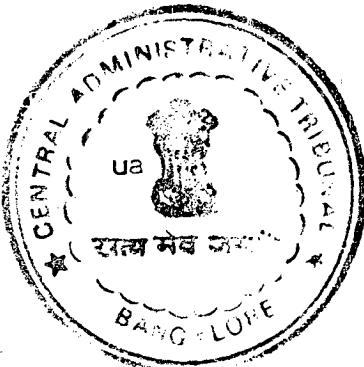
the notification inviting application did not say that a belated application will not be entertained and in those circumstances, we are of the view that there was no bar against accepting a belated application. In the circumstances, the application filed by the applicant must be treated as having been accepted validly. In that view, we think the Department was ill-advised in terminating the applicant's services. Hence, for the reasons mentioned aforesaid, this application succeeds and is allowed. The impugned order at Annexure A-2 stands quashed. The applicant will continue in the post of Branch Post Master, Hirehullal Branch Post Office, Hanagal Taluk, Dharwad District without any let or hindrance. No costs.

SD/-  
MEMBER (A)

SD/-  
VICE CHAIRMAN

TRUE COPY

De Shambhu  
SECTION OFFICER  
4/6  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BRANCH  
BANGALORE



CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH : BANGALORE

REVIEW APPLICATION NO.42/1994  
IN ORIGINAL APPLICATION NO.868/1994

DATED THIS THE EIGHTEENTH DAY OF OCTOBER, 1994

Mr. Justice P.K. Shyamsundar, Vice Chairman

Mr. T.V. Ramanan, Member(A)

1. Union of India  
represented by its Secretary  
Department of Posts  
Ministry of Communication  
New Delhi - 110 001.
2. The Post Master General  
North Karnataka Region  
Dharwad Dist. Dharwad - 580 001.
3. The Superintendent of Post Offices  
Haveri Division, Haveri,  
Dist. Dharwad - 581 110.
4. The S.D.I.(P)  
Byadgi Taluk  
Dharwad Dist. 581 106.
5. The Postmaster  
Haveri Head Office  
Haveri, Dharwad Dist. 581 110. .... Review Applicants.

(By Shri G. Shanthappa, Advocate)

vs.

1. Shri M.P. Pillikatti  
aged about 25 years  
Occ: Branch Post Master  
Hirehullal, Taluk: Hanagal  
Dist. Dharwad. .... Respondent.

O R D E R

(Mr. Justice P.K. Shyamsundar, Vice Chairman)

We see no substance in this Review Application made by the Department which is sans merit. The complaint of the Department herein is that the applicant who secured an

appointment in the Postal Department was not eligible for being appointed because his application for the post was made long after expiry of the date fixed for receipt of application. There is nothing new in this development.

In the order under review we had adverted to that aspect of the matter and found among other things that the notification not having specifically mentioned that applications made after the specified date will not be entertained was not a ground for terminating an order of appointment made after following the procedure required under law. We may inter alia add that if the appointee's application was belated, it should have been rejected.

But after having considered the application and after having accepted by appointing him it would be most improper on the part of the Government to revoke an order of appointment on the ground that the application for appointment had been received belatedly. The fact that the application was tendered belatedly could not have possibly affected the right of the Government in making the appointment because there was no stipulation that an application forwarded belatedly will not be entertained. In any view of the matter such an application had been entertained, considered and in fact had resulted in an order being made, it is too late in the day for the Department to cry wolf and thereafter turn around and revoke the order of appointment, on a ground we consider to be quite tenuous. We see therefore, no substance in this Review

application which therefore is dismissed. We would have ordered costs, but the counsel for the respondent being absent, we refrain from making any order as to costs.

— *ur* —

Sd—

Sd—  
(P.K. SHYAMSUNDAR)  
VICE CHAIRMAN

MR.

TRUE COPY  
*Shayeg*  
Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangalore  
12/10/94