

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 27 JAN 1995

APPLICATION NO: 1329 of 1994.

APPLICANTS:- Sri.M.N.Narasimha Swamy, Macheri, Chickmagalur Dist.,
v/s.

RESPONDENTS:- The Director of Postal Services, SK Region,
Bangalore and two others.

To

1. Sri.M.Raghavendra Achar, Advocate,
No.1074 and 1075, Fourth Cross,
Second Main, Sreenivasanagar,
Bangalore-560 050.
2. Sri.M.Vasudeva Rao,
Addl. Central Govt. Stng. Counsel,
High Court Bldg, Bangalore-1.

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

--xx--

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above
mentioned application(s) on 17th January, 1995.

Issued on
27/01/95

[Signature]

%

[Signature]
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.1329/1994

TUESDAY THIS THE SEVENTEENTH DAY OF JAN., 1995

MR. JUSTICE P.K. SHYAMSUNDAR VICE CHAIRMAN

MR. T.V. RAMANAN MEMBER (A)

M.N. Narasimha Swamy,
aged about 27 years,
residing at Macheri Village
at & Post Mecheri Village,
Kadur Post,
Chickmagalur District Applicant

(By Advocate Shri M.R. A char)

v.

1. The Director of Postal Services, S.K. Region, Bangalore
2. The Superintendent of Post Offices, Chickmagalur Division, Chickmagalur
3. The Sub Post Master (LSG) Kadur Post, Kadur Respondents

(By learned Standing Counsel)
Shri M.V. Rao

ORDER

MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

Admit.

2. We have heard Shri M.R. A char and the learned Standing Counsel Shri M.V. Rao for the respondents. The applicant was prosecuted in a criminal court for an offence punishable under Section 420 r/w 34 of Indian Penal Code. He was also departmentally proceeded and after due enquiry, he was dismissed from service in the



year 1987. From that order of dismissal, he preferred an appeal which was rejected and a review petition in the year 1989 was also rejected by an order dated 7.2.89.

3. Five years later he has now surfaced before us to challenge all the orders of the disciplinary authority, revising authority and the reviewing authority, all because the criminal court before which he was prosecuted for an offence punishable under Sec.420 r/w 34 of IPC has acquitted him in June, 1992, as can be seen from the judgment passed by the Munsiff and Judicial Magistrate First Class at Kadur in CC No.492/88.

4. It is well settled position in that that when a criminal court acquits a delinquent official and holds him totally innocent, it is then that the departmental proceedings undertaken to investigate a misconduct will be of no avail and the consequential punishment imposed on him will become otiose but the position is different when the delinquent official is acquitted giving him the benefit of doubt. That is what has happened in this case. We see from the judgment of the Magistrate that the accused has been acquitted because the prosecution had failed to make a case. It reads;

"No doubt the testimony of PW 1 throws some light on the case of the prosecution, but except the bare testimony of PW1, as I have already stated, there is no cogent and convincing materials to prove the case of the prosecution beyond all reasonable doubt. I am therefore of the view the prosecution failed to prove its case beyond all reasonable doubt and hence in the interest of justice...."

5. As could be seen from the foregoing, the court's verdict is not a vindication of the innocence of the accused but it merely gives him the benefit of doubt. Hence, both on grounds of limitation and also on the ground of non-tenability of this application, the same fails and is dismissed. No costs.

Sd/-
MEMBER (A)

Sd/-
VICE CHAIRMAN



TRUE COPY

[Signature]
27/01/95
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore