

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 3 JUL 1995

APPLICATION NO. 1544 of 1994.

APPLICANTS: Sri.B.Chandrasekharaiyah,
V/S.

RESPONDENTS: The Superintendent of Post Offices,
Channapatna Division, and others.

To

1. Dr.M.S.Nagaraja, Advocate, No.11, Second Floor,
First Cross, Sujatha Complex, Gandhinagar,
Bangalore- 560 009.
2. Sri.M.Vasudeva Rao, Additional Central Govt.
Standing Counsel, 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 14-06-1995.

Issued on

3/7/95

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DEPUTY REGISTRAR
JUDICIAL BRANCHES.

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CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATION No.1544/1994

WEDNESDAY, THIS THE 14TH DAY OF JUNE, 1995

SHRI JUSTICE P.K. SHYAMSUNDAR .. VICE CHAIRMAN

SHRI T.V. RAMANAN ... MEMBER (A)

Sri B. Chandrasekharaiyah,
Aged 25 years,
S/o Sri Bettaiah,
Mallathanahalli,
Doddaballapur P.O.
Bangalore District.

... Applicant

(By Dr. M.S. Nagaraja)

Vs.

1. The Superintendent of Post Offices,
Channapatna Division, Channapatna.
2. The Chief Post Master General,
Karnataka Circle, General Post Office,
Bangalore - 560 001.
3. The Director of Postal Services,
Bangalore Region, Bangalore-560 001.
4. Union of India,
represented by Secretary to Govt.,
Ministry of Communications,
Department of Posts,
New Delhi - 110 001.

... Respondents

(By Advocate Shri M. Vasudeva Rao,
Addl. Central Govt. Stg. Counsel)

ORDER

Shri Justice P.K. Shyamsundar, Vice Chairman:

In this application, what is challenged is an order of the Disciplinary Authority, later confirmed by the Appellate Authority and the Revisional Authority approving the removal of the applicant from service as E.D. Postmaster, on the grounds of alleged misconduct which was one of falsely recorded payment of a Money Order to one Gowramma, who was, on the date of receipt of the M.O. had been dead. In other words, the charge was one of falsification of records not to mention of unlawful monetary gain at the cost of a dead person.



2. The applicant, who was a E.D. Branch Postmaster, was haulled up at an enquiry alleging that he had falsely asserted payment of a Money order to one Gowramma on 11.4.1989. We must state that the enquiry pertained not merely to that transaction, but, to two more transactions, all of similar nature, but had admittedly resulted in exoneration of the applicant regards those two other transactions since at the enquiry it was held that misconduct could not be proved. The allegation regards non-payment of Rs.50/- to Gowramma on 11.4.1989 as on that date, the payee, Gowramma was no longer alive and had already died on 18.11.1988 was, however, established at the enquiry. This, ofcourse, was disputed by the applicant, who sought to make out that he had in fact paid the money to Gowramma on 11.4.1989 which means that she was alive in 1989.

3. At the enquiry, evidence of one Gangadharappa, the younger brother of deceased Gowramma shows that Gowramma had died in the year 1988 itself and consequently the claim of the applicant for having paid the money to Gowramma should necessarily be false. At the enquiry, Gangadharappa had testified that his sister Gowramma had died in 1988 and her obsequies ceremony had been performed in due course. An obituary card was produced before the enquiry officer. On being cross-examined, the witness referred to supra was not able to reaffirm the date of his sister's death, but had said that she died on some date between Ganesh festival and Dasara festival some two years ago. The witness had been examined in 1991 and therefore applicant's counsel argued that two years preceding the year of examination which takes the reckoning to 1989 and therefore, Gowramma dying in 1988 cannot be true. The witness, in the course of the evidence did say that he was not a man of much education which, ofcourse, explains the mix up of the dates and the year.

4. Be that as it may, the obituary card produced by the respondents during arguments has not been challenged at all as not an authentic ~~and~~ one. What is more, the testimony of the witness that his sister Gowramma had died and obsequies ceremony performed as in the card was not rebutted. It therefore, appears to be clear that there is almost an enjoining truth that the lady had died in the year 1988 in which event the case of the applicant who alleged he had delivered the money order in the year 1989 must necessarily be false.

5. The next point raised was that the best evidence was production of the death certificate of Gowramma and in the absence thereof, Gowramma's death cannot be presumed at all. Counsel then pointed out that the administration had in fact tried to secure the extract, but, unable to do so. He then argued that in that situation, the observations of the Enquiry Officer and the Disciplinary Authority that the production of a death certificate was not relevant is seriously assailable. We agree. In fact, on the part of the Disciplinary Authority to have held that non-production of the death certificate to be not relevant is not correct. But, then, the understanding of the law by a law man like the Disciplinary Authority has been so. We would like to point out that if the death certificate had been produced, probably, the applicants would not have assailed the factum of Gowramma's death. However, the administration had produced the obituary card itself during the evidence of the brother of the deceased which was not challenged. Therefore, this point raised by Dr. Nagaraja also fails.

6. However, Dr. Nagaraja's main case was that the punishment of removal from service is too harsh and one should have interferred on that score. The punishment imposed is for making a false statement of

payment to a non-existent person and that, in fact, nobody can deny, is a very serious matter. The allegation is grave and the same has been proved. It would have been more proper to dismiss the applicant. On the other hand, the authorities have taken kindly to the applicant to order his removal from service to enable him to seek further employment elsewhere.

7. We see no reason to interfere in the order of the Disciplinary Authority which stands confirmed by the Appellate and Revising Authorities. Since all the points raised have failed, we dismiss this application. No costs.

Sd/-

W.M.
(T.V. RAMANAN)
MEMBER (A)

Sd/-

Y.S.
(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

TRUE COPY



AKM
03/7/95
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore