

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ANDHRA PRADESH: HYDERABAD

O.A.No. 789 of '94

BETWEEN:

T.S.Nagaraju,
S/o late T.B.S.Sarma, aged about
32 years, Extra Departmental official,
Hindupur Division

.. Applicant

A N D

1. The Assistant Supdt. of Post Offices,
Hindupur Sub Division, Hindupur.

2. The Superintendent of Post Offices,
Hindupur

3. Shri H.R.Narsimha Murthy, ~~ED Packer~~
S/o H.Raghavendra Rao, Hindupur fort P.O., Hindupur.

4. Shri Vengappa, formerly Assistant
Superintendent of Post Offices,
Hindupur Sub Division, now Supdt. of
Post Offices, Tirupati

.. Respondents

The address for the posting of notices is that of Counsel:

Mr.Krishna Devan, C.A.T. Advocate,
2-2-1107/172-3, Tilak Nagar,
Hyderabad - 500 044.

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLTCATION IS MADE:

The application is preferred against the inaction of the Respondents on the appeal preferred against the termination of the Applicant from Extra Departmental Packer.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the present application is within the jurisdiction of this Hon'ble Tribunal under Section 14 of the Administrative Tribunals Act as the applicant is working as Extra Departmental packer in the jurisdiction of the respondents herein.

3. LIMITATION:

The applicant further declares that the applicant is within the period of limitation prescribed under section 21 of Administrative Tribunals Act, 1985 as the application is preferred challenging the inaction of the Respondents on the representation/Appeal dt. 29-12-1993.

4. BRIEF FACTS OF THE CASE:

a. The applicant was appointed as Extra Departmental Packer for the post of Hindupur Fort Extra Departmental Sub Post Office on 11-4-1977 vide orders of the Inspector of Post Offices, Hindupur, dt. 23-5-1977 and since then continuing as such.

b. On account of sudden demise of father, the mother of the applicant fell sick. On 16-8-1991, the mother of the applicant developed sudden stomach ache and with a view to take her to Bangalore for treatment, the applicant thought of applying leave. On the one hand the condition of the mother and on the other hand, the non-availability of E.D. leave applications printed one, in these circumstances, the applicant had just signed on two or ~~three~~ three white papers and handed over to the Third Respondent who came forward to act as substitute to the applicant. As the applicant was in hurry, the signed white papers were handed over to the Third Respondent with clear intention of making application of leave and then to submit to the concerned Authorities. The additional signed white papers are meant for using as applications for extension of leave in case the applicant do not turn up on expiry of the initial period of leave to be filled up in the signed white papers.

c. On 26-8-1991 (Annex II) under Memo No. ED Packer/Hindupur/Fort, dt. 26-8-1991, the First Respondent has intimated that the leave applied for from 16-8-91 to 15-10-91 could not be granted beyond 26-9-91 on the ground that the leave availed by the applicant exceeds 180 days. As the applicant their was suffering from throat trouble, he could not return to the Hindupur from Bangalore. On 24-9-1991, the applicant has sought for extension of leave by another two months i.e., 24-9-1991 (before receiving letter dt. 26-8-1991), as the condition of the mother and also the health of the applicant was not conducive enough for resuming duties. As the leave application for extension of leave on medical grounds was not accepted by the First Respondent, the applicant has represented to the Second Respondent for issuing orders to join

as E.D. Packer immediately. Having received letter dt. 24-9-1991 and 2-11-1991, the First Respondent in letter No. ED Packer Hindupur Fort dt. 14-11-1991 that resignation of the Applicant for the Post of E.D. Packer, Hindupur has been accepted. Aggrieved by the action of the First Respondent, the applicant has appealed to the Second Respondent on 18-11-1991 that the applicant was medically fit to resume duties and has requested not to give effect to the socalled resignation letter as the said resignation letter is not given by him. Upon the said complaint, the Second Respondent in his letter dt. 4-3-1992 intimated that the resignation letter was genuine. Aggrieved by this, the applicant again represented to the First Respondent herein which was not acted upon till this date. Thus, the Applicant is constrained to approach the Hon'ble Tribunal seeking justice.

5. GROUND FOR RELIEF:

- a. It is submitted that the applicant has not resigned the job E.D. Packer on 16-8-1991 or thereafter. On 24-9-1991, the applicant had sought for leave and also extension of leave. On 16-8-1991, the applicant had handed over empty white papers on which nothing was written in his own hand writing, to the proposed substitute i.e., Third Respondent with a clear intention to use the papers for leave application. As seen from the letter of the First Respondent dt. 26-8-1991, the signed empty papers were used as leave application and it has been admittedly received by the First Respondent. On 26-8-1991, the First Respondent has informed that the leave sought for exceeds 180 days (admissible without Medical Certificate) and leave beyond 26-9-1991 cannot be granted or else tender resignation. As the last letter was addressed to the applicant at the office address, during that period the applicant was on leave and also has been shuttling between Bangalore and Hindupur to attend the ailing mother. When an official is on leave, it is mandatory that the leave orders or any communication from the authorities should be addressed to the residential address of the official. As the letter of information given by the First Respondent was addressed to the applicant on the office address,

it has not reached the applicant.

b. On 24-9-1991, the applicant has sought for extension of leave on medical ground. Having sought for extension of leave, the applicant was taking regular treatment from the local Doctors. On 2-11-1991, the applicant sought for permission to rejoin duty after receiving leave orders from the Authorities. But in the letter dt.14-11-1991, the first respondent shows that the ~~white~~ resignation of the applicant was accepted with immediate effect basing on the letter dt.1-10-1991. But on 1-10-1991, the applicant has not tendered any letter of resignation. Moreover on account of the ill-health of his mother and self, the applicant has just sought for extension of leave on medical grounds. Perhaps, the white papers remained with the substitute i.e., Third Respondent has been used by the First Respondent to the disadvantage of the applicant. The 4th Respondent who was holding the office of the Asstt. Superintendent of Post Offices (competent authority of the applicant) at that time was the tenant in the house of father of the Third Respondent. In order to render favour to the landlord, the First Respondent has devised a pre-planned action to accommodate the son of the landlord i.e., the Third Respondent whom applicant have trusted and arranged as substitute in the place. Though the authorities might have acted upon the blank signed papers, it is fundamental rule that any letter of resignation should be in own hand-writting of the official. While so, the papers which were acted upon by the First Respondent as resignation letter was not written by the applicant in his own hand -writting.

c. From 17-11-1991, the applicant was declared fit for duty by local Doctors and it has been submitted to the First respondent duly having received the Certificate of fitness for duty, the First Respondent has issued orders dt.14-11-1991 with ante-date and also for the office address with a view to delay the receipt of the said letter. The applicant received the impugned order on 18th November, 1991. Against the termination of the applicant on the fraudulent or forged resignation letter, the

applicant complained to the appellate authority on 18-11-1991. The Second Respondent has chosen to direct the First Respondent to enquire into the genuineness of the making of the resignation letter of the applicant and the said authority in the letter dt. 4-3-1992 has ruled that the signature appearing on the resignation letter is genuine. The action of the Second Respondent in directing the First Respondent who is a party and also against whom a complaint was made cannot be directed to be the Enquiry officer on the subject matter and hence is violative of principles of Natural Justice. Thus, the action of the Appellate Authority is vitiated by the Principles of Natural Justice and void ab initio. Thus, it is clear that the First Respondent with a view to favour the Third Respondent has terminated the services of the applicant on the ground of resignation which was ~~not~~ not at all the making of the applicant.

d. Thereafter, the applicant represented to the Higher Authorities on 21-4-1993 and also on 29-12-1993 which was not responded till this day. Under these circumstances, it is understood that the Respondents have conspired together in getting rid of the job of E.D. Packer from the applicant. The applicant had no property nor any other source of income. The applicant being a married person and also having children, unable to eke-out any livelihood, is doing work in the Department for the last 17 years, had been thrown to streets.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant is said to have exhausted all departmental remedies, as the Representations addressed to the Higher Authorities were not acted upon till this day.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other such Bench of this Hon'ble Tribunal and nor any such application, writ petition or suit

is pending before them.

8. RELIEF SOUGHT FOR : MAIN RELIEF:

It is, therefore prayed that this Hon'ble Tribunal may be pleased to

- a. call for the records relating to the impugned order dt.14-11-1991.
- b. quash the impugned order dt.14-11-1991 as the same was passed arbitrarily and illegally.
- c. direct the First Respondent to reinstate the applicant into service and to further direct the First Respondent to treat the period from the date of accepting the resignation till the date of resumption as period spent on duty.
- d. to direct the Respondents to implement the order within 3 months from the date of receipt of the order.

and pass such other or further as deem fit and proper in the facts and circumstances of the case.

9. INTERIM RELIEF :

To expedite the hearing of the application as the applicant is thrown out of the job and whose life is un-manageable.

10. PARTICULARS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION:

- i. Name of the Post Office : *Vedhan Sabha P. O. Hec.*
- ii. Amount of the Postal Order: *R. 50/-*
- iii. No. and date : *8 08 352175
dtd 29-6-94*

11.. ENCLOSURES LIST:

1. Vakaltnama
2. Postal Order for Rs.
3. Meterial papers
4. Covers, pads and acknowledgements.

(P.O. D.G.O.D. Remained)

VERIFICATION

I, the above named applicant do hereby verify that the contents of paras 1 to 6 are true to my personal knowledge and paras 7 to 11 are believed to be true on legal advice of my Counsel and that I have not suppressed any material facts.

Hence verified this the 28th day of June in my presence at Hyderabad.

T.S. Nagareju

APPLICANT

(T.S. Nagareju)

Cec
COUNSEL FOR APPLICANT

Hyderabad - A.P.

Date : 28/6/89