

OA.No.170/00638/2017/CAT/Bangalore Bench  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**BANGALORE BENCH**

**ORIGINAL APPLICATION NO.170/00638/2017**

**DATED THIS THE 28<sup>th</sup> DAY OF SEPTEMBER, 2018**

**HON'BLE DR.K.B. SURESH, MEMBER (J)**  
**HON'BLE SHRI DINESH SHARMA, MEMBER (A)**

Nagaraj H  
Age: 43 years  
S/o Hanumanthappa  
Working as Postman  
Shikaripura P.O.  
Shimoga District  
Residing at:  
Kolagi Village  
Shikaripura Taluk. ....Applicant

(By Advocate Shri P.Kamalesan)

Vs.

1. Union of India  
Represented by Secretary  
Department of Post  
Dak Bhavan  
New Delhi-110001.
2. Post Master General  
S.K.Region  
Bangalore-560001.
3. Superintendent of Post Offices  
Shimoga Postal Division  
Shimoga-577202.
4. Chief Post Master General  
Karnataka Circle  
Bangalore-560001. ....Respondents

(By Advocate Sri N.Amaresh for R1-4)

**O R D E R (ORAL)**

**(PER HON'BLE DR.K.B.SURESH, MEMBER (JUDL.))**

The matter is covered by the Hon'ble Apex Court judgment in *Shrawan*

*Kumar Jha & others vs. State of Bihar & others* reported in AIR 1991

Supreme Court 309. We quote from the judgment as below:

2. The appellants, who are 175 in number, were appointed as Assistant Teachers by the District Superintendent of Education, Dhanbad, by an order dated May 28, 1988. Before joining, they were supposed to get their certificates and other qualifications verified from the authorities. They were to join the specified schools by July 4, 1988. The appellants assert that they had joined their respective schools but this fact is denied by the State.

3. By an order dated November 2, 1988, the Deputy Development Commissioner cancelled the appointments of the appellants. Mr. Ashok H. Desai, learned Solicitor General appearing for the respondents has contended that the appointments have been cancelled because the District Superintendent of Education had no authority to make the appointments, it was a device of by-passing the reservations and that the conditions which are part of the appointment order were not complied with. Mr. U. R. Lalit and Mr. A. K. Ganguli, learned Senior Advocates, appearing for the appellants have controverted these allegations and have dated that all these teachers were validly appointed and they had joined their respective schools. It is not necessary to go into all these questions. In the facts and circumstances of this case, we are of the view that the appellants should have been given an opportunity of hearing before cancelling their appointments. Admittedly, no such opportunity was afforded to them. It is well settled that no order to the detriment of the appellants could be passed without complying with the rules of natural justice. We set aside the impugned order of cancellation dated November 3, 1988 on this short ground. As suggested by the learned Solicitor General, we direct that the secretary (Education), Government of Bihar, or to other person nominated by him should give an opportunity of hearing to the appellants and thereafter give a finding as to whether the appellants were validly appointed as Assistant Teachers. He shall also determine as to whether any of the teachers joined their respective schools and for how much duration. In case some of them joined their schools and worked, they shall be entitled to their salary for such period.

4. The appeals are dismissed accordingly with no order as to costs.

Contempt Petition No. 92/90 :

5. In view of our order, the contempt petition has become infructuous and is accordingly dismissed.

Appeals and contempt petition dismissed.

2. The Hon'ble Apex Court held that the party should be given an opportunity of hearing before cancellation of their appointments. Admittedly the applicant had been selected and worked in the post of Postman for 1 ½ months and abruptly his appointment was cancelled without hearing him. It could not have been done. Therefore, we hold that the applicant will be eligible to be reinstated back in service and be eligible for the wages during the

OA.No.170/00638/2017/CAT/Bangalore Bench  
interregnum. But then we reserve the right to the respondents to issue show cause notice to the applicant as the case put up by the respondents is that he had not actually passed the examination and the mistake has been done. They have every right to examine but within the parameters of law. Therefore, we direct the respondents to issue show cause notice and pass appropriate order on merits.

3. The OA is allowed holding that the applicant is eligible for reinstatement and in the interregnum all the consequential benefits. This should be made available to him within next two(2) weeks.

(DINESH SHARMA)  
MEMBER(A)

(DR. K.B. SURESH)  
MEMBER (J)

/ps/

**Annexures referred to by the applicant in OA.170/00638/2017:**

Annexure-A1: Copy of Superintendent of Post Offices, Shimoga Division,

letter No.SMG/B-11/STA/1834/Postman dtd:26.9.2017

Annexure-A2: Copy of Superintendent of Post Offices, Shimoga Division, letter No.SMG/B-11/STA/1834 dtd:27.9.2017

Annexure-A3: Copy of Superintendent of Post Offices, Shimoga Division, letter No.SMG/B-11/STA/1834 dtd:10.10.2017

Annexure-A4: Copy of Superintendent of Post Offices, Shimoga Division, letter No.SMG/B-11/STA/1834 dtd:12.10.2017

Annexure-A5: Copy of joining report dtd.13.10.17

Annexure-A6: Copy of Superintendent of Post Offices, Shimoga Division, letter No.SMG/B-11/STA/1834 dtd:2.11.2017

Annexure-A7: Copy of relieving charge report dtd:6.11.2017

Annexure-A8: Copy of medical certificate issued by District Surgeon, Government Civil Hospital, Shikarpur dtd:17.10.2017

Annexure-A9: Copy of OBC certificate issued by District Magistrate, Shikarpura Taluk

Annexure-A10: Copy of orders relating to reservations for persons with disabilities

**Annexures with short reply statement:**

Annexure-R1: Copy of SPO, Shivamogga letter dtd.24.05.2017

Annexure-R2: Copy of SPO, Shivamogga letter dtd.28.07.2017

Annexure-R3: Copy of PMG, SK Region, Bengaluru letter dtd.30.08.2017

**Annexures with rejoinder:**

Annexure-RJ1: Copy of DG posts letter No.D.G(P)No.60-127/85-SPB-I, dtd.27.7.89

Annexure-RJ2: Copy of notification dtd.28.11.2016

Annexure-RJ3: Copy of Hon'ble Apex Court order dtd.13.11.90 in CA.No.5321-22/1990

**Annexures with reply statement:**

Annexure-R1: Copy of SPO, Shivamogga letter dtd.24.05.2017

Annexure-R2: Copy of SPO, Shivamogga letter dtd.28.07.2017

Annexure-R3: Copy of PMG, SK Region, Bengaluru letter dtd.30.08.2017

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