

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Dated: 15 FEB 1994

APPLICATION NO(s) 714 of 1993.

APPLICANTS: M.Mahadevaswamy

RESPONDENTS: Sr.Sppdt.of Postoffices,
Nanjangud Sub-Dvn, and Others.

TO.

1. Sri.B.C.Seetharama Rao, Advocate,
No.1101, O.T.C.Road, Nagarhpet,
Bangalore-560 002.
2. The Post Master General,
South Karnataka Region,
Bangalore-1.
3. Senior Superintendent of Post Offices,
Nanjangud Sub-Division, Nanjangud-571301.
4. Sri.M.S.Padmarajaiah, Sr.C.G.S.C.,
High Court Bldg, Bangalore-1.

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

-XXX-

Please, find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 31-01-1994.

OK
Issued on 15-02-94
S. Srinivas (sp2)
FWD DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

3. Thus, one J.C. Mahadeva Swamy (Respondent no.2) was selected on the basis of having secured higher marks in the SSLC examination. It transpired that respondent no.2 had scored 251 marks as against the applicant who had scored only 236 marks. In view of the higher marks scored by respondent no.2, he was selected to man/ the Branch Post Master post. The applicant is aggrieved by the order of appointing respondent no.2 as above.

4. It seems to us the department was not justified in inviting applications from the general public as per Annexure-A4 de novo when they should have made a selection from out of the candidates sponsored by the Employment Exchange earlier. The department has issued instructions regarding this which makes the position very clear and are as follows:-

*** 12. Recruitment of ED Agents through Employment**

Exchange - The question of recruitment of ED Agents through Employment Exchange has been under consideration of the Government for some time past.

2. It has now been decided that the employment of ED Agents should be made through Employment Exchanges. For this purpose the concerned recruiting authority should send requisition to the local employment exchange, having jurisdiction over the area, requesting nomination of suitable candidates for the post, having the prescribed qualifications, within a period of 30 days from the date of sending requisition to the Employment exchange for nomination of candidates to the concerned authority. While placing requisition on the employment exchange, the competent recruiting authority should make a special mention of the following points:-

- (a) Persons seeking employment as ED Sub-Postmasters/Branch PMs must be permanent residents of the village where the post office is located or proposed to be located. The applicants must have adequate means of income from an independent source of livelihood and they should also be able to offer suitable accommodation for the purpose of functioning of the P.O.
- (b) Persons seeking employment to other categories of ED Agents should satisfy the condition of residence as specified in Instruction(I) above.



3. The competent recruiting authority should while sending the requisition to the employment exchange, indicate the names of the villages or localities from which the candidates are required to be nominated.

4. The other terms and conditions, as in force from time to time such as age, educational qualification and security deposit etc., should be indicated in the requisition being placed on the employment exchange by the competent recruiting authority.

5. In case no nominations are received from the employment exchanges regarding the candidates as per requirements within the stipulated period of 30 days or if any of the candidates sponsored by the Employment Exchange is not found suitable as per prescribed conditions of eligibility, it would be open to the competent recruiting authority to make selection from other applicants in accordance with the existing procedure.

6. The Heads of Circle will please issue appropriate instructions to all recruiting authorities in their jurisdiction and ensure compliance of the revised procedure for recruitment to different categories of ED Agents.

It was ordered above that ED Agents should be appointed through the employment exchange of the area. Several instances of nomination of only one candidate by the employment exchange have come to the notice of this Directorate. In such case, the resultant selection process gets totally devoid of any element of competition. It has, therefore, been decided that in future sponsoring of at least three candidates by the employment exchange should be insisted upon. In case of any difficulty in this regard, the matter may be taken up with the Director of Employment Exchanges of the State Government concerned. Normally they have instruction to send a panel of candidates not less than thrice the number of posts notified to them. In the event of the employment exchange failing to sponsor the minimum number of candidates, the vacancy should be notified through public advertisements and while making the final selection, the comparative merit of all the candidates, i.e., those who respond to the notification as also those sponsored by the employment exchange should be taken into consideration.


Heads of Circles will please issue / suitable instructions in this regard to their subordinate formations and ensure compliance of the above procedure for recruitment to different categories of ED Agents.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

APPLICATION NO. 714/1993

DATED THIS THE THIRTYFIRST DAY OF JANUARY, 1994

Present: Mr. Justice P.K. Shyamsunder, Vice Chairman

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

Shri M. Mahadevaswamy
S/o. Madaiah
Jannur Village & Post
Chamarajanagar Taluk
Mysore District. Applicant
(By Shri B.C. Seetharama Rao, Advocate)

vs.

1. Senior Superintendent
of Post Office
Nanjangud Sub-Division
Nanjangud-571 301

2. J.C. Mahadevaswamy
S/o. Chikkamadaiah
Jannur Village & Post
Chamarajanagar Taluk
Mysore District. Respondents

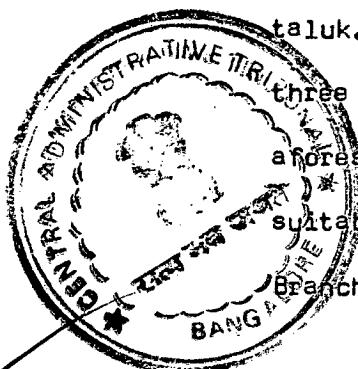
(By Shri M.S. Padmarajaiah, S.C.G.S.C. for R-1)
Respondent no.2 duly served - unrepresented.

O R D E R

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

The applicant was one of the 3 persons who was sponsored by the local Employment Exchange for manning the post of Extra Departmental Post Master at Jennur Village in Chamarajanagar

taluk. The Employment Exchange took the trouble of sponsoring three candidates for consideration by the Department for the aforesaid post on being notified earlier of the requirement of suitable candidates for manning the post of Extra Departmental Branch Post Master in Jennur Village. It transpires out of the



three candidates sponsored by the local Employment Exchange, one of them apparently was not interested in pursuing his candidature for the post and did not furnish necessary information which the department wanted, viz., whether the candidate would be in a position to provide ample space for housing the Branch Post Office etc., etc., having failed to fill in those details he made it apparent that he was not earnest about his selection. What then transpired was the applicant and one G. Mahadevamurthy did however, comply with the requirements of the department by filing a proforma application for employment which incidentally provides for supply of relevant information required by the department.

2. Upon being filled in with such information, the department found that G. Mahadevamurthy was not qualified for appointment as Branch Post Master because he was not from the same village. However, it transpired the applicant, M. Mahadeva Swamy, had all the qualifications and it looked as if they were tailor made for him. He had passed 8th Standard and S.S.L.C. and he had the necessary space for housing the post office and had everything else besides he belonged to the same village. In those circumstance probably he expected that he will be selected for the post, no one can blame him if he did entertain such belief. But his expectation proved to be otherwise because the department took the extraordinary step of inviting again applications from the general public by a notification dated 24.6.1993 produced at Annexure-A4. The applicant notwithstanding the outstanding chance ~~of~~ he had of being appointed in the previous round, being the only qualified person left in the field, nonetheless once again applied for the post. This time he had to contest with 7 other applicants, with 8 of them competing for the post by making suitable applications.

Whenever it is proposed to appoint an ED Agent due publicity should be given to this fact. This may be done by displaying a notice giving particulars of the appointment to be made and the allowances and other conditions attached to it at the concerned post office, the police station, the panchayat office and any other public place considered suitable. "

From the above, it becomes clear that only in case where the Employment Exchange sponsors only one lone candidate, the department can go ahead and widen the basis of selection by calling applications from the general public. But here the Employment Exchange had sponsored a minimum of 3 candidates enjoined by the Rule referred to supra and selection had then to take place consisting the three, with the result the department cannot select some candidate after throwing open the contest to the general public. However, this is a clear case where the department had lost the track by inviting applications from general public whereas they should have made a selection out of the 3 candidates who were sponsored by the Employment Exchange.

5. The learned Standing Counsel in support of the action taken by the department strongly urged that the Employment Exchange having sponsored 3 candidates and out of this one did not evince any interest, only 2 were then left in the fray, out of which, one of them was not qualified, which again left a lone ranger in the field and therefore, in order to ensure that selection was made competitive, the department had resorted to issuing a public notification inviting applications from the general public. While we appreciate the submission of the Standing Counsel and may be

in other circumstances we would have even upheld that argument, but in this case the step of notifying the vacancy for general public could not have been resorted to. It is a different thing if all the three candidates sponsored by the local Employment Exchange were found to be not qualified, may be, it was then open to the department to call for or notify the vacancy inviting applications from general public. If the position is otherwise herein, selection had then to be confined to the 3 candidates sponsored by the local Employment Exchange. It therefore become clear upon the parameter framed by the department itself, they could not have invited such applications from the general public as per Annexure-A4. In that view of the matter the notification at Annexure-A4 is clearly obnoxious and has got to be quashed and any consequent selection made following the notification at Annexure-A4 treated as non-est.

6. In the result therefore, this application succeeds. The notification at Annexure-A4 is accordingly quashed and all further proceedings taken leading to the appointment of respondent no.2 is held to be invalid. The department will now proceed to consider the case of the applicant and thereafter make an order appointing the applicant as Extra Departmental Sub Post Master if there are no impediments in law hand. Let a copy of this order be sent to the Post Master General, ^{Concurrent} New Delhi, for information and necessary action.

Time to comply two weeks. No costs.

S. Srinivas
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
(T.V. RAMANAN)
MEMBER(A)

Sd/-
(P.K. SHYAMSUNDER)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

REVIEW APPLICATION NO. 32/ 1994

IN

ORIGINAL APPLICATION NO. 714/1993

WEDNESDAY, THE 16TH DAY OF NOVEMBER, 1994

SHRI JUSTICE P.K. SHYAMSUNDAR

... VICE CHAIRMAN

SHRI T.V. RAMANAN

... MEMBER (A)

Shri J.C. Mahadevaswamy,
S/o Shri Chikkamadaiah, Major,
Jannur Village & Post,
Chamarajanagar Taluk,
Mysore District.

... Petitioner

(By Advocate Shri M.R. Achar)

Vs.

1. The Senior Superintendent of
Post Office,
Nanjangud Sub-Division,
Nanjangud - 571 301.

2. Shri M. Mahadevaswamy,
S/o Shri Madaiah, Major,
Jannur Village & Post,
Chamarajanagar Taluk,
Mysore District. ... Respondents

(By Advocate Shri M.S. Padmarajaiah, Senior Standing
Counsel for Central Govt. for R-1 &
Shri B.V. Badrinath for R-2).

ORDER

Shri Justice P.K. Shyamsundar, Vice Chairman

We have heard Shri Achar for the review applicant. We find no substance in this review application. We also find that the applicant has been appointed by the department by assigning him another berth. Application is dismissed.

TRUE COPY

Sd/-

ver

(T.V. RAMANAN)

MEMBER (A)

Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore

Sd/-

(P.K. SHYAMSUNDAR)
VICE CHAIRMAN