

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- 18 APR 1994

APPLICATION NUMBER: 755 of 1993.

APPLICANTS:

Sri.N.M.Kulkarni v/s. To. The Post master general in Karnataka, Bangalore and others.

RESPONDENTS:

1. Sri.M.Narayanaswamy, Advocate, No.844, Upstairs, Fifth Block, Rajajinagar, 17th-G-Main, Bangalore-10.
2. The Post Master General in Karnataka, Bangalore-560 001.
3. Sri.M.S.Padmarajaiah, Sr.C.G.S.C., High Court Bldg, Bangalore-1.
4. Sri.G.S.Hegde, Advocate, No.4191, First Main, Subramanyanagar, Second Stage, Rajajinagar, Bangalore-560 021.

Subject:- Forwarding of copies of the Orders passed by the Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/ STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above mentioned application(s) on 04-04-1994.

Issued on
19/4/94

B.

o/c

Se Shaukar
for DEPUTY REGISTRAR 18/4
JUDICIAL BRANCHES.

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: :BANGALORE

O.A. NO.755 /93

MONDAY, THE FOURTH DAY OF APRIL, 1994

Shri V.Ramakrishnan, Member (A)

Shri A.N.Vujjanaradhy, Member (J)

N.M.Kulkarni,
(Nagaraj M.Kulkarni),
aged about 24 years,
r/o Hirehonnihalli,
Taluk Kalaghatagi,
Dist. Dharwad,
Pin: 581204
...Applicant

Advocate by Shri M.N.Swamy.

Versus

1. The Postmaster General in Karnataka,
Palace Road,
Bangalore-560 001.

2. The Senior Superintendent
of Post Offices,
Dharwad Division,
Dharwad.

3. Kum. Jayashri R.Kalakeri,
E.O.B.P.M., Hirehonnihalli P.O.,
Taluk Kalaghatagi,
Dist. Dharwad.
...Respondents

Advocate Shri M.S.Padmarajaiah, S.C.G.S.C.
for R1 & R2.

Shri G.S.Hegde for R3

O R D E R

Shri V. Ramakrishnan, Member (A)

The applicant Shri N. M. Kulkarni is aggrieved by his non-selection to the post of EDBPM at Hirehonnihalli Kalaghatagi Taluk, Dharwad District. This post fell vacant when the previous incumbent, who is the brother of the applicant was absorbed as a Postman on a regular basis under the Postal Department.

2. The facts in brief are that a vacancy of EDBPM having arisen in the post office, the department took steps to call for nomination from the Employment Exchange as provided in the service rules for Extra Departmental Staff. The Employment Exchange has sponsored the name of the applicant as also R3 Kum. Jayashri R. Kalakeri. The department had also notified locally about the availability of the vacancy. In response to this notification, three more persons had applied. We had gone through the relevant file of the department and we find that the department had considered all the five candidates including the applicant and R3 and came to the conclusion that R3 should be selected for the reason that she had secured higher marks in SSLC namely 62.3% as against 43.16% secured by the applicant. The department also stated that R3 had fulfilled

the relevant income/property condition and as such R3 was appointed to the post. The applicant contends that he should have been selected for the post instead of R3.

3. We have heard the learned counsel for the applicant as also Shri M.S.Padmarajaiah, the learned standing Counsel and Shri G.S.Hegde for R3 Kum.Jayashri R.Kalakeri.

4. The main grounds of the applicant in challenging the selection of R3 are the following:- (1) The applicant had put in a number of years of service as EDBPM, which he says, runs to about 12 years and he should have been selected on the basis of his past experience; (2) R3, who was selected is not a local candidate; (3) The applicant further contends that R3 being a lady was not eligible to be considered for the post.

5. We do not find any merit in the contentions of the learned counsel for the applicant. Nowhere it has been brought out that the applicant had put in 12 years of service as EDBPM as claimed. All that we find is that when the regular EDBPM, who was applicant's brother had gone on leave, the applicant had worked as EDBPM in the leave vacancy. We find from Annexure-A that one Mail Overseer had certified that the applicant had served in the leave vacancy during 1991 to 1992, and further stated that

he worked from July 1992 to April, 1993. We do not know, whether Mail Overseer is competent to issue such certificates. There is no provision in the relevant service rules, which provides any preference to persons who had worked in leave vacancies. As regards the other contention that R3 is a non-local, the applicant has not produced even an iota of evidence to substantiate this allegation. In fact, in the application itself, the address of the R3 is shown as follows:-

"Kum. Jayashri R.Kalakeri,
E.D.B.P.M, Hirehonnihalli P.O.,
Taluk Kalaghatagi,
Dist. Dharwad."

which clearly indicates that she belongs to the same village where EDBPM vacancy has arisen. It is not necessary to go into other contention that women are debarred from consideration for such posts, because there is nothing in the rules which prohibits women candidates applying for such posts. In fact any such restriction would be patently illegal.

6. We find from the selection proceedings made available to us that the applicant was considered along with R3 and three others and R3 was selected for the reason that she has secured higher percentage of marks

compared to the applicant. The selection was made when the rules had been amended fixing the minimum educational requirement as SSLC. As both, the applicant and R3 had fulfilled the minimum educational requirement, it was in order for the department to have taken into account the higher percentage of marks secured by R3 while making the final selection.

7. In view of the foregoing, we find that there is no merit in the application. Accordingly, the application stands dismissed. No costs.

Sd/-
ATM
(A. N. VUJJANARADHYA)
MEMBER (J)

Sd/-
(V. RAMAKRISHNAN)
MEMBER (A)

TRUE COPY

Gaja

S. Shankar
SENIOR OFFICER 18/4
REDACTED
ADDRESS: 100, BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: :BANGALORE

REVIEW APPLICATION NO. 25/94
IN
ORIGINAL APPLICATION NO. 755/93

WEDNESDAY, THE EIGHTH DAY OF FEBRUARY, 1995

SHRI V.RAMAKRISHNAN, MEMBER(A)
SHRI A.N.VUJJANARADHYA, MEMBER(J)

N.M.Kulkarni,
(Nagaraj M.Kulkarni)
aged about 25 years,
r/o Hirehonnihalli,
Taluk Kalaghatagi,
Dist. Dharwad-581204 ...Applicant

By Advocate Shri Madhusadhan.

Versus

1. The Postmaster General in Karnataka,
Palace Road,
Bangalore-560 001.

2. The Senior Superintendent
of Post Offices,
Dharwad Division,
Dharwad.

3. Kum. Jayashri R.Kalakeri,
E.D.B.P.M., Hirehonnihalli P.O.,
Taluk Kalaghatagi,
Dist. Dharwad. ...Respondents

By S.C.G.S.C. Shri M.S.Padmarajaiah.

O R D E R
SHRI V.RAMAKRISHNAN, MEMBER (A)

1. We have heard Shri Madhusudhan for the review applicant and Shri M.S.Padmarajaiah for the respondents. The review applicant has prayed for a review of our earlier order directing appointment of Jayashree, who is R3 in the review application on the following grounds:
(1) The review applicant had prior experience as he was functioning as ED staff and the department ought to have given weightage for the same. (2) Jayashree third respondent being a lady was not eligible for appointment

in terms of Employment Exchange notice. (3) Jayashri since got married and there is no likelihood of her continuing in the job as she may leave the village.

2. We do not find any merit in the contention of the review applicant. Shri Mahusudhan for the applicant relies on the Govt. of India decision below rule 3 in the chapter dealing with the method of recruitment of ED staff(95 edition). This decision in any case is not applicable to the applicant as he had not got regular appointment as ED Mail Carrier earlier. He had only served in leave vacancy and such casual service will not give any weightage. We also find no substance in the contention that Jayashri Respondent No.3 is not eligible for applying for the post. In the notice issued by the Employment Exchange, there is a blank against the relevant column regarding women and it cannot be maintained that it has made women ineligible to apply for the post. We are also informed by Shri Padmarajaiah, the learned standing counsel that Jayashri, R3 continues to serve in the post even after her marriage.

3. We may also mention that all the submissions referred to above have already been discussed in our judgement dated 4.4.94 and it has not been brought out that there is any error apparent on the face of the record.

15
Contd.....3.

4. Shri Madhusudhan at this stage submits that in case a vacancy arises and the same is advertised and if the review applicant were to apply for the same, his case should be considered. If a vacancy does in fact arise, the department will take necessary action in accordance with law and on the basis of relevant instructions.

5. In view of the above, we find no merit in the review application and accordingly the review application is dismissed. No costs.

Sd/-

Sd/-

(A.N.VUJJANARADHYA)

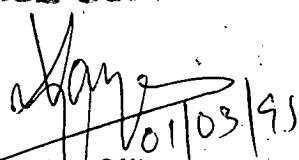
(V.RAMAKRISHNAN)

MEMBER (J)

MEMBER(A)

TRUE COPY

Gaja


Section Officer

Central Administrative Tribunal

Bangalore Bench

Bangalore