

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 15 FEB 1994

APPLICATION NO(s) 792 of 1993

APPLICANTS: S.Nemanna v/s. RESPONDENTS: Senior Supdt. of Post Offices
Shimoga Division and Other.

TO.

1. Sri.S.Prakash Shetty, Advocate,
First Floor, No.159, 1st Main Road,
Seshadripuram, Bangalore-560020.
2. Assistant Post Master General (Staff),
Karnataka Circle, Bangalore-560001.
3. Sri.M.Vasudeva Rao, 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 27-01-1994.

gm*

Ok
28/02/94 on 15-02-94
for *S. S. Sankar* 15/2
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A. NO.792/93

THURSDAY THIS THE TWENTY SEVENTH DAY OF JANUARY 1994

Shri V. Ramakrishnan ... Member [A]

Shri A.N. Vujjanaradhya ... Member [J]

S. Nemanna,
Aged 40 years,
Son of Channabasappa,
Veerannana Benavalli,
Via Ayanur,
Shimoga Taluk & Distt.

... Applicant

[By Advocate Shri S. Prakash Shetty]

v.

1. Senior Superintendent
of Post Offices,
Shimoga Division,
Shimoga - 577 202.

2. P. Manjappa,
S/o Nageshappa,
31 years
R/o V. Bevinahalli,
Ayanur, Shimoga Taluk & Distt.

... Respondents

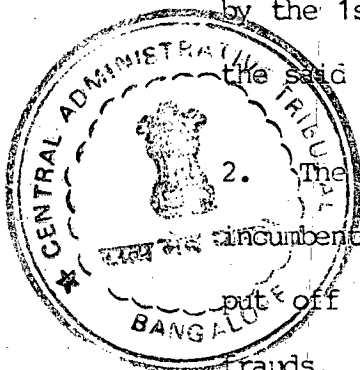
[By Advocate Shri M. Vasudeva Rao
Addl. Central Government Standing Counsel]

ORDER

Shri A.N. Vujjanaradhya, Member [J]:

1. In this application filed under Section 19 of the Administrative Tribunals Act, the applicant is aggrieved by the notification dated 26.7.1993 [Annexure A-8] under which applications for appointment of Branch Post Master ['BPM' for short] were called for by the 1st Respondent ['R' for short] and thus he seeks to quash the said notification.

2. The facts may be briefly stated as follows: The regular incumbent of the post of BPM V. Benavalli in Shimoga Distt. was put off duty from 27.8.1991 as he was involved in some SB/RD frauds. As a stop gap arrangement the applicant was appointed



on provisional basis. As the District Employment Exchange did not sponsor eligible candidates to fill up the post of BPM, a local notification was issued on 27.5.1992 calling for the applications from eligible candidates. Accordingly, the applicant Nemanna and R-2 Manjappa had applied of whom R-2 having better qualification was selected. In the meanwhile it was noticed that R-2 was charged for offences punishable under Sections 504, 323 and 324 read with 34 IPC by Kumsi Police. Therefore, the said selection of R-2 was cancelled. Because with the selection of R-2, the validity of the notification dated 27.5.1992 had lapsed and because no other person was in the panel, a fresh notification was issued calling for applications for selection of BPM. It is this notification dated 26.7.1993 which is now sought to be challenged by the applicant.

3. The applicant seeks to make out that when once the selection was made under the earlier notification dated 27.5.1992 it was not competent to issue a fresh notification dated 26.7.1993 stipulating the minimum qualification to be SSLC whereas under the earlier notification the minimum qualification required was a pass in 8th standard whereby the applicant will be disqualified because he has not passed SSLC. According to him when once the post is notified, it is not open to R-1 and he has no power to notify the post once again without finalising the old notification in accordance with law.

4. We have heard Shri S. Prakash Shetty, learned counsel for the applicant and Shri M.Vasudeva Rao, learned Standing Counsel for R-1 and perused the records produced by the department.

5. Mainly the contention advanced on behalf of the applicant is that when once a post was notified and applications were called

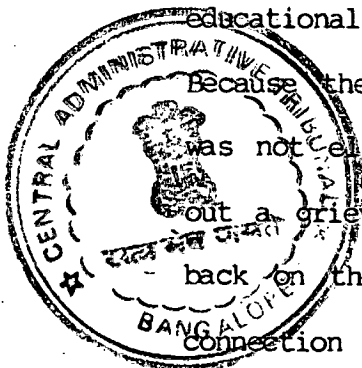
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for and selection was made, it was not open to the department to notify the vacancy again unless the list in the earlier selection was exhausted.

6. To verify as to what was the position and how the selection was made under the earlier notification dated 27.5.92 we have perused the records produced by R-1. As could be seen from the records, when both the applicant and R-2 were found eligible, the department had selected R-2 because he has passed PUC whereas the applicant has failed in SSLC and in view of the above R-2 was selected for the appointment to the post of BPM. This would clearly indicate that the department did not prepare any panel of names which included the name of the applicant Nemanna. Therefore, there is no question of exhausting the panel as was presumed by the applicant to exist and which selection panel had included his name also after that of R-2. Because, R-2 so selected could not be appointed in view of the criminal case pending against him a fresh notification was required to be issued.

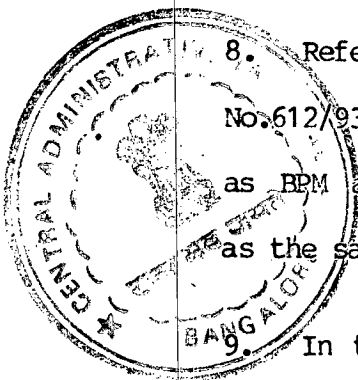
7. As stated by R-1, the Postal Directorate has revised the minimum educational qualification for the post of BPM to Matriculation with effect from 1.4.1993 which is not disputed by the learned counsel for the applicant. Accordingly the notification Annexure A-8 came to be issued mentioning therein the minimum educational qualification for the post to be 10th [SSLC] Standard.

Because the applicant has failed in 10th standard, and as he was not eligible to apply for the post, he has tried to make out a grievance and tried to build up his case and thus lean back on the earlier notification which is untenable. In this connection the learned counsel for the applicant sought to rely



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on a decision in A.V. BHOGESHWARUDU V. ANDHRA PRADESH PUBLIC SERVICE COMMISSION reported in JT 1989[4] SC 130 wherein it was held that vacancies remaining unfilled on account of candidates recommended for appointment had not joined, then such vacancies will have to be filled up out of the current list and no further selection should be made. This decision cannot support the case of the applicant herein inasmuch as his name is not selected and no panel is prepared. If at all the name of the applicant was also mentioned in the select list, then it was open to him to seek support from the above decision. There was only one vacancy and the department had selected only one person who was subsequently found to be ineligible on account of pending criminal case. Hence a fresh notification was issued. In the meanwhile the minimum qualification for the post was amended by the Postal Directorate with effect from 1.4.1993 which is not challenged in this application. Consequently we find no merit in this case and this application has necessarily to fail.



8. Reference to the earlier application filed by R-2 in OA No.612/93 which was rejected and applicant having been working as BPM as substitute will not in any way change the position as the same are not relevant.

9. In the result the application fails and the same is hereby dismissed but with no order as to costs.

Sd-
27/11
MEMBER [J]

bsv

TRUE COPY
Sd-
15/2
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd-
27/11/92
MEMBER [A]