

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 20 APR 1994

APPLICATION NUMBER: 166 of 1994.

APPLICANTS:

Sri.M.V.Shivashankar v/s.
To.

RESPONDENTS:

The Post Master General in
Karnataka, Bangalore and Others.

1. Sri.S.Madhusudhan, Advocate, No.844, Upstairs,
17th-G-Street, Fifth Block, Rajajinagar,
Bangalore-560010.
2. The Post Master General in Karnataka,
Bangalore-560 001.
3. Sri.M.Vasudeva Rao, Addl. Central Govt. Stng. Counsel,
High Court Building, Bangalore-560 001.

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 05-04-1994.

Issued on
21/4/94

B.

of
c

[Signature]
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH

APPLICATION NO. 166/1994

TUESDAY, DATED THIS THE FIFTH DAY OF APRIL, 1994

Mr. Justice P.K. Shyamsunder, Vice Chairman

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

Shri M.V. Shivashankar
S/o. Shri M. Subbaiah
Aged about 28 years
Branch Post Master
Mylandalahalli
Chintamani Taluk
Kolar District.

..... Applicant

(By Shri S. Madhusudhan, Advocate)

Vs.

1. The Post Master General in
Karnataka, Bangalore-560 001.
2. The Senior Superintendent
of Post Offices, Kolar District
Kolar.
3. The Sub-Divisional Inspector
Postal Services, Chintamani
Sub-Division, Chintamani.

..... Respondents

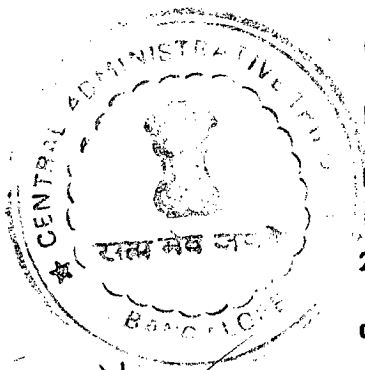
By
(Shri M.V. Rao, A.C.G.S.C.)

O R D E R

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

This application under Section 19 of the Administrative Tribunals Act, 1985, is directed against the issue of postal notice dated 6.12.1993 by the Office of the Sr. Superintendent of Post Offices, Kolar Division, Kolar, at Annexure-A5. This postal notice seeks to make recruitment to the post of Branch Post Master, Mylandalahalli.

2. The facts of the case are that the Post Master of Branch Post Office, Mylandalahalli was to retire on attaining



the age of 65 years with effect from 29.1.1993. In order to make a regular selection by that time the vacancy in the post of Branch Postmaster was notified to the Employment Exchange on 2.12.1992. As there was no response from the Employment Exchange till 4.1.1993, the Sr. Superintendent of Post Offices, Kolar Division, Kolar, issued a postal notice inviting applications from eligible candidates for selection to the aforesaid post. In the meanwhile, the Employment Exchange sponsored 3 candidates and the letter sponsoring the candidates was received by the second respondent, viz., the Sr. Superintendent of Post Offices on 11.1.1993. Of the three names so sponsored, 2 including the applicant were called for interview on 21.1.1993 along with the candidate who had applied in response to the postal notice. One candidate whose name was sponsored by the Employment Exchange was not called for interview because he was not a resident of the village concerned. On the date of the interview only the applicant herein appeared for the interview and he was selected for the post of Branch Postmaster, Mylandalahalli and placed incharge of the post office with effect from 28.1.1993 afternoon. A regular appointment order was also issued on 12.3.1993 vide Annexure-A4.

3. It appears that the Director of Postal Services, SK Region, while reviewing a few cases of appointment of Branch Postmaster looked into this case as well and discovered certain lapses as below:

- (i) A candidate with 8th std. pass qualification was selected even though it was specifically mentioned that matriculates should be preferred in the Directorate instructions.
- (ii) An interview was not a requirement. If the intention was to verify the original documents, candidates should have been asked to send the documents.
- (iii) Copy of the local notification was not endorsed to the accounts office, i.e., Chintamani.

- iv) Wide publicity was not given to the local notification. According to the applications, only the children of former BPM applied for the post.

He, therefore, directed the 2nd respondent to cancel the appointment of the applicant herein and renotify the vacancy. It was because of this direction received that the respondent No.2 issued the postal notice dated 6.12.1993 (Annexure-A5). It is this postal notice that is presently being challenged by the applicant.

4. We have heard the learned counsel for the applicant, Shri Madhusudhan and Shri M. Vasudeva Rao, the learned standing counsel appearing for the respondents.

5. It is significant to point out here that the appointment of the applicant as BPM, Mylandahalli, was done on a regular basis as a consequence to the retirement of the regularly appointed BPM on superannuation. It was not a case of stop-gap appointment which was to be followed by a regular appointment after due selection. The department had approached the Employment Exchange and it had also issued a postal notice inviting applications and in response thereto, certain names recommended by the Employment Exchange and one application received in response to the public notice were considered and a final selection made. It is a different matter if some of the persons called to appear for interview failed to turn for the interview. As such, the selection of the applicant based on the interview conducted by the competent ^{authority} ~~person~~ cannot be said to be irregular or illegal. As regards the objections raised by the Director of Postal Services listed above, the learned standing counsel for the respondents admits that the basic educational qualification for being considered for the post of BPM is 8th Std. pass at the relevant time. In fact, the postal notice dated 4.1.93 Annexure-A1 bears this out as the qualification indicated therein

is 8th Std. pass. But, it is also stated therein that those holding S.S.L.C. will be preferred. Admittedly, the applicant is 8th Std. pass and the objection that a matriculation was not preferred by the appointing authority is devoid of any force whatever, because it was only the applicant who responded to the call for interview and appeared at the interview and he did possess the minimum educational qualification of 8th Std. pass. The appointing authority could not possibly have preferred any one else with S.S.L.C. qualification as there was none possessing that qualification. The second lapse pointed out is that an interview was not a requirement and that if the intention was to verify the original documents, candidates should have been asked to send the documents. We find no relevance to the case in question vis-a-vis the applicant because the due process of selection was followed because three candidates were called for interview and the applicant being the only candidate who turned up for interview, he was interviewed and selected apparently after finding him to be eligible for appointment to the post in question on the basis of documents etc. produced by him. It is not disputed that the applicant is not a resident of the village in question. It is also not disputed that the applicant does not have the minimum educational qualification prescribed, viz., 8th Std. pass. The third objection that a copy of the local notification, i.e., the postal notice dated 4.1.1993, was not endorsed to the Accounts Office, Chintamani, is totally irrelevant. It is a matter between the appointing authority and the Accounts Office. If the endorsement of the local notification had not gone to the Accounts Office at Chintamani, certainly it would not disentitle the applicant of his position as BPM to which he was appointed on a regular basis by the competent authority. The last lapse pointed

out is that wide publicity was not given to the local notification, i.e., at Annexure-A1 and that only the children of former BPM had applied for the post. We have perused the records produced by the learned standing counsel, Annexure-A1, as it is on the file of the department, shows that the postal notice dated 4.1.1993 was sent by Registered A.D. to the Mandal Pradhan, Anur Mandal Panchayat, the BPM, Mylandahalli, the Sub-Inspector of Police, Chintamani Police Station and the Sub-Divisional Inspector of Post Offices, Chintamani. We, therefore, do not see any basis whatsoever for the objection that wide publicity was not given. It will also be appropriate to mention here that apart from the issue of postal notice which resulted in one person responding, the Employment Exchange which was approached by Respondent No.2, had also sent a panel of names. The objection that all the applicants happened to be the children of the former BPM had also no relevance whatsoever because no law prohibits the children of an Ex-BPM or for that matter an ex-employee from applying to a position held by the ex-employee. If they have the requisite qualifications and if they get selected on the basis of the procedure laid down, no one can challenge an appointment made on that basis.

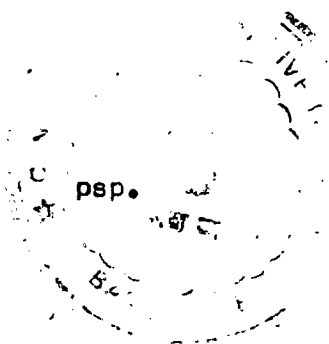
6. For the reasons stated above, we find that there is no justification whatsoever for the department to issue the postal notice dated 6.12.1993 (Annexure-A5). The applicant stands appointed to the post of BPM, Mylandahalli on a regular basis and will continue to hold that post.

7. In the result, we accept this application and quash the postal notice dated 6.12.1993 (Annexure-A5). We thought this ~~is to be~~ ^{to be}

a fit case to award costs, but the learned standing counsel prevails upon us not to make any order as to costs and assures us that the Department will not make such mistakes in future. We accept his statement and make no order as to costs.

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

a. d. d. nearly
Sd/-
(P.K.SHYAMSUNDAR)
VICE CHAIRMAN



TRUE COPY

Sd/-
REGIONAL OFFICER
20/4
ADD. DIST. OFFICE
BANGALORE