

(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

MONDAY THE ninth DAY OF November
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN

: PRESENT :

THE HON'BLE MR. B. N. JAYA SIMHA: VICE-CHAIRMAN
AND

THE HON'BLE MR. D. SURYA RAO: MEMBER. (Judicial)

ORIGINAL APPLICATION NO.

513/87

Between:-

E. Sihari

And

.....Applicants

Union of India & by
the Senior Superintendent
of Post Office, Hyderabad
city division, Hyderabad - 500001
A.P.

.....Respondents

Application under Section 19 of the Administrative Tribunals Act, 1985 praying that in the circumstances stated therein the Tribunal will be pleased to direct the Senior Superintendent of Post Office, Hyderabad city division Hyderabad - 500001 to hold the departmental examination for vacant post in the cadre of Postman within the division in pursuance of his letter No: B II /2-4/87 at 17/11/87 (Annexure I) and not to fill up the said posts by officials from other division.

(ORDERS OF THE TRIBUNAL)

The applicants herein (are) all working as Extra Departmental Agents in the Hyderabad City Postal Division of Andhra Pradesh Circle. They have filed this application for a decision to the respondent, Sr. Supdt. of Post Offices, Hyderabad city division to hold a departmental examination to the cadre of Postmen in pursuance of his letter no. B.II/2-4/87 dated 17.11.1986 and fill up the posts from among the qualified E.D. Agents in accordance with the rules and instructions. The respondents rely upon an order passed by the Postmaster-General, Andhra Pradesh Circle, Hyderabad No. RE/32-6/86 dated 29-7-1987 under which the Postmaster-General has transferred some Extra-Departmental Agents from other divisions to fill the vacancies of Postmen in the division in which the applicants are working for several years. The applicants contend that posting of candidates from other divisions is detrimental to their interests inasmuch as their chances of promotion as Postmen are jeopardised. They also contend that the 'division' is the unit for recruitment for Postmen (Dept'l.) and that the action of the PMG in posting of EDAs from other divisions as Postmen is violative of the recruitment rules and also the orders of the DG, P&T, New Delhi.

2. We have heard the Learned Counsel for the applicants and the Learned Standing Counsel for the Respondent-Department. This is a case similar to O.A. No. 586/87, wherein we have considered the contentions of the both the Counsel vis-a-vis the recruitment Rules contained in P&T Manual Vol. IV and the instructions of the DG, P&T New Delhi. In the above case, we held in our Order dt. 9.11.87 that the impugned order of the PMG dt. 29.7.1987 bringing in ED Agents who are in the waiting lists in other divisions is arbitrary and illegal and that it has to be set aside. It is, however, contended by Shri Devaraj,

←—Standing Counsel for the Department that no waiting list as such was prepared and that every year an estimate had to be prepared of the likely number of vacancies which would arise and sufficient number of EDAs who have passed the test would have to be adjusted against the said vacancies. Subsequently, during the course of the year, the number of posts available to EDAs got reduced due to various circumstances. Thus, it is these persons who have passed the test and who would normally have got appointment on the basis of the estimated vacancies, but could not get appointment due to certain extraneous circumstances who form the waiting lists in certain divisions. These were sought to be adjusted against the vacancies available in Hyderabad City Division and other divisions. We are unable to accept this contention. The instructions are very clear that no waiting list shall be prepared. The fact that at one point of time it was estimated that there would be a certain number of vacancies during the year, but that because of certain extraneous circumstances the vacancies did not fructify cannot be a ground for preparing or keeping a waiting list. The idea behind the instructions is that for every year's selection, there should be a fresh list and the fact that a person qualified in the examination in the previous year or years would not provide a right to him to his being given an appointment during subsequent years. It is further contended by Shri Devraj that by way of interim orders, this Tribunal had directed that appointments made after the filing of the application and would be subject to the result of the application and as such

all appointments made of EDAs from waiting lists in other divisions to Hyderabad City Division before the filing of the application should not be disturbed. This contention is also wholly untenable. The interim direction was passed only to prevent dislocation of work for want of sufficient hands. When the orders of the Department seeking to bring in persons from outside the division is held as arbitrary and contrary to rules and the instructions, the impugned order cannot be held valid only in regard to appointments made prior to the filing of the application and illegal after the filing of the application. It is to be noted that this application is filed well within time and there is no question of delay or laches which will disentitle the applicants to the relief claimed. We, therefore, see no merit in this contention raised by the learned counsel for the respondent-department.

3. For the reasons given by us in our Order dated 9th November, 1987 in O.A.No.586 of 1987 and also in the preceding paragraph of this Order, we allow this application as prayed for. There will be no order as to costs.

B.N.Jayashimha

(B.N. Jayashimha)

Vice-Chairman.

D.Surya Rao

(D. Surya Rao)

Member (Judl.)

(9th November, 1987).

RSR°

*S. Venkateswamy
Deputy Registrar (Jud.)*