

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.164/89.

Dt.of Order: 21.7.1991.

Sampara Venkataramana Murthy

...Applicant

Vs.

1. Director of Postal Services,
Andhra Pradesh, North Eastern Region,
Visakhapatnam-530 020.
2. Superintendent of Post Offices,
Anakapalli, Visakhapatnam Dist.
3. Y.Veerabhadram son of Tirupatayya,
Extra Departmental Branch Post Master,
C.H.Laxmipuram, Nakkapalli Mandal,
Visakhapatnam District.

4. *Inspector of post office, Yelamanchili* Respondents
Visakhapatnam District

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Counsel for the Applicant : Sri K.V.Subrahmanya Narusu, *Not present*

Counsel for the Respondents : Sri Naram Bhaskar Rao, *Adm. Sec.*
NO.1, 20-4.

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CORAM:

THE HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (A)

THE HON'BLE SHRI C.J.ROY : MEMBER (J)

(Order of the Division Bench delivered by
Hon'ble Sri C.J.Roy, Member (J)).

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This old case is coming for final hearing since 1989 and on a number of occasions also there was no representation from the applicant side. Hence this case was posted today for dismissal. Even today neither the applicant nor his counsel was present. Therefore instead of dismissing the case for default when the counsel for the Respondents is ready, we have heard the case and reserved the case for orders.

2. This application is filed under section 19 of the

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A.T.Act, 1985, with a prayer to set aside the communication dt.8-6-88 from the second respondent to the 4th Respondent stating that the third respondent was selected to the post of Extra Departmental Post Master Ch.Laxmipuram and further declare that the appointment of 3rd respondent as Extra Departmental Post Master, Ch.Laxmipuram is illegal and further direct the 2nd Respondent herein to appoint the applicant herein as EDBPM, Ch.Laxmipuram, Nakkapalli Mandal, Visakhapatnam District.

3. The brief facts of the case are that the permanent B.P.M. of Ch.Laxmipuram Village applied initially for two months leave and thereafter submitted his resignation to the said post. So applications were called for by a notification dt.25-12-87 to fill the said post before 28-1-88. The applicant sent his application enclosing certificates relating to his property, income, educational qualifications, experience, etc. The 3rd Respondent herein and two others also applied to the said post. Meanwhile the applicant was appointed as E.D.B.P.M. on provisional basis in the leave vacancy on 16-4-88. The Inspector of Post Offices, Yellamanchili, inspected the post office at Ch.Lakshmipuram and taken a bond from the applicant and instructed him to send a sum of Rs.5/- to post and Telegraphs Employees Co-operative Society Ltd., Ananthapur. Accordingly the applicant sent the said amount. It is submitted that on 27-12-87 when the Inspector of Post Offices, Yellamanchili scrutinised the applications of all

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the applicants, who applied for the post of B.P.M., Ch. Laxmipuram, ~~the applicant & respondents state that was the reason~~ why. The applicant further contends that though the application submitted by the 3rd Respondent was not in order as the property and Income certificates were not enclosed. The 2nd Respondent sent a letter by registered post to the 3rd Respondent asking him to submit ~~his~~ the certificates relating to his income and property. Having learned this, the applicant sent a representation dt.1-6-88 to the 1st respondent bringing to his notice the attempts that were being made to appoint the 3rd Respondent by manipulations. While so, on 10-8-88 the Inspector of Post Offices, Yellamanchili came to the village and took the entire records from the custody of the applicant. On this the applicant made enquiries and came to know that the Superintendent of Post Offices, Anakapalli appointed the 3rd Respondent as E.O.B.P.M. of Ch.Laxmipuram Village. Hence this petition.

4. The respondents have filed counter stating that during the process of leave application and resignation of the permanent B.P.M., the 4th Respondent herein was asked to made provisional arrangement. Accordingly the applicant was appointed as substitute in the place of Sri S.A.Narasimham on the latter's responsibility and continued during the entire period of his leave from 2-9-87 to 29-2-88. Respondents further submits that meanwhile the vacancy was

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offered to Sri P.Govindanarayana, Ex.BPM, Narsipatnam Police Line, who was thrown out of employment consequent on closure of Cycle Mobile Branch Office on 18-11-87. As there was no response from him, the vacancy was notified to the Employment Exchange on 20-11-87 but no candidate was sponsored by the Employment Exchange. General notification of the vacancy was issued for notification in the village on 25-12-87 fixing the last date for receipt of applications as 28-1-88. It is further submitted that four applications received thereafter were sent to 4th respondent for verification on 16-2-88. As the process of verification of applications and selection of candidate to the post would take time, the SDI (P) Yellamanchili was asked to make provisional appointment and accordingly the 4th respondent appointed the applicant who was working in place of Sri S.A.Narasimham, on provisional basis under clear terms and conditions that the appointment was made purely on temporary and adhoc basis and that his services were liable to be terminated at any time without any notice or reason and that the provisional arrangement shall not confer on him any claim for regular appointment. It is further submitted that the applicant was one of the four applicants for the post of the BPM, Ch. Laxmipuram. It is further submitted that on scrutiny of the applications one ineligible candidate was excluded from the four for selection to the post of BPM. Of the remaining three candidates the respondent No.3 was selected to the post as he secured more marks in S.S.C.examination, whereas the applicant secured

343 marks only. It is submitted that the selection to the post of BPM was finalised on 12-5-88 taking into consideration the applications and the documentary proof furnished there with by the candidates concerned. The respondent No.3 was addressed on 25-5-88 i.e. after selection to produce property certificate in his own name only as a formality to obtain a certificate as the father of the selected candidate had made a clear mention in the letter dt.23-1-88 given before and attested by Sarpanch, Gram Panchayat, Ch.Laxmipuram and enclosed to the application that the land property could be registered in favour of his son at any time if needed and this has no effect in any way to the selection which was finalised on 12-5-88. It is further contended that there is no illegality and motivation in calling for the property and income certificates from the Respondent No.3 inasmuch as the selection was finalised on 12-5-88 and the property certificate called on 25-5-88 was only a confirmation about the property certificate in the independent name of the selected candidates. On the same lines the counter goes on in support of appointment of the 3rd Respondent.

5. We have heard Sri Naram Bhaskar Rao, learned counsel for the Respondents and gone through the records carefully. As the very notification is dt. 25-12-87, the allegations of the applicant that papers were found in order by the 4th Respondent who is not an appointing authority, cannot be accepted. We also do not find that mere remittance of Rs.5/- bond ~~ce~~ confers right on the applicant. We have gone through the EDBPM Rules. The conditions laid down in the rules are that an application to

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the post of B.P.M. should contain property certificate, solvency certificate, provision of place for post office and educational qualification certificate. The 3rd Respondent is ~~to be~~ in receipt of ~~222~~ more marks in SSC examination than the applicant i.e. 353 marks against 343 marks secured by the applicant. We see no ^{irregularity in} ~~that~~ selection. ~~It is also seen from the records~~ that the applicant has signed on a declaration while entering into service as BPM on provisional basis accepting the condition that it is a temporary appointment and it will not confer any right on him. ~~It~~ Having once accepted all the conditions he cannot now turn back and question the regular appointment made, which is purely based on recruitment rules and on the marks obtained in SSC examination. The property certificate, nativity certificate and other certificates clearly proves that the 3rd Respondent has clearly scored over the applicant. The counter categorically asserts that/ ^{after} taking into consideration all the aspects the selection list was finalised on 12-5-88. Therefore we see no illegality in the selection process and that it is further seen in the counter that sending the selection file by the 2nd Respondent to the 1st Respondent was dispensed with in letter dt.5-5-88. The case was referred to the 1st Respondent and the 2nd Respondent and the same was returned on 16-5-88. There is no necessity for the 1st Respondent to issue an order to 2nd

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Respondent in the matter of appointing the 3rd Respondent. The correspondence between the 1st and 2nd Respondent need not contain any appointment at all. So as stated in the counter no formal appointment order cannot be issued as on 16-4-88. The letter to the father of the selected candidate (Respondent No.3) was only to get confirmation about the property certificate .

6. There is no special consideration for past experience in the recruitment rules. The past experience is also not made a point of qualification in the notification. The fact that the 3rd Respondent has no past experience ~~xx~~ need not go against him as the past experience is not one of the condition mentioned in the notification ~~and~~ and we see ~~that~~ ~~there~~ ~~is~~ no arbitrariness in the appointment of the 3rd Respondent. The applicant has also not established any case against the 3rd Respondent. ~~xxxxxxx~~ besides we have also perused the notification dt.10-5-91 issued by the Ministry of Communication, Department of Posts, wherein it was stated as follows :-

"According to the instructions/clarifications issued by you preference in the recruitment of ED Agents has been given to candidates having higher source of income in the shape of landed property or otherwise. Your proposal as contained in para-5 of your above referred d.o. that the deciding factor for the selection of EDSPMs/EDBPMs should be the income and property and not the marks, has been examined thread bare but cannot be agreed to as this will introduce an element of competitiveness in the matter of possession of property and earning of income for determining the merit of the candidates

for appointment as ED Agents.
 Proof of financial status is not only subject to manipulation but is also detrimental to merit. When the constitution of India guarantees equal opportunity to all for their advancement, the reasonable course would be to offer ED appointments to the person who secured maximum marks in the examination which made him eligible for the appointment provided the candidate has the prescribed minimum level of property and income so that he has adequate means of livelihood apart from the ED allowance."

7. Having seen the notification and recruitment rules, we feel that the applicant ^{has} not made out any case for interference. Under these circumstances, we dismiss the case with no order as to costs.


 (R. BALASUBRAMANIAN)
 Member (A)


 (C. J. ROY)
 Member (J)

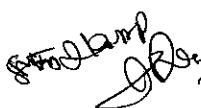
Dated: 21st July, 1992.


 Deputy Registrar (J)

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Copy to

1. The Director of Postal Services, Andhra Pradesh, North Eastern Region, Visakhapatnam.
2. The Superintendent of post offices, Anakapalli, Visakhapatnam District.
3. The Inspector of post offices, Yellamanchili, Visakhapatnam District.
4. one Copy to Sri. K. V. Subrahmanya Narayana, Advocate H.No. 3-4-526/35, Barkatpura, Hyderabad.
5. one Copy to Sri. Narayana Bhaskar Rao, Advocate, C.A.T. Hyderabad.
6. one spare Copy.

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.

~~THE HON'BLE MR.~~

~~AND~~

THE HON'BLE MR.K.BALASUBRAMANIAN:M(A)

~~AND~~

~~THE HON'BLE MR.T.CHANDRASEKHAR REDDY : MEMBER (J)~~

AND

THE HON'BLE MR.C.J. ROY : MEMBER(J)

Dated: 21 - 7 - 1992

ORDER/JUDGMENT

~~E.A./C.A./M.A. No.~~

in

O.A.No. 164/89

~~T.A.No.~~ (W.P.No.)

~~Admitted and interim directions issued~~

~~Allowed~~

~~Disposed of with directions~~

Dismissed ✓

~~Dismissed as withdrawn~~

~~Dismissed for default.~~

M.A.Ordered/Rejected.

No order as to costs.

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