

(30)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA 284/89.

Dt. of Order: 14-10-1991

J.Srinivasa Chary

...Applicant

Vs.

The Union of India represented by :

1. The Secretary to Government,
Department of Posts, New Delhi.
2. The Superintendent of Post Offices,
Wanaparthy Division, Wanaparthy.

...Respondents

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Counsel for the Applicant : Shri K.S.R.Anjaneyulu

Counsel for the Respondents : Shri Naram Bhaskar Rao, Addl.CGSC

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CORAM:

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

THE HON'BLE SHRI S.SANTHANAKRISHNAN : MEMBER (J)

(Order of the Division Bench delivered by
Hon'ble Shri S.S.Krishnan, Member (J)).

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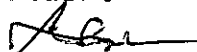
The applicant has come forward with this applica-
tion under section 19 of the Administrative Tribunals Act,
1985, requiring a direction to the Respondents to select
the candidates for the post of Branch Post Master from the
candidates nominated by the Employment Exchange and to
fill-up the post on regular basis and also for a declara-
tion that the action of the 2nd Respondent in filling the
post on provisional basis as arbitrary and untenable.

[Signature]

- 2 -

2. The applicant's grievance as we see from his application^{is} that he is a resident of Revally Village and that he satisfies the conditions prescribed for the post of Branch Post Master. The 2nd Respondent called for applications through the Employment Exchange for filling up the above said post as per the notification dt.30-11-88. It is alleged that though his name^{was} sponsored along with two others for consideration by the Employment Exchange, the 2nd Respondent is trying to fill-up the post on provisional basis by a candidate, who was not sponsored by the Employment Exchange and hence this application.

3. In the counter it is contended by the Respondents that they have issued a notification dt.26-10-88 to the Employment Exchange requiring them to send the names but there^{was} ~~xx~~ no response till 30-11-1988. Hence they have^{an} issued/open notification on 30-11-88 and a copy was sent to the Employment Exchange for publication. On this the Employment Exchange sponsored three candidates as per their letter dt.13-12-88 including the name of the applicant. Had the names sponsored as per the Original notification dt.26-10-88, they would have considered their names. But it is not necessary to consider now in view of their open notification. Hence their action is legal and no violative of any provisions of constitution.



- 3 -

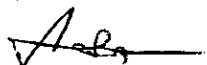
4. We have heard Shri K.S.R. Anjaneyulu, learned counsel for the applicant and Shri Naram Bhaskar Rao, learned standing counsel for the Respondents. The fact that applicant is a resident of Revally Village and that he satisfies the conditions prescribed for appointment to the post of Branch Post Master is not disputed. The applicant produces Annexure A-1, the notification inviting applications for appointment to the post of BPM. Annexure A-2 is the communication sent by the Employment Exchange sponsoring three names to the 2nd Respondent for consideration, which includes the name of the applicant. It is significant to note that Annexure A-2 is sent by the Employment Exchange as per the memo sent by the 2nd respondent dt. 30-11-88. The applicant has also produced annexure A-3, the rules, which directs that the employment of E.D. Agent should be made only through Employment Exchange. Under 12(5) the 2nd Respondent has through the open notification got powers for recruitment, if no nominations has been received from the Employment Exchange within the stipulated time of 30 days or the candidates sponsored by the Employment Exchange is found not suitable. It is not the contention of the Respondents that the applicant is not a suitable candidate. The only objection raised by the Respondents in their counter is that they have originally sent a notification to the Employment Exchange on 26-10-88

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and, etc., etc.

- 4 -

requiring them to sponsor the names before 26-11-88. Though the Respondents state that they have sent^a notification to the employment exchange on 26-10-988, the Respondents neither produced the notification dt.26-10-88 nor they have submitted any proof to show that it was received by the Employment Exchange. Annexure A-1 is a memo sent to the Employment Exchange and in pursuence of the same they have sponsored three candidates for consideration including the name of the applicant. It is admitted by the Respondents that they have received the above said communication from the employment exchange. The contention of the Respondents that they are not bound to consider the same because it was sent in pursuance to ^{an open} notification is not only highly arbitrary but illegal. As contained in annexure per the rules/A-2, it is mandatory on the Respondents to consider the candidates sponsored by the Employment Exchange. This has been done to see that the 2nd Respondent do not select his own candidate. If the Employment Exchange does not sponsor any candidates, as per rule 12(5) the 2nd Respondent can select a candidate from the open competition. In view of the mandatory rule of 12(2) we are unable to agree with the contentions of the learned standing counsel for the Respondents that the 2nd Respondent is not bound to consider the candidates sponsored by the employment exchange. The Action of the 2nd Respondent is highly illegal,



To

1. The Secretary to Government, Union of India,
Department of Posts, New Delhi.
2. The Superintendent of Post Offices,
Wanaparthi Division, Wanaparthi.
3. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT.Hyd.
4. One copy to Mr.Naram Bhaskar Rao, Addl. CGSC. CAT.Hyd.
5. One sparecopy.

pvm

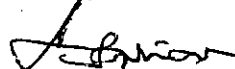
- 5 -

arbitrary and as such we find no hesitation in holding that the action of the 2nd Respondent in filling-up the post on provisional basis from a candidate, who was not sponsored by the Employment Exchange is arbitrary and liable to be set aside. The applicant has got an interim order at the admission stage (vig) that the Respondents shall not fill the vacancy of BPM other than the candidates sponsored by the Employment Exchange and hence no body has been selected on regular basis in view of the interim order. It follows that the action of the 2nd Respondent in filling the post of BPM on provisional basis is arbitrary and untenable and the applicant is entitled to the relief and declaration as claimed.

5. In view of the above discussion, we declare that the action of the Superintendent of Post Offices, Vana-parthy, in filling-up the post of BPM of Revally Village on provisional basis is arbitrary and the 2nd Respondent is directed to select the candidate for the post of BPM Revally Village from among the candidates sponsored by the Employment Exchange as per his reference dt. 13-12-88 within a period of one month from the date of receipt of this order. We direct the parties to bear their own costs.



(R. BALASUBRAMANIAN)
Member (A)



(S. SANTHANAKRISHNAN)
Member (J)

Dated: 14th October, 1991.

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Dy. Registrar

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

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

AND

THE HON'BLE MR.S.SANTHANAKRISHNAN:J

DATE: 14-10-91

ORDER/JUDGMENT:

M.A.No.

in

O.A .No. 284/89

Admitted and Interim direction issued.

Allowed

Dismissed

Disposed of with direction

Rejected

No Order as costs.

