

32

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD.

O.A. No. 388/89

DATE OF DECISION:- 26-6-1990.

~~XXXXXX~~

Between:-

- Nootigattu Rama Rao - - - - - Petitioner(s)  
- Sri K.V. Subrahmanyam Narasimha - - - - - Advocate for the  
petitioner(s)

Versus.

The Superintendent of Post Offices,  
Anakapalli Division, Anakapalli, - - - - - Respondent.  
Visakhapatnam.

Sri N. Bhaskar Rao - - - - - Advocate for the  
Respondent(s)

CORAM:

THE HON'BLE MR. J. Narasimhamurty, Member (Judicial).

THE HON'BLE MR. R. Balasubramanian, Member (Administrative).

1. Whether Reporters of local papers may be allowed to see the Judgment ? Yes.
2. To be referred to the Reporter or not ? To be reported.
3. Whether their Lordships wish to see the fair copy of the Judgment ? No
4. Whether it needs to be circulated to other Benches of the Tribunals ? Yes.
5. Remarks of Vice Chairman on columns 1, 2, 4 (To be submitted to Hon'ble Vice Chairman where he is not on the Bench) *H.V.*

*Yes*  
H. J. N. M.  
M(J)

*H*  
H. R. B. S.  
M(A)

*After 10/7/90*

33

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.388/89.

..

Between:

Nootigattu Rama Rao. .. Applicant.

Vs.

The Superintendent of Post  
Offices, Anakapalli Division,  
Anakapalli, Visakhapatnam .. Respondent  
District.

Sri K.V.Subrahmanyam Narsu, Counsel for the Applicant.

Sri N.Bhaskar Rao, Additional Standing Counsel for  
Central Government.

CORAM:

Hon'ble Sri J.Narasimhamurty, Member (Judicial).

Hon'ble Sri R.Balasubramanian, Member (Administrative).

..

Judgment of the Bench delivered by  
Hon'ble Sri J.Narasimhamurty,  
Member (Judicial).

-:-

This Application is filed for setting aside  
the order of the Respondent No. B/ED-3/407 d/25-4-1989  
canceling the selection of the Applicant as Branch  
Post Master, Thallapalem Village, Kasimkota Mandal,  
Visakhapatnam District and to direct the respondent  
to appoint the Applicant as Extra Departmental Branch  
Post Master in Thallapalem Village, Kasimkota Mandal,  
Visakhapatnam District.

The averments briefly stated in the application  
are as under:

A permanent Vacancy arose in the Office of  
Extra Departmental Branch Post Master in Thallapalem

34

2

Village, Kasimkota Mandal, Visakhapatnam District consequent upon the resignation of a permanent incumbent. The said vacancy was notified. As the applicant possessed all the required qualifications for appointment as Extra Departmental Branch Post Master as prescribed by the rules, he sent his application dated 16--11--1988 to the Respondent. Besides the applicant, 11 more persons also applied for the said post. The Inspector of Post Offices, Anakapalli Division conducted an interview in December, 1989. 9 candidates attended the said interview. In the said interview the Educational qualifications, means of livelihood of the candidates, security offered by the candidates and other particulars have been verified by the Inspector of Post Offices. Having regard to the qualifications the respondent by his order No.B/ED-3/407 dated 13--2--1989 selected the applicant as Branch Post Master, Thallapalem Village, By the said order he was asked to submit the documents mentioned therein. When the Applicant approached the respondent to submit the documents as required by the said order, he was asked to come again.

While so, the respondent sent a notice dated 10--4--1989 to the applicant stating that it has been reported that a decree of the Civil Court for an amount of Rs.42,653--50 was pending against him that in the circumstances it might not be possible to appoint him and asked him to submit his representation and intimate as to why his selection should not be cancelled giving all the particulars of the decree. The applicant submitted his reply dated 17--4--1989 stating that a suit filed against him was decreed

for a sum of Rs.42,653--50 on 21--11--1988 i.s., subsequent to his application, that he had adequate immoveable properties in the shape of a house worth Rs.1 lakh; that he could discharge the said decretal amount, that the persons who are interested in the candidate temporarily working in the said post and who was not selected for the post gave false report against the applicant in order to see that the said person~~s~~ was appointed by the respondent. On receipt of the said reply the respondent by his order No. B.ED/3/407 dated 25--4--1989 cancelled the selection of the Applicant as Branch Post Master stating that in view of the decree for Rs.42,653.50 passed against him, whether he has sufficient property or not, since he has to handle the Government money the person to be appointed as Branch Post Master has to be very careful not only in Government transactions but also about his private properties; that a person who could not handle his own private affairs and properties, cannot be appointed as Branch Post Master. The applicant states that a Civil Court Decree for money cannot be a disqualification for appointment as Extra Departmental Branch Post Master. The applicant has already furnished the 3rd party security in a sum of Rs.25,000/- The cancellation of the appointment order is arbitrary and illegal and has to be ~~cancelled~~. Hence the application.

The respondent filed the counter giving parawise remarks .

The Respondent admitted that as the BPM., Tallapalem was deputed as a Group "D" Official to the A.P.S., the vacancy was notified to the Employment Exchange on 14--9--1988. No candidates were sponsored by the Employment Exchange. A notification to fill up the said vacancy was issued to the residents of the village on 18--10--1988 fixing the last date for receipt of

the applications as 18--11--1988. Twelve applications were received. The respondent states after verification of the applications, income particulars, marks sheet etc., the applicant was selected to work as B.P.O. He was addressed on 13--2--1989 to give attestation forms, health certificate, declarations etc., to the SDI(P) for appointment as BPM. On 16--2--1989 a petition was received from Sri M. Maridayya a resident of Tallapalem alleging that the applicant had Court disputes. Immediately the SDI(P) was asked to stop appointment of the selected candidate pending enquiries. The SDI(P) after an enquiry submitted his report on 10--3--1989 stating that the Civil Court had passed a decree against the applicant. A notice by regd. A.O., was issued to the selected candidate on 10--4--1989 informing him that it came to light that an order of decree was issued by a Civil Court for an amount of Rs.42,653.50 against the applicant and in the circumstances it may not be possible to appoint him in the post where monetary responsibility is involved. He was also also called upon to send his representation against the proposed action of cancelling the selection and he was also asked to give full particulars of the decree. In view of the guidelines issued by the DPS Office it was decided to cancel the selection of the applicant. The applicant was informed by letter d/26-4-1989 about the cancellation of his appointment.

The respondent states that the cancellation was due to a Civil Court Decree against the applicant for a sum of Rs.42653-50 which in the view of the respondent, the applicant is heavily indebted.

In the parawise remarks the respondent has admitted almost all the averments regarding the other points. Hence the respondent opposes the application.



37

Heard Sri K.V.Subrahmanya Narsu, Counsel for the applicant and Sri N.Bhaskar Rao, Additional Standing Counsel for Central Government.

The Superintendent of Post Offices , Anakapalli Division, Anakapalli by letter No. B/ED-3/407 dated 13.2.89 informed the applicant as under:

"You are selected to work as BPM., Tallapalem. You may submit the following documents through the SDI(P)Anakapalli (West) Sub Divn., immediately.

1. Attestation forms.
2. Health Certificate.
3. Declaration and descriptive particulars.
4. Two conduct certificates issued by two different Gazetted Officers.

At the time of your appointment as BPM., you may remit Rs.10/- to the Secretary, Postal Credit Cooperative Society, Anantapur towards premium for issue of security bond."

Again on 25--4--1989 the Superintendent of Post Offices, Anakapalli Division informed the applicant as under:

"According to your own letter dated 17-4-1989 a decree for Rs.42,653.50 was passed against you. It is immaterial whether you have sufficient property or not. Since you have to handle Government money, the person to be appointed as BPM has to be very careful not only in Government transactions but also his private properties.

A person who could not handle his own private affairs and properties properly cannot be appointed as a Branch Post Master.

You are hereby informed that in the circumstances, your selection as BPM is cancelled." ✓

In this case after verification of all the particulars and after satisfying with all the formalities that could be complied with by the applicant and after verifying the requisite qualifications of the applicant, he was selected for the post of B.P.M., and he was informed accordingly. After submitting all the particulars required of by the respondent in his letter dated 13-2-1989, the respondent by his letter dated 25-4-1989 cancelled the appointment of the applicant on the ground that a Civil Court money decree is pending against him for a sum of Rs.42,653-50. This decree was passed against the applicant after his selection for the appointment. Prior to this i.e., at the time of submitting his application or at the time of passing the selection order, no Court decree is pending against the applicant. The petitioner also gave a third party security for a sum of Rs.25,000/-. Usually, there won't be money transaction of more than Rs.10,000/- per month to a Branch Post Master. In this case the applicant has furnished Third Party Security ~~in~~ a sum of Rs.25,000/- <sup>in</sup>. Added to this, he ~~has~~ <sup>has</sup> his own house worth Rs.1,00,000/-(One Lakh).

The only point for consideration is: Whether a decree passed against the applicant which was completely discharged on hearing from the respondent, will be a bar for the appointment of the applicant as Branch Post Master?

In this Case, the applicant has filed Certified Copy of the Memo of full settlement of the Decretal amount recorded by the Subordinate Judge, Anakapalli in O.S.118/84. The applicant has paid all the Decretal amount to the Judgment Debtor outside the Court and filed a Memo to that effect. This was after the notice of the

39

7

Respondent cancelling his appointment as B.P.M. Now there is no Money Decree pending payment against him.

Rule 23 of E.D.A. Conduct and Service Rules reads as follows:

"An employee shall so manage his private affairs as to avoid habitual indebtedness or insolvency.

An employee who becomes the subject of a legal proceedings for insolvency shall forthwith report the full facts to the Government."

Rule 23 of the Rules says that an employee shall manage his private affairs as to avoid habitual indebtedness or insolvency. (emphasis supplied). The Government have suggested their employees not to become ~~not~~ indebted or insolvents. But they have ~~not~~ imposed any penalty. It is only a caution to Government Employees to be very careful in their private affairs as well as official duties. On the ground of indebtedness or insolvency a person cannot be held liable for disciplinary proceedings or punishment major or minor.

There may be Civil litigation against a person. It is not a bar for his appointment. The respondent has stated in his letter dated 25-4-1989 that "since you have to handle Government money, the person to be appointed as BPM., has to be very careful not only in Government transactions but also about his private properties. A person who could not handle his own private affairs and properties properly cannot be appointed as a Branch Post Master".

Because there is a Civil Money Decree against the applicant, one cannot straightaway come to the conclusion that the applicant could not handle his own private affairs and properties properly <sup>and</sup> cannot be appointed as a Branch Post Master. There is no sufficient

To:

1. The Superintendent of post offices, Anakapalli division, Anakapalli, visakhapatnam district.
2. One copy to Mr.K.V.Subrahmanya Narsu, Advocate, 3-4-526/35, Barkatpura, Hyderabad-27.
3. One copy to Mr.Naram Bhaskara Rao, Addl.CGSC,CAT,Hyderabad.
4. The Dy.Registrar, Central Admn., Tribunal, Madras Bench, Tamilnadu Text book society building, D.P.I. compound, Nungambelkam, Madras-600 005.
5. The Dy.Registrar, Central Admn., Tribunal, Calcutta Bench, CGO complex, 234/4-ADC Bose road, Nizam Palace, Calcutta-800 020.
6. The Dy.Registrar, Central Admn., Tribunal, Bombay Bench, CGO complex, (CBD), 1st floor, New Bombay-400 614.
7. The Dy.Registrar, Central Admn., Tribunal, Chandigarh Bench, SCO.No.102-103, Sector-34, Chandigarh.
8. The Dy.Registrar, Central Admn., Tribunal, Allahabad Bench, 23-A, Thorn Hill Road, Allahabad-211 001.
9. The Dy.Registrar, Central Admn., Tribunal, Guwahati bench, Rajgarh Road, off.shilling road, Guwahati-781 005.
10. The Dy.Registrar, Central Admn., Tribunal, Bangalore Bench, Commercial complex (BOA), Indira Nagar, Bangalore-560 030.
11. The Dy.Registrar, Central Admn., Tribunal, Ernakulam bench, Kandamkulathil Towers, 5th & 6th floors, opp.Maharaja College, M.G.Road, Ernakulam, Cochin-682 001.
12. The Dy.Registrar, Central Admn., Tribunal, Jabalpur Bench, CARVS complex, 15-Civil Lines, Jabalpur, M.P.
13. The Dy.Registrar, Central Admn., Tribunal, Patna Bench, 32-A, B.M.Enterprises, Shri Krishna Nagar, Patna-1.
14. The Dy.Registrar, Central Admn., Tribunal, Jodhpur Bench, C/o Rajasthan High court, Jodhpur, Rajasthan.
15. The Dy.Registrar, Central Admn., Tribunal, Ahmadabad bench, Navarang pura, Near Sardar Patel colony, Osmanpura, Ahmadabad.
16. The Dy.Registrar, Central Admn., Tribunal, Cuttak Bench, Dolmandi, Cuttak-753 001.
17. The Dy.Registrar, Central Admn., Tribunal, Principal Bench, Faridkot house, Copernicus Marg, New Delhi-110 001.
18. Sri Sanjeeva Malhotra, Managing Editor, All India Services, Law journal 22<sup>nd</sup> Tagore Park, New Model Town, New Delhi-9.
19. M/s Eastern Book Company, 34, Lal Bagh, Lucknow.
20. M/s Delhi Law Times, 5355, Jawahar nagar, Kolhapur Road, Delhi-7.
21. Sri Hasin Ahmad., Spl.Representative Reporter, A.I.R. Ltd., No.21-1-1964 & 65, Gandhi Bazar, opp.High court Bar Association, Hyderabad.
22. The Administrative Tribunal reporter, Bhagat Singh Market, 90, New Delhi-110 001.
23. Sri ~~K~~ S Sarma, General Secretary, All India equal rights Association, E-58, BUDA, Residential complex, Vanasthalipuram, Hyderabad.
24. The Dy.Registrar(J), Central Admn., Tribunal, Hyderabad Bench, Hyderabad.
- One copy to Library, CAT, Hyderabad Bench, Hyderabad.
- Two spare copies.

(240)

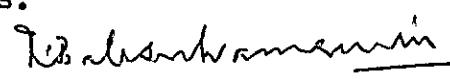
material before ~~us~~ us in what circumstances a Civil Court money Decree was passed against the applicant? We do not know, whether it is passed to discharge his pious obligation, or whether it was passed for standing surety to another, or whether he had incurred the debt to discharge the obligations towards his family? Without having any material before us, it is not just and proper to put a stigma on a person that he is indebted. Indebtedness is for various reasons. Moreover, the applicant has not given any opportunity whether he would be able to handle the Government properties properly or not? Without giving him an opportunity to assess his capabilities, it is premature to come to a conclusion because of the money decree, that he cannot be appointed.

The applicant has sufficient means. He had a house worth Rs. one Lakh. He had all the requisite Educational qualifications for the post. The ~~Rules~~ E.D.A. Conduct and Service Rules in nowhere stated that if a person is indebted, he cannot be appointed.

In the circumstances, the Impugned Order is liable to be set aside. It is accordingly set aside. The Respondent is directed to appoint the Applicant as ~~ExRxMx~~, Extra Departmental Branch Post Master in Thallapalem Village, Kasimkota Mandal, Visakhapatnam District within two months from the date of receipt of this order.

In the result the Application is allowed. There will be no order as to costs.

  
(J. NARASIMHAMURTY)  
Member (Judl.)  
SSS.

  
(R. BALASUBRAMANYAM SARMA)  
Member (Administrative)  
26. 6. 1990   
for Deputy Registrar (J)