

(28)

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: AT HYDERABAD.

O.A.No. 404/89.

Date of Decision:

~~XXXXXX~~

Ponnathi Srinivasa Rao

Petitioner.

Shri S. Krishna

Advocate for  
the Petitioner(s)

Versus

The Asst. Supdt. of Post Offices, Kavali Sub Divn. Respondent.  
Kavali, Nellore Dist. & 2 others

Shri N.V. Ramana, Addl. CGSC (for R1 & R2)

Advocate for  
the Respondent  
(s)

Shri T. Jayant (for R3)

CCR. M:

THE HON'BLE MR. R.Balasubramanian : Member(A)

THE HON'BLE MR. C.J.Roy : Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgment ?

Yes

2. To be referred to the Reporters or not ?

Yes

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 Tribunal ?

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.)

HRBS  
M(A).

HCJR  
M(J).

(29)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.404/89.

Date of Judgement 18.9.89

Ponnathi Srinivasa Rao ..Applicant

Vs.

1. The Asst. Supdt. of  
Post Offices,  
Kavali Sub Divn.,  
Kavali, Nellore Dist.

2. The Branch Postmaster,  
Branch Post Office,  
Chennayyapalem  
A/w Anemudugu,  
Kavali Mandalam,  
Nellore Dist.

3. G. Subba Rao,  
Chennayyapalem,  
Kavali Mandalam,  
Nellore Dist.

..Respondents

---

Counsel for the Applicant :: Shri S. Krishna <sup>for J.V. Prabhu</sup>

Counsel for the Respondents :: Shri N.V. Ramana, Addl. CGSC  
(for R1 & R2)  
Shri T. Jayant (for R3)

---

CORAM:

Hon'ble Shri R. Balasubramanian : Member(A)

Hon'ble Shri C.J. Roy : Member(J)

I Judgement as per Hon'ble Shri R. Balasubramanian,  
Member(A) ]

---

This application filed by Shri Ponnathi Srinivasa Rao  
against the Asst. Supdt. of Post Offices, Kavali Sub Divn.  
Kavali, Nellore Dist. & 2 others under section 19 of the  
Administrative Tribunals Act, 1985 seeks to declare the  
letter No. Nil dt. 3.5.89 from the Branch Postmaster,  
Chennayyapalem illegal and to set aside the same.

2. The applicant was appointed as EDMC/DA, Chennayyapalem B.O. w.e.f. 1.12.86 vide Memo No. EDMC/DA/Chennayyapalem dt. 24.6.88 of the Asst. Supdt. of Post Offices, Kavali. Prior to 1.12.86 also he was functioning in the same capacity. All of a sudden, vide the impugned dt. 3.5.89, he was asked not to come to office fr:

day since the respondents had appointed Shri G. Subba Rao (R<sup>3</sup>) as EDMC/DA. This order was given to the applicant on 15.5.89. The applicant alleges that this action of the respondents without any notice or opportunity, is illegal. Hence this O.A.

3. The respondents have filed a counter affidavit and oppose the O.A. It is admitted that in response to their notification dt. 2.3.87, there were 3 applications including those of the applicant and R<sup>3</sup>. It is also admitted that the applicant was duly selected. However, on 13.4.89, the Postmaster-General, Vijaywada asked the Supdt. of Post Offices, Nellore to review the selection. This led to cancelling the earlier appointment of the applicant. Hence the impugned letter dt. 3.5.89. It is also contended that the applicant was not a regular employee and the provisions of E.D. Agents Conduct Rules are not applicable to him. They also justify their action since R<sup>3</sup> has passed Intermediate examination while the applicant has passed only S.S.C., thereby holding that R<sup>3</sup> is better qualified for the job.

4. We have examined the case and heard the counsel for the applicant, the Postal Department and R<sup>3</sup>. The Department presents a pathetic spectacle as can be seen from what follows. <sup>Some of</sup> Their statements are contradictory and can be easily dismissed. On the one hand they say that he was appointed after due selection. Their order dt. 24.6.88 is clear evidence. It is stated <sup>therein</sup> that his conduct and service would be governed by the P&T E.D. Agents (Conduct & Service) Rules, 1964. Elsewhere in the counter, it is contended, this time, that the applicant not being a regular employee is not covered by the said Conduct Rules - a straight contradiction.

5. Their reason for the volte face is also hardly convincing. It is said that R<sub>4</sub> had passed Intermediate and better qualified than the applicant who had passed only S.S.C. According to the Recruitment Rules, preference can be shown only to matrics over those possessing the minimum qualification of VIII Std. No further distinction beyond matric is indicated. On this ground the Department is wrong.

6. The respondents also refer to O.A.No.192/89 filed by R<sub>4</sub>. When that O.A. was filed, the Department had already appointed the applicant. R<sub>4</sub> who filed that O.A. can be excused, on grounds of ignorance, for not impleading the applicant. But what about the official respondents therein? The Bench was told by the respondents that the Postmaster-General had given a direction to the lower authorities to take a final decision in regard to the selection expeditiously. Hence, the Bench disposed of that O.A. directing the respondents to consider the applications received in response to the notification dt. 2.3.87 within a month. Vital information, that an appointment had already been made in June, 1988 itself, was not placed before the Bench. The Department is to be blamed for this. On top of this, they now vainly attempt to draw support from the decision in that O.A.

7. More than all, what is appalling is the abrupt action of the Department in utter disregard of the principles of natural justice. No notice or opportunity is given to the applicant before dispensing with his services. This is a clear violation of the Rules stated by the Department to be governing his service and clearly mentioned in the appointment letter dt. 24.6.88. Natural justice demands that the applicant should be heard before his appointment is undone by the Department. ~~.....~~ It has <sup>also</sup> not been shown to us what serious irregularity the Department <sup>has</sup> set right by abrupt action.

(32)

8. From all angles available to us, the action of the Department is illegal and we unhesitatingly quash the impugned order dt. 3.5.89. The respondents are directed to reinstate the applicant in the post with all consequential benefits including backwages. This order shall be complied with by the Department within two months of receipt of this order.

9. It is ~~seen~~ <sup>seen</sup> that R.3 who was also appointed is on the job since 1989. As a consequence of our direction, he will be out of job. The Department has to rehabilitate him in accordance with provisions in the rules.

10. The O.A. is allowed with no order as to costs.

R.Balasubramanian

( R.Balasubramanian )

Member(A).

*Ershy*  
( C.J.Roy )

Member(J).

*2/2*  
Dated: 18th September, 1992.

*8-28/8/92*  
Deputy Registrar(J)

To

1. The Assistant Superintendent of Post Offices,  
Kavali Sub Division, Kavali, Nellore Dist.
2. The Branch Postmaster, Branch Post Office,  
Chennayyapalem, A/w Anemudugu,  
Kavali Mandalam, Nellore Dist.
3. One copy to Mr. J.V. Prasad Advocate, H.No: 3-4-824, Barkuppalli,  
Hyderabad or Mr. T. Jayant, Advocate for R.3 CAT. Hyd.
4. One copy to Mr. N.V. Ramana, Addl. CGSC.CAT.Hyd.
5. One copy to Mr. T. Jayant, Advocate for R.3 CAT. Hyd.
6. One spare copy.
7. One copy to Deputy Registrar(J)CAT.Hyd.
8. Copy to All Reporters as per standard list of CAT.Hyd.  
pvm.

*29/10/92*