

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A. No. 48 of 1989

Date of decision: 16-9-1991.

Between

D.Ch.Ramulu

... Applicant

and

1. Union of India rep. by the  
Secretary to Government,  
Dept. of Posts, New Delhi.

2. The Supdt. of Post Offices,  
Nandyal.

3. The Sub-Divisional Inspector,  
Postal, Markapur.

4. G.Bhaskar Rao

... Respondents

[Respondent No.4 impleaded as per order of Tribunal dated 14.11.1990 in MA-731/90]

Appearance:

For the applicant : Sri K.S.R.Anjaneyulu, Advocate

for the Respondents 1-3 : Sri N.V.Ramana, Addl.CGSC

For the Respondent-4 : Sri S.Ramakrishna Rao, Advocate

CORAM:

The Hon'ble Shri J.Narasimha Murthy, Member (Judicial)

The Hon'ble Shri R.Balasubramaniam, Member (Admn.)

JUDGMENT

(of the Bench delivered by the Hon'ble Shri J.Narasimha Murthy,  
Member (J).)

The applicant has filed this application for a relief to declare the order of termination issued by the Superintendent of Post Offices, Nandyal in his Memo. No.B6/BPM/Nayudu dated 18-1-1989 as arbitrary and illegal and violative of the principles of natural justice and to set aside the same.

2. The brief facts are as follows: In July 1988, applications were called for by the Supdt. of Post Offices, Nandyal, for filling up the post of EDBPM Nayudupalem. The applicant, alongwith three others applied for the post. The applicant was selected after verification of all the required documents by the Sub-Divisional Inspector, Posts, Markapur. The applicant is a physically handicapped person. The Superintendent of Post Offices, Nandyal, by his memo. dated 16-9-1988 directed the applicant to contact the Sub-Divisional Inspector, Postal, Markapur regarding his appointment as EDBPM. Accordingly, the applicant reported to the Sub-Divisional Inspector, Postal, Markapur who has admitted the applicant on duty on 23-9-1988 as per the charge report and order dated 23-9-1988 duly attested by the Sub-Divisional Inspector, Posts, Markapur. The applicant has been performing his duty satisfactorily without any complaint from any quarter. He has completed four months of service. As it stood thus, the Supdt. of Post Offices, Nandyal, issued Memo. No.B6/BPM/Nayudupalem dated 18-1-1989 stating that the services of the applicant acting as ED BPM were terminated with immediate effect. The termination is without any notice and assigning any reasons therefor, and is arbitrary and contrary to the Articles 14 and 16 of the Constitution of India and the termination is malafide. No other person is selected and appointed to the post ~~the~~ <sup>except</sup> applicant. So he filed the present application for setting aside his termination order.

3. The Respondents (Department) filed their counter in the following manner: A public notification was issued on 31-5-1988 for filling up the post of Extra Departmental Branch Post Master (ED BPM), Nayudupalem,

Account with Erragondapalem which vacancy had arisen due to removal of the incumbent. Pursuant to the said notification, four applications were received including that of the applicant and the fourth Respondent herein who was working as Provisional BPM Naidupalem. Since the applicant is a physically handicapped and possessed other requisite qualifications, the 2nd Respondent, the Supdt. of Post Offices, Nandyal selected the applicant and directed the 3rd Respondent, the Sub-Divisional Inspector, Postal, Markapur, to arrange the transfer of the charge of the Branch Post Office from Sri G. Bhaskara Rao, 4th Respondent herein, to the selected candidate and the applicant was directed to contact the SDI(P), Markapur. Otherwise, no orders appointing the applicant either provisionally or regularly, were issued. The SDI(P) Markapur visited the Branch Office on 23-9-1988 for arranging the transfer of the charge but the incumbent Shri G. Bhaskara Rao deserted the premises. Thereupon the SDI(P) prepared an inventory of the B.O. and transferred the charge on 23-9-88 ex-parte to the applicant. The said Shri G. Bhaskara Rao made a representation dated 30-9-1988 to the Post Master General, A.P., Hyderabad against his non-selection as ED BPM Naidupalem on regular basis. He also filed O.A. No. 795/88 before this Tribunal. However, this Tribunal by judgment dated 18-11-1988 dismissed the O.A. as premature but directed the P.M.G. to dispose of the representation of the applicant therein, within four months therefrom. Accordingly, the Addl. Post Master General, Hyderabad reviewed the entire selection. The Addl. P.M.G. observed that there was no adverse element effecting the selection of Shri Bhaskara Rao, that he was a better qualified person than the selected candidate

and that he is an S/C candidate. He further ordered vide his letter No. ST/25-25/88 dated 5-1-1989 to set aside the selection of Shri D.Ch.Ramulu, the applicant herein, and appoint the said Shri G.Bhaskara Rao as ED BPM. Accordingly, the 2nd Respondent, vide the impugned order dated 18-1-1989 directed the SDI(P) Markapur, the third Respondent herein to arrange the transfer of the charge of the B.O. to Shri G.Bhaskara Rao. Against the said orders, the applicant has filed the present O.A. It is a fact that the applicant was appointed as ED BPM but no orders  appointing him provisionally or regularly were issued. The Addl. Post Master General, Hyderabad has reviewed the selection made on the representation of Shri G.Bhaskara Rao who was provisionally working as B.P.M. and pursuant to the direction of this Tribunal dated 18-11-88 in O.A. No.795/88 and set aside the selection of the applicant and directed the 2nd Respondent to select the said Shri Bhaskara Rao, the 4th Respondent herein, since he is a better qualified candidate than the applicant. The Addl. Post Master General has got every right and is competent to review the selection and pass such orders as deemed fit. The applicant did not produce any doctor's certificate to the effect that he is a physically handicapped person. However, the applicant has submitted a photograph of him showing his physical handicapness. There is also no provision in the rules for giving preference to physically handicapped persons while making selections to the posts of ED BPM. The applicant was not given a formal appointment order.

4. It is further stated in the counter that this Tribunal has passed interim orders in the O.A. on 24-1-1989 staying the impugned orders but the telegraphic orders of this direction, were received by the 2nd Respondent at 2030 hrs. on 24-1-1989 and immediately the third Respondent was accordingly telegraphically instructed on 25-1-1989. However, by the time the said telegram was received, the 3rd Respondent has already transferred the charge on 25-1-1989 afternoon to the said Shri G.Bhaskara Rao. In the circumstances, the interim orders staying the impugned proceedings passed by this Tribunal have become infructuous. The contention of the applicant that he did not make over the charge and he was on leave is not correct. After the impugned order is passed, the applicant requested for L.W.A. from 23-1-1989 and the said application was received by the sanctioning authority on 27-1-1989. The applicant stayed away from duty without proper sanction of L.W.A. with a view to undermine the impugned orders of the 2nd Respondent. It is stated that the third Respondent, however, transferred the charge to Shri Bhaskara Rao on 25-1-1989. It is stated that there are no merits in the application hence the application is liable to be dismissed.

5. The learned counsel for the applicant Shri K.S.R. Anjaneyulu, and for the Respondent Shri N.V.Ramana, Addl.CGSC and Shri S.Ramakrishna Rao, for Respondent No.4, have argued the matter.

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6. It is an admitted fact that in July 1988 applications were called for by the Supdt. of Post Offices, Nandyal for filling up the post of ED BPM, Naidupalem and in that selection, the Supdt. of Post Offices, Nandyal, vide his memo. dated 16-9-1988 directed the applicant to contact the Sub-Divisional Inspector, Postal, Markapur regarding his appointment to the post of ED BPM. But the applicant was not given any order of appointment by the Department. The applicant contended that he was given charge on 23-9-88 by the Department. In fact, by that time, the 4th Respondent herein (Shri Bhaskara Rao) was acting in that post. Without any order of appointment, how the applicant took charge of the post is a peculiar aspect and this matter was brought to the notice of the higher ups viz. the Post Master General and the Addl. Post Master General conducted a review of the whole issue and declared that Shri Bhaskara Rao is a better qualified candidate than the petitioner himself and he is an S/C candidate and so since the applicant was put in charge of the post without any order, he was terminated from service.

7. There is no provision for reservation to entertain the physically handicapped persons in this case. There is no appointment order either in his favour in this case. The Departmental authorities put him in service without issuing any valid order. The service that was rendered during that period cannot be taken into account towards experience or for anything to continue him in the job.

8. The competent authority reviewed the matter and selected Shri Bhaskara Rao, the 4th Respondent herein, who is a competent candidate for the post and who was working provisionally in the post stating that he is the more meritorious candidate and more over he is an S/C candidate and as per the rule-6 of the Posts and Telegraphs Extra-Departmental Agents (Conduct and Service) Rules, 1964, the SC/ST candidates should be preferred as ED BPM whenever they are available. Subsequently, the petitioner was removed from service and in his place Shri Bhaskara Rao, the 4th Respondent herein, was put in charge of the post.

9. The competent authority reviewed the matter and he selected Shri Bhaskara Rao for the post and he is qualified for the same. There are no merits in favour of the petitioner. Hence the Application is dismissed. No costs.

MS

R. Balasubramanian

(J. Narasimha Murthy)  
Member (Judl.)

(R. Balasubramanian)  
Member (Admn.)

Dated: 16th th day of September, 1991.

REGISTRAR

mjb/-

Copy to:-

1. Secretary, ~~to Government of India,~~ Department of Posts, New Delhi.
2. The Supdt. of Post Offices, Nandyal.
3. The Sub-Divisional Inspector, Postal, Markapur.
4. One copy to Shri. K.S. Anjaneyulu, Mandal, Prakasam Dist. C.A.T. Hyderabad.
5. One copy to Shri. N.V. Ramana, Addl. CGSC., C.A.T. Hyderabad.
6. One copy to Shri. S.Rama Krishna Rao, H.No.1-10-29, Ashok nagar Hyderabad.
7. One spare copy.

RSM

18/9/91

O.A. 4889

R.S.R.  
17/9/91

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. J. NARASIMHA MURTY: M(J)

AND

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

DATED: 16/9/ -1991

ORDER JUDGMENT

M.A./R.A./C.A. No.

in

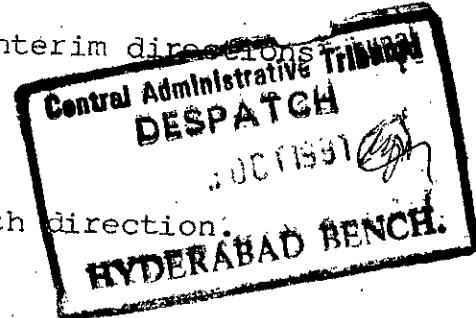
D.A. No. 48/89

T.A. No.

(W.P. No.)

Admitted and Interim directions issued.

Allowed.



Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

18/9/91