

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.721 of 1989

DATE OF JUDGMENT: 13th OCTOBER, 1992.

BETWEEN:

Mr. K.Ramanadh

..

Applicant

AND

1. The Postmaster General/
Director of Postal Services,
Hyderabad.
2. The Additional Postmaster General,
Vijayawada,
Krishna District.
3. The Superintendent of Post Offices,
Prakasham Division,
Ongole,
Prakasham District.

4. Mr. G.V.Krishna Rao

..

Respondents

COUNSEL FOR THE APPLICANT: Mr. G.Krishna Murthy

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Addl.CGSC

CORAM:

Hon'ble Shri R.Balasubramanian, Member (Admn.)

Hon'ble Shri C.J.Roy, Member (Judl.)

contd....

7/10

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER(JUDL.)

This is an application filed under Section 19 of the Administrative Tribunal Act, 1985 by the applicant herein claiming a relief to direct the 3rd respondent to appoint him as Extra Departmental Branch Postmaster of Vaidana Village, Ballikurva Mandal, Prakasham District by setting aside the appointment of the 4th respondent as EDBPM of Vaidana Village.

2. The facts giving rise to this application are briefly as follows:-

The applicant made an application for the post of Extra Departmental Branch Post Master of Vaidana Village in Ballikurva Mandal, Prakasham District and the same was rejected by appointing the 4th respondent to the post of EDBPM, Vaidana Village. The applicant states that his father ~~XXXXXXXXXXXX~~ had worked as Extra Departmental Branch Post Master for about 26 years. His grand father also worked as EDBPM upto 1960. In the leave period of his father, the applicant used to work as BPM of Vaidana Village and he has experience of more than four years. He passed Graduation and also having landed property worth Rs.2,80,000/- and also a building at Vaidana Village. After retirement of his father, the applicant applied for the said post but the same was rejected by appointing the 4th respondent as EDBPM of Vaidana Village.

contd....

22/8/71

.. 3 ..

3. The applicant made a representation in October 1988 to the 2nd respondent following by two legal notices for setting-aside the appointment of the 4th respondent and the same were replied on 1.2.1989 stating that the selection procedure has been found to be in order. The appointing authority without considering the requisite free condition of having sufficient accommodation for running the Branch Post Office and also property and income of the candidates, selected the 4th respondent which is contrary to the basic principles of natural justice and method of recruitment rules. The applicant states that the appointing authority ~~would be~~ required to obtain the approval of the Divisional Superintendent before appointing any person as Branch Post Master. So, the selection is vitiated being not based on the rules. He states that as per Rule 15, the working Extra Departmental Agent should be given priority over other applicants in the matter of selection for appointment in the ED posts and the past experience should be reckoned for the purpose of eligibility for taking departmental examination.

4. The appeal made by the applicant to the 1st and 2nd respondents stating the irregularities committed by the appointing authority in the selection of the 4th respondent as EDBPM, was not considered. Hence, this application.

5. The respondents 1 to 3 filed a counter stating that the applicant was initially selected by the 3rd respondent and the file was sent for the approval of the 2nd respondent who on a review directed the 3rd respondent to appoint the

contd...

49V

.. 4 ..

4th respondent as EDBPM. Accordingly the 4th respondent was appointed as BPM on regular basis. The provisional appointment ~~as~~ of the 4th respondent was subsequently regularised by an order dated 22.9.1989 of the 3rd respondent and he is continuing in the post. The 4th respondent was selected strictly in accordance with the rules/instructions on the subject. The selection has been made after taking into consideration the qualifications of all the 9 candidates who applied for the post including the applicant. The applicant could not state any rule in support of his argument. Hence, there are no merits in the application and the application is liable to be dismissed.

6. We have heard the learned counsel for the applicant Mr. G.Krishna Murthy and the learned Additional Standing Counsel for the Respondents, Mr. N.V.Ramana. We have also perused the records produced by the respondents.

7. According to the recruitment rules, the educational qualification for the post of EDBPM is VIIIth Standard (Matriculation or equivalent may be preferred) and the person must be one who has an adequate means of livelihood. The person selected must be able to offer space to serve as the agency premises for postal operations. The premises must be such as will serve as a small postal office with

contd....

4th
Q
7

(50)

.. 5 ..

provision for installation of even a PCO (Business premises, such as shops, etc., may be preferred). The person should be a permanent resident of the village where the post office is located and he should be able to attend the post office work as required of him keeping in view the time of receipt, despatch and delivery of mails which need not be adapted to suit his convenience or his main avocation.

8. At Para 6 under 'Method of Recruitment - Preferential categories', we do not find previous experience is one of the qualification. It is stated therein that preference should be given to SC, ST and backward classes.

9. The learned counsel for the applicant argued that under Rule 15 of the recruitment rules, working ED Agent should be given priority over other applicants in the matter of selection for appointment in the ED posts. But this does not apply to this case since this rule pertains to the selection of the ED Agents but not EDBPM.

10. Under Rule 27 (Page-55), the Scheduled of Appointing Authorities, Officer-in-Charge of the Division i.e., the 3rd respondent herein, is the appointing authority for appointment to the post of EDBPM vide Min. of Communication, Notification No.10/3/83-Vig.III, dated 3.9.1983

11. The Appointing Authority defined under Rule 3(1) & (2) (Page 6), reads as follows:-

contd....

[Handwritten signature]

.. 6 ..

"(1) The appointing authority in respect of each category of employees shall be as shown in the Schedule annexed to these rules.

(2) If any doubt arises as to who is the appropriate appointing authority in any case, the matter shall be referred to the Government, whose decision thereon shall be final."

12. The main contention of the applicant is that he is not a novus homo but his ancestors i.e., his father and grand-father worked as Branch Postmaster of the Vaidana village for many years. This is not a criteria for offering an appointment to the applicant. The Department has to follow the rules/instructions of the Government which they did while appointing the 4th respondent. The respondents in their counter stated that the selection and appointment of the 4th respondent was strictly in accordance with the rules/instructions on the subject. There is no provision for hereditary appointment in the rules.

contd....

6/11/88
J.

(52)

.. 7 ..

13. We find from the records produced by the respondents that the applicant is having a certified annual income of Rs.10,000/- with a joint property in his own name whereas the 4th respondent is having a certified annual income of Rs.12,000/- per annum with tiled cum terraced house in the name of his father but transferred to him under an agreement. Hence, the respondent felt that the 4th respondent is better qualified than the applicant.

14. Besides, the O.A. was filed in 1989. We find that there is not much interest shown by the applicant to represent his case. Several times, the case was adjourned since there was no representation from the applicant's side. When the case was called on 8.3.1992, there was no representation from the applicant's side. Hence, the O.A. was dismissed for default. Thereafter, the applicant filed M.A.No.885/92 for restoration and the same was allowed on 22.9.1992.

15. The order of appointment is not vitiated if the case is reviewed by the higher authority who is the 2nd respondent herein and directing the 3rd respondent to appoint the 4th respondent. So, there is no illegality in the selection made by the 2nd respondent.

contd....


Handwritten signature/initials at bottom left.

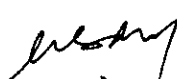
.. 8 ..

16. Though both the applicant and the 4th respondent were on par in the matter of educational qualifications, the applicant is having an annual income of Rs.10,000/- whereas the selected candidate (4th respondent) has an annual income of Rs.12,000/-. Hence, the selection of the 4th respondent for appointment to the post of BPM, Vaidana Village, cannot be found fault with.


17. Therefore, the applicant has not made out any case of arbitrariness or malafides or not following the recruitment rules. We see no reason to interfere with the selection made by the respondents.

18. The application is accordingly dismissed with no order as to costs.


(R. BALASUBRAMANIAN)
Member (Admn.)


(C.J. ROY)
Member (Judl.)

Dated: 13th October, 1992.


Deputy Registrar (J)

- To
1. The Postmaster General, Director of Postal Services, Hyderabad.
 2. The Additional Postmaster General, Vijayawada, Krishna Dist.
 3. The Superintendent of Post Offices, Prakasham Division, Ongole, Prakasham Dist.
 4. One copy to Mr. G. Krishna Murthy, Advocate, 5-9-22/8-A Adarshnagar, Postoffice Lane, Hyd.
 5. One copy to Mr. N.V. Ramana, Addl. CGSC. CAT. Hyd.
 6. One spare copy

vsn

pvm.

Handwritten notes:
Sd/-
7/

copy
TYPED BY _____ COMPARED BY _____
CHECKED BY _____ APPROVED BY _____

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

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

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
M(JUDL)

AND

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

Dated: 13-10-1992

ORDER/JUDGMENT:

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

in

O.A.No. 721/89

T.A.No.

(wp.No)

Admitted and interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No orders as to costs.

Central Administrative Tribunal
DESPATCH
- 1 DEC 1992
HYDERABAD BENCH