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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.722 of 1989

DATE OF JUDGMENT: 13th OCTOBER, 1992

BETWEEN:

Mr. K.Hari Babu

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Applicant

AND

1. The Postmaster General/
Director of Postal Services,
Hyderabad.

2. The Addl. Postmaster General,
Vijayawada,
Krishna District.

3. The Superintendent of Post Offices,
Prakasham Division,
Ongole,
Prakasham District.

4. Shri 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.)

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

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicant claiming a relief to direct the respondents to appoint him as Extra Departmental Branch Post Master of Vaidana, Ballikurva Mandal, Prakasham District by setting aside the appointment of the 4th respondent as EDBPM of Vaidana Village.

2. The brief facts of the case are as follows:-

The applicant's father, Mr. Kopparapu Venkateswara Rao, retired from the Post of EDBPM on 30.6.1986. His grand father also had worked as EDBPM upto 1960 in the same Village viz., Vaidana Village. In the leave period of his father, the applicant states that he used to work as EDBPM of Vaidana and having experience of more than two years. He is qualified to be appointed to the post of EDBPM in all respects. The applicant applied for the post of EDBPM, Vaidana along with other applicants but the 4th respondent was appointed ignoring the claim of the applicant. Hence, this application.

3. We have heard the learned counsel for the applicant Mr. G.Krishna Murthy and the learned Additional Standing

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Counsel for the respondents, Mr. N.V.Ramana. We have also perused the records produced by the respondents.

4. The counter filed in the connected case of the brother of the applicant herein in O.A.No.721/89 is adopted here by the respondents' counsel.

5. As per the recruitment rules, the educational qualification for appointment to the post of EDBPM is VIII Standard (Matriculation or equivalent may be preferred). One should have 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 provision for installation of even a PCO (Business premises, such as shops, etc., may be preferred). The selected person must be a permanent resident of the village where the post office is located. 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.

6. Under the heading "Preferential Categories" at Para 6 (page 58) of the recruitment rules, we do not find that the experience is one of the qualifications. It is stated that preference should be given to SC, ST and backward classes.

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7. The learned counsel for the applicant argued that under Rule 15, 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 ED Agents but not EDBPM.

8. Under Rule 27, Schedule of Appointing Authorities, the appointing authority is the Officer-in-Charge of the Division i.e., the 3rd respondent vide Notification of the Ministry of Communication No.10/3/83-Vig.III, dated 3.9.1983.

9. Rule 3 defines the appointing authority (Page-6) which reads as follows:-

"(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."

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10. We find from the records that the applicant is having a certified annual income of Rs.10,000/- with a joint property but he did not produce any documentary evidence to show that the property is in his name whereas the 4th respondent is having a certified annual income of Rs.12,000/- with tiled cum terraced house in the name of his father but transferred to him under an agreement. Therefore, the respondents, taking into consideration all the aspects in respect of all the applicants who applied for the post, selected the 4th respondent which selection is in order.

11. The learned counsel for the applicant contends that the applicant is not a novus homo but his ancestors i.e., his father and grand father worked as Branch Post Masters 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. There is no provision for hereditary^a appointment in the rules.

12. Besides, the O.A. was filed in 1989. We find that there is no 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

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from the applicant's side. Hence, the O.A. was dismissed for default. Thereafter, the applicant filed M.A.No.886/92 for restoration and the same was allowed on 22.9.1992.

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

14. In view of the above, we have no hesitation in holding that though both the applicant and the 4th respondent were on par in the matter of educational qualifications, i.e., both are Commerce Graduates, the main factor which was taken into consideration by the Department was that while the applicant has an annual income of Rs.10,000/-, the selected candidate (4th respondent herein) has an annual income of Rs.12,000/-. The another factor considered by the respondents is that the applicant is having a joint property but he did not produce any document to show that the property is in his own name whereas the 4th respondent is having a tiled cum terraced house in the name of his father but transferred to him under an agreement.

15. 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

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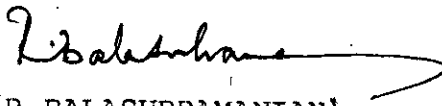
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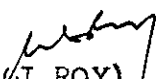
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the selection made by the respondents, and the selection of the 4th respondent for appointment to the post of EDBPM, Vaidana Village, cannot be found fault with.

16. 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)
17/11/92

To

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

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17/11/92

Two drafts
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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.N.~~

in

O.A.No. 722/89.

~~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.

