

ANNEXURE -- I

List of Papers in Original Application No. 884/89

Sl. No. Of Papers.	Date of Papers or Date of Filing	Description of papers.
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Part - I

5-8-93

Original Judgement

O.A. & Meterial Papers.

Counter

Reply counter

PART-I, PART-II and PART-III Destroyed.

A
5/1/99.

DA 884/89

Date

Office Note

Orders.

22/7/93

Arguments Concluded.

M. K. L. Narasimha requested for short adjournment on the ground that he wants to take instructions to check if there is any amendment to the instructions issued by D. G. P. in his letter No. - 47-5/79-SPB-I, dated 20.3.79 and letter No. 47-5/80-SPB-I, dated 7.4.1980.

List this case for orders on 5.8.93.

5-8-93

HCSR
9(J)

HABG
7(A)

C.A. Dismissed. Orders on separate sheets. No costs.

T. (Imp.)
HTCR
M(S)

HABG
M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A./T.A. NO. 884 1989

Applicant(s)

Versus

Respondent(s)

Date	Office Note	Orders
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17-11-89

NS. issued to the
respondents 1 to 3.
Fixing fd. hearing
on 19-12-89.

*Copy sent
for u.m.
5/11/89*

Admit and issue notices.
By way of interim direction,
the respondents are directed
to permit the applicant to take
part in the ensuing examination
but his report will not be
published until the case is
disposed of. Both after ten
weeks.

*But
(B.N.V.)*

(D.R.)

For Counter:

BEFORE THE REGISTRAR:
1st time: 18-12-1989:

Counsel of
both sides
absent.

Time extended
till 26-12-89
for Counter.

REGISTRAR

2nd time: 26-12-89: Counsel of both sides absent. Time extended till
2-1-90 for Counter.

*for
D.R.(J)*

P.T.O.

3rd time: 2-1-90: Counsel of both sides absent. Counter not filed.
Post before court for orders.

REGISTRAR.

Mr. P. P. P. P.
Mr. M. Ramana,
Tel. 02 124/2/93.

u T. C. n

1493

applicant's counsel not
present portion 18.6.93

HABG
M.A.

T. C. n
HABG
M.A.

2
18.6.93

lost the case on 15-7-93

T. C. n
HABG
M.A.

HABG
M.A.

15.7.93

heard the applicant's
counsel in part. portion
20.7.93 in part heard

T. C. n
HABG
M.A.

L
HABG
M.A.

2

9

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

~~Transferred~~ APPLICATION No. 884 of 1989
ORIGINAL

DATE: 7290

Finally Three weeks time
granted for filing Counter,
at the request of Stading
Counsel/Respondents, here-
after post the case for final
hearing according to its turn
in usual course.

BNJ
VC

IDS
M(3)

9/1/91

on 27/9/89 in OA 884/89

M.A. is allowed considering the delay in
filing the Counter affidavit. Order is directed
to receive the Counter-affidavit.

per the OA for hearing in its
usual course.

Dr

BNJ
VC

21-10-92

On the report on behalf of the
applicant counsel, adjourned
to 4-11-92.

HABG
H(A)

J.C.N.
HTC R/
H(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.No.884 OF 1989

Date of order:8-11-1989

BETWEEN:- P.Parthasaradhi

....Applicant

AND

1. Secretary to Govt. of India, Ministry of Communications, Department of Posts, New Delhi.
2. Chief Post Master General, AP Hyderabad.
3. Sr. Superintendent of Post Offices, Vizag.

...Respondents.

FOR THE APPLICANTS: Mr. K. Lakshminarasimha, Advocate

FOR THE RESPONDENTS: MR. J. Ashok Kumar, SC for Department of Posts.

CORAM : THE HON'BLE MR. B. N. JAYASIMHA: VICE-CHAIRMAN
AND
THE HON'BLE MR. D. SURYARAO: MEMBER (JUDL.)

THE TRIBUNAL MADE THE FOLLOWING ORDER:-

Admit and issue notices. By way of interim direction, the respondents are directed to permit the applicant to take part in the ensuing examination but his result will not be published until the case is disposed of. Post after six weeks.

DEPUTY REGISTRAR(J).

To

1. Secretary to Govt. of India, Ministry of Communications, Department of Posts, New Delhi.
2. Chief Post Master General, AP Hyderabad.
3. Senior Superintendent of Post Offices, Vizag.
4. One copy to Mr. K. Lakshminarasimha, Advocate, 16-11-20/13, Saleemnagar-2, Hyderabad-500036.
5. One copy to Mr. J. Ashok Kumar, SC for Department of Posts, CAT, Hyderabad.
6. One spare copy.

Read by

Compared by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

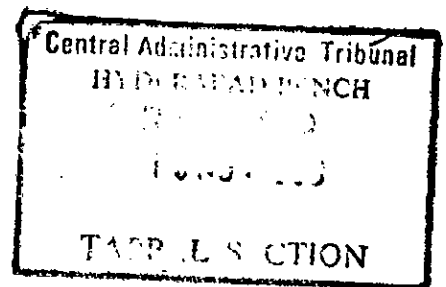
HON'BLE MR. B. N. JAYASIMHA: (V.C.)
AND
HON'BLE MR. D. SURYA RAU: MEMBER (JUDL)
AND
HON'BLE MR. D. K. CHAKRAVORTY: MEMBER (A).
AND
HON'BLE MR. J. NARASINHAMURTHY: MEMBER (J)

DATED: 8/11/88

ORDER / JUDGMENT

F.A. / O.A. 884/89
(W.P. No.)

Admitted and Interim
directions issued.



8/11/88

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

DA No.884/89.Dt. of Order:5-8-93.

P.Parthasaradhi

....Applicant

Vs.

1. Secretary to Govt. of India,
Ministry of Communications,
Department of Posts, New Delhi.
2. Chief Post Master General,
Andhra Pradesh, Hyderabad.
3. Sr.Superintendent of Post Office,
Visakhapatnam.

....Respondents

-- -- --

Counsel for the Applicant : Shri K.Lakshminarasimha

Counsel for the Respondents : Shri N.V.Ramana, Addl.CGSC

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CORAM:

THE HON'BLE SHRI A.B.GORTHI : MEMBER (A)

THE HON'BLE SHRI T.CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Divn. Bench passed by Hon'ble
Shri A.B.Gorthi, Member (A)).

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The applicant was appointed as E.D.D.A. on 9-2-83. He is a Commerce Graduate. According to service rules for promotion to the ~~post of~~ Group 'D' posts, including the post of Postman, an eligibility test is prescribed to be conducted. The minimum service required to appear for test is three years. The petitioner having completed the minimum period of service became eligible to appear

h^o

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for the test from 1986 onwards. The Respondents have conducted examination in July, 1989,^{al} though they should have held the test/examination every year. Notwithstanding the same, the applicant appeared for the examination held in July, 1989. The vacancies notified for the said examination were 21 for departmental candidates and 20 for out siders. The applicant belongs to the category of out sider. Although the applicant qualified in the said examination and was placed quite higher in the merit list, ignoring the merit list the respondents have promoted others on the ground that they were senior to him. Aggrieved by the same, the applicant has filed this O.A. praying that the results published vide memo No.89/7/89 dt.16-8-89 be quashed and the Respondents be directed to publish afresh results strictly in the order of merit and re-fix the seniority on the basis of such results.

2. The Respondents in their reply affidavit stated that the applicant joined as a Stamp Vendor in the E.D. Cadre on 9-2-83. He applied for the Group 'D' examination scheduled to be held on 20-8-89. Notification for holding the said examination was issued by the Sr.Superinten-

....3.

20/10/89

(H)

dent of Post Offices, Visakhapatnam, vide his memo No.89/7/89 dt.11-3-89. The last date for receipt of applications from the eligible candidates was fixed for 17-4-89. In response to the said notification the applicant applied and appeared for the examination. The Respondents further contend that the applicant is not having the required seniority as per the recruitment rules ^{or} 1979.

3. The short question that has been vehemently contended by the learned counsel for both the parties is whether the examination held on 16-7-89 should be governed by the instructions issued by the Department of Posts vide letter No.44-44/82-SPB-1 dt.7-4-89 or in accordance with the D.G.P&T letter No.47-5/79-SPB-1 dt.20-3-79 read with a subsequent letter dt.7-4-80. Admittedly, if the examination ^{was} held in accordance with the earlier instructions, the applicant has no case. Shri Lakshminarasimha, learned counsel for the applicant contends that the revised instructions have come into force from 7-4-89 and the examination that was held on 16-7-89 had to be governed by revised instructions, by which the earlier instructions were super-seeded.

4. In the light of the few admitted facts, the legal position has to be examined. It has been held in Y.V.Rangiah Vs. J.Srinivasa Rao (1983 (1) SLR 789) that

the vacancies which occur prior to the amendment of rules will be governed by the old rules and not by the amended rules. Further the same aspect has been elaborated by the Supreme Court in their judgment in the case of N.T.Devan Katti & others Vs. Karnataka Public Service Commission and Others (1990 SCC (L&S) 446). It has been held there, in that where proceedings are initiated for selection by issuing advertisement, the selection should normally be regulated by the then existing rules and government orders, and any amendment of the rules or the Government orders pending the selection should not affect the validity of the selection made by the selecting authority.

5. Learned counsel for the applicant has drawn our attention to the annexure at page-20 of the O.A. under which the time table for the examination to be held on 16-7-89 was given. It would show that the examination was to be conducted for which Paper (a) (b) and (c) were specified. He contends that a similar reference to Papers (a) (b) and (c) was given in the revised rules and accordingly it should be taken that this examination was held under the revised rules. Just because there were no annexures published/ attached to the D.G.P & T letters of 20-3-79 and 7-4-80, specifying Papers (a) (b) and (c) for the examination, we are not prepared to accept that the examination which was held in 1979 was as per the revised rules.

Copy to:-

1. Secretary to Govt. of India, Ministry of Communications, Department of Posts, New Delhi.
2. Chief Post Master General, Andhra Pradesh, Hyderabad.
3. Sr. Superintendent of Post Office, Visakhapatnam.
4. One copy to Sri. K. Lakshminarasimha, advocate, 16-11-20/13, Saleemnagar, Hyd-2.
5. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

6th April
P310
7/1983

113

6. In the light of what has been aforesaid, it is apparent that the Respondents were justified in conducting the examination which was held on 16-7-89 in accordance with the earlier instructions as contained in D.G.P&T letters dt.20-3-79 and 7-4-80.

7. In any case the revised instructions dt.7-8-89 clearly stipulated as under :-

"These instructions will be applicable to all the examinations for filling up of vacancies in the cadre of postman/village post master/mail guard to be announced after the date of issue of this letter (underlined for emphasis).

8. It cannot be said that the examination held on 16-7-89 was either intended to be or was actually conducted in accordance with the revised instructions dt.7-4-89. Even if the sum and substance of the said revised instructions has been subsequently promulgated through statutory rules, that would not make any difference to the merits of the case. In the result the application is dismissed. There shall be no order as to costs.

(T.CHANDRASEKHAR REDDY)
Member (J)

(A.B.GORTI)
Member (A)

Dated: 5th August, 1993.
Dictated in Open Court.

19/8/93
By Reg. Secy

avl/

Contd. - - - 6/-

5th Aug

0. N. 884/89

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

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

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 5/8/1993

ORDER/JUDGMENT: ✓

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

O.A.No.

T.A.No.

(W.P. _____)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

pvm

