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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD

O.A.No.998 of 1989.

Date of Judgment 22-2-1990.

T.Satyana^rayana

.. Applicant

Versus

The Secretary,
Ministry of Tele-
Communications,
New Delhi & 4 others .. Respondents

COUNSEL FOR THE APPLICANT : Shri CH.V.SURYANARAYANA
MURTHY

COUNSEL FOR THE RESPONDENTS : Shri J.ASHOK KUMAR <sup>S. for postal
Dept.</sup>
Shri V.S.R.ANJANEYULU, ^{Advocate}
for Respondent no. 5.

CORAM:

HONOURABLE SHRI J.NARASIMHA MURTHY : MEMBER (JUDL)

HONOURABLE SHRI R.BALASUBRAMANIAN : MEMBER (ADMN)

I Judgment as per Hon'ble Shri R.Balasubramanian,
Member (Admn) I

This is an application filed under section 19
of the Administrative Tribunals Act by Shri T.Satya-
narayana against the Union of India and 4 others.

The respondent 5 is a private party Shri B.Venkateswara
Rao.

2. The post of E.D. Branch Postmaster, Ilakolanu
Branch Post Office had fallen vacant consequent to the
resignation of the then incumbent. The respondent
department issued a notification on 5.6.87 calling for
applications from eligible candidates. The applicant was
initially appointed from 19.2.88 to 19.5.88 provisionally

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and was later appointed by the Supdt. of Post Offices, Rajahmundry Division, Rajahmundry on regular basis by his letter dated 8.4.88. During this period the respondent 5 moved the Tribunal praying that he be appointed. The case (O.A.No.122/88) was disposed of with a direction to the respondent department as follows

"In the circumstances the selection made is set aside and respondent 3 is directed to consider afresh applications of all the eligible persons including the applicant and make the selection in accordance with the rules. This shall be done within a period of 2 months."

In the light of this direction in the case of O.A.No.122/88 the respondent department by its letter dated 18.10.89 treated the appointment of the applicant Shri T.Satyanarayana as null and void. Later, by an order dated 11.12.89, the respondent department appointed Shri B.Venkateswara Rao (5th respondent) as E.D. Branch Postmaster. The applicant is aggrieved that instead of calling for fresh applications and considering the whole case de novo the respondent department had just set aside his appointment and instead appointed the 5th respondent. This, according to him, is a violation of the judgment given by this Tribunal in the case of O.A.No.122/88. The applicant has prayed that the impugned order of 11.12.89 of the 3rd respondent be set aside and that he be appointed as E.D. Branch Postmaster.

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3. The respondent department has not filed the counter in this case despite clear notice on ~~two~~ earlier occasions. However, we are taking the counter in the case of O.A.No.122/88 for the purpose of this case also. In the counter for O.A.No.122/88 the respondent while defending the selection of Shri T.Satyanarayana (the applicant in the case of O.A.No.998/89) had stated that when the post of E.D. Branch Postmaster, Ilakolanu fell vacant on 2.6.87 they approached the Employment Exchange for sponsoring candidates with requisite qualification. They had also issued public notification. There was no nomination received from the Employment Exchange even well beyond the time limit set by the respondent department. Therefore, they considered 7 applications received in response to public notification. The respondent department has stated that on consideration of all the applications received Shri T.Satyanarayana, respondent 5 in the case of O.A.No.122/88 and the applicant in the present case, was selected. They had also countered the contention of the applicant in that case that Shri T.Satyanarayana did not submit the required certificates and was allowed to fill up the blanks. They had stated that the candidates who had applied to the post are required to submit proof in regard to the essential qualification alongwith the

application. The applicant (Shri B.Venkateswara Rao) had not submitted nativity certificate alongwith his application while Shri T.Satyanarayana had not submitted income, property and nativity certificates. Therefore, they had addressed on 9.12.87 all the candidates to submit the certificates. It is their contention that when in the first instance virtually nobody had furnished all the required certificates everybody was given an opportunity to furnish the certificates later on. They had, therefore, contended that the appointment of Shri T.Satyanarayana should not be vitiated on these grounds.

4. In his counter the 5th respondent in this case (Shri B.Venkateswara Rao) has alleged that the petitioner (Shri T.Satyanarayana) was not having any property on the date of making the application and that he had taken advantage of the communication of the 3rd respondent and got the documents registered in his name on 16.12.87.

5. We have heard both the learned counsels for the applicant and the respondents both department and private. We had also gone through the records of the Supdt. of Post Offices, Rajahmundry Division, Rajahmundry. In the case of O.A.No.122/88 this Tribunal while setting aside the selection of Shri T.Satyanarayana had given a clear directive to the respondent department to consider afresh applications of all the eligible persons

and make the selection in accordance with the rules.

The short question before us is whether in the light of that directive the respondent department has done the selection within the stipulated time ~~of the person~~ in accordance with the rules. We find from the office note dated 4.12.89 in the file of the Supdt. of Post Offices, Rajahmundry Division that the case was considered afresh in its entirety in accordance with the Tribunal directive of 9.8.89. There were 7 applicants and all the cases had been examined and finally the choice was to be made between Shri T.Satyanarayana and Shri B.Venkateswara Rao. In the conclusion the Sr. Supdt. of Post Offices, Rajahmundry Division decided that Shri B.Venkateswara Rao had a house more suitable to locate the office and better financial viability and solvency than Shri T.Satyanarayana who had better educational qualification. Against this, earlier on 8.9.87 the Sr. Supdt. of Post Offices, Rajahmundry Division had, after scrutiny of all the 7 applications finally reduced the choice between Shri T.Satyanarayana and Shri B.Venkateswara Rao. He had at that time opined that though both of them belong to political parties and though both of them are eligible, he preferred Shri T.Satyanarayana since he had better educational qualification. This recommendation of the Sr. Supdt. of Post Offices was duly approved by the Director of Postal Services on 18.1.88. That was how Shri T.Satyanarayana was

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appointed. We are not able to find from the records of the Sr. Supdt. of Post Offices, Rajahmundry Division acceptance of the Director of Postal Services for the recommendation dated 4.12.89 of the Sr. Supdt. of Post Offices, Rajahmundry Division for the selection of Shri B.Venkateswara Rao on the grounds of better financial status. We find from the notice dated 5.6.87 that a candidate should have passed the 8th class and that preference will be given to Matriculates or equivalent and above. From this angle, Shri T.Satyanarayana, who is a Matriculate, is entitled to preference over Shri B.Venkateswara Rao. E.D. Agents Conduct & Service Rules, 1964 only require financial viability and owning a house convenient for location of the Branch Post Office. It does not indicate any preference on better location of the house or greater financial viability. It is also surprising that the respondent department who had earlier selected Shri T.Satyanarayana after due process had shifted its position without acceptable reason and appointed Shri B.Venkateswara Rao. Omission of Shri T.Satyanarayana and selection instead of Shri B.Venkateswara Rao is illegal.

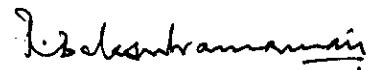
6. We, therefore, quash the order No.BE/Ilakolanu dated 11.12.89 of the Supdt. of Post Offices, Rajahmundry Division appointing Shri B.Venkateswara Rao as the E.D. Branch Postmaster, Ilakolanu.

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We direct that the respondent department to appoint the applicant in this case (Shri T.Satyaranayana) as the E.D. Branch Postmaster, Ilakolanu within one month of this order.

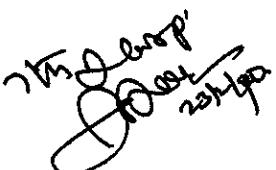
7. In the result, the application succeeds.

There is no order as to costs.



(J.NARASIMHA MURTHY)
Member (Judl)

(R.BALASUBRAMANIAN)
Member (Admn)


Dated 22 - 2 - 90

To

1. The Secretary, Union of India, Min. of Telecommunications, Sardar Patel Bhavan, New Delhi -1.
2. The Director of Postal Services, North Eastern Region, visakhapatnam - 020.
3. The Superintendent of Post Offices, Rajahmundry Division, Rajahmundry . A.P..
4. The Assistant Superintendent of Post Offices, Rajahmundry Division (East) Rajahmundry, A.P.
5. One copy to Hon'ble Mr.R.Balasubramanian, Member : (A), CAT, Hyderabad.,
Gujavari Dist.
6. One copy to Mr.Ch.v.Suryanarayana Murty, Advocate. 16-9-831/9, Sarojininagar Colony, Old Malakpet, Hyd-36.
7. One copy to Mr.J.Ashokkumar, SC for Postal for R1 to R4.
8. One copy to Mr.v.S.R.Anjaneyulu, Advocate for R.5 1-8-38/A/1, Chikkadpally, Hyderabad.
9. One spare copy.