

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A. No. 353/90.

Date of Judgment 31/8/Dec/1991.

S.Rama Rao

.. Applicant

Vs.

1. Sr. Supdt. of
Post Offices,
Guntur Division,
Guntur.

2. Kommineni
Mallikarjuna Rao,
Harischandrapuram Post,
A/W Amaravathi,
Guntur District. .. Respondents

Counsel for the Applicant : Shri K.Ramesh

Counsel for the Respondents: Shri N.Bhaskar Rao, Addl. CGSC

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

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

This application has been filed by Shri S.Rama Rao under section 19 of the Administrative Tribunals Act, 1985 against the Sr. Supdt. of Post Offices, Guntur Division, Guntur and another, praying for a direction to appoint him as Extra Departmental Branch Postmaster (E.D.B.P.M. for sh

2. The applicant has worked as temporary E.D.B.P.M. in Harischandrapuram Post Office when his father, the regular incumbent was on leave between 26.12.88 and 31.3. The father followed up the spell of leave with a resignation which was accepted w.e.f. 5.7.89. The applicant was then appointed as E.D.B.P.M. on a provisional basis. In August, 1989 the respondents invited applications for filling up the post on a regular basis. The applicant applied for that post along with others. The applicant who has the required minimum educational qualification viz: VIII Standard expected to be selected. ^{But} Again

- 2 -

in January, 1990 fresh applications were called for, for the same post. It is alleged that due to political interference his presumed selection in August, 1989 was undone. The applicant applied again this time. Nothing was announced. On 31.3.90, the applicant was divested of the charge. It is the case of the applicant that he should get the job which his father held for nearly 3 decades. He also claims that according to Section 25(H) of I.D. Act, he has to be considered for appointment. Not having been selected, the aggrieved applicant filed this O.A. seeking judicial interference.

3. The 1st respondent opposes the application filing a counter affidavit. None of the applicants in response to the first notification was found eligible. Hence, they issued a second notification on 14.12.89. This time they found a better qualified candidate in the 2nd respondent and hence selected him. It is also contended that his brother-in-law is working as Extra Departmental Delivery Agent (E.D.D.A. for short) in the same office and as per Director-General's letter another near relative should not be appointed in the same office.

4. The applicant has filed a rejoinder to the counter affidavit. He denies any near relative of his working in the same office.

5. We ~~have~~ heard the rival sides and examined the case arrangement carefully. In the substitute/during his father's leave as well as in the subsequent provisional arrangement, it had been clearly indicated that the appointments do not confer any right on the applicant and that he has to make way for the regular selectee. The questions to be considered are:

- (a) Whether the Department was right in going in for a second notification closely following the first one,
- (b) Whether the applicant has to be preferred because of his father's long service.

Copy to:-

1. Senior Superintendent of Post Offices, Guntur Division, Guntur.
2. Sri Kommineni Mallikarjuna Rao, Harischandrapuram Post, A/W Amaravathi, Guntur District.
3. One copy to Shri. K.Ramesh Advocate, 1-9-309/1, Vidyanagar, Hyderabad-500044.
4. One copy to Shri. N.Bhaskar Rao, Addl. CGSC, CAT, Hyd-bad.
5. One spare copy.

Rsm/-

- 3 -

As regards (a), the Department contends that there was no eligible candidate in response to the first notification. It is not correct to say that there was none. At least there was one viz: the applicant who has the minimum essential qualification required (VIII Standard). Nevertheless, there is nothing wrong in the Department going for a candidate with preferred educational qualification (Matric). This is in the interests of service. The applicant cannot attribute this to political interference. What the Department did, was in the interests of the Department and not violative of any rule. In as much as the applicant was considered on both occasions there is no breach of any law as alleged by the applicant [His reference to Section 25(H) of I.D.Act].

Regarding (b), there is no provision for succession in the rules. If there is any provision, it will be violative of Article 16 of the Constitution. The applicant has no case on this score also.

6. The respondent has pointed out that a near relative of the applicant is working in the same office and the applicant denies it. Since the application deserves to be dismissed otherwise, it is unnecessary to go into this question.

7. In view of the above, we dismiss the application with no order as to costs.

R.Balasubramanian
(R.Balasubramanian)
Member(A).

C.J.Roy
(C.J.Roy)
Member(J).

Dated 31st December, 1991.

8/1/92
Dy. Registrar (J.A.D.)

~~Percept~~ O.A. 353/90

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1/1/92

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 M.R. BALASUBRAMANIAN: M(A) ✓

AND

THE HON'BLE MR. C.J. Roy

M(J) ✓

DATED: 31/1/1991 ✓

ORDER/JUDGMENT:

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

O.A. No.

in
353/90 ✓

T.A. No.

(W.P. No.)

Admitted and Interim directions

Issued.

Central Administrative Tribunal
DEPTCH
9-1-92

Allowd.

Disposed of with directions, REICH.

O.A. Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected

No order as to costs.

pvm