

(33)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

D.A.159/91.

Dt. of Decision : 25.4.94.

V. Audinarayana

.. Applicant.

Vs

1. The Union of India
Rep. by the Director
General, Posts
New Delhi - 110 001.
2. The Post Master General
Andhra Circle
Vijayawada-520 003.
3. The Superintendent of
Post Offices,
Nandyal Division,
Nandyal - 518 501.

.. Respondents.

Counsel for the Applicant : Mr. J.V. Lakshmana Rao

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

OA.159/91

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri J.V. Lakshmana Rao, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. This OA was filed praying for quashing the order No.8-6/BPM/Satyavolu, dated 19-12-1990 terminating the services of the applicant and limiting his appointment as EDBPM upto 26-3-1991.

3. The facts which give rise to this OA are as under :

As the vacancy in the EDBPM post had arisen with effect from 14-7-1989, a requisition was issued by letter No.17/20/89, to the Employment Exchange requesting for sponsoring candidates. When there was no response from the Employment Exchange, notification dated 3-5-1989 was issued calling for applications for the said post by 2-6-1989.

The applicant and two others applied in time. The applicant submitted the income certificate of his father instead of his alongwith the application.

4. R-3 by order dated 7-7-1989 selected the applicant for the post of EDBPM Sayavolu by observing that the applicant is having the requisite qualifications and he is a proper candidate. The applicant assumed charge of the said post on 14-7-1989 the date on which regular vacancy had arisen. It is stated that on the basis of the complaint received from one of the candidates who applied for the said post it was noticed that the applicant had not submitted his income certificate and he merely submitted the income certificate of his father and hence memo dated

12/8/91

12-11-1990 was issued to the applicant informing him that the case of his selection was reviewed and R-2 was directed to initiate action for replacing him (the applicant) for not producing the income certificate and he was asked to submit his explanation within 10 days from the date of receipt of the said memo. By impugned order dated 19-12-1992 the applicant was removed from service.

5. In the reply for the respondents it was stated that the appointment of the applicant as on 14-7-1989 is only provisional and he was regularly appointed to the said post on 14-7-1990. The respondents were required to produce the orders of appointment of the applicant on provisional and regular basis, as it is submitted for the applicant that his appointment on 14-7-1989 was regular. It is stated for the respondents that eventhough the applicant was selected on 7-7-1989 the antecedents of the applicant could not be verified by 14-7-1989, the applicant was asked to assume charge on 14-7-1989 and no order of appointment was issued to the applicant. Be that as it may, the respondents have not produced any order regularly appointing the applicant with effect from 14-7-1990.

6. When the appointment of the applicant with effect from 14-7-1989 is after his selection on 7-7-1989, his appointment with effect from 14-7-1989 has to be held as regular.

7. Thus, it is a case of reviewing order of appointment about 16 months after the appointment. Even if the candidate who applied for the post approached this Tribunal after 16 months, the same would have been rejected

P. J. R.

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6. When the appointment of the applicant with effect from 14-7-1989 is after his selection on 7-7-1989, his appointment with effect from 14-7-1989 has to be held as regular.

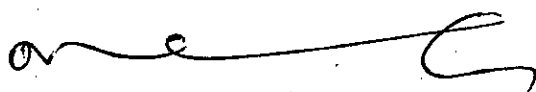
7. Thus, it is a case of reviewing order of appointment about 16 months after the appointment. Even if the candidate who applied for the post approached this Tribunal after 16 months, the same would have been rejected

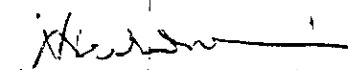
P. J. R.

on the bar of limitation. Further, it is a case where there is no misrepresentation. Moreover, the applicant submitted his own income certificate after notice dated 12-11-1990 was issued. It is necessary to verify the income certificate for the candidate should have other source of income for consideration of his case for the appointment as EDBPM. When it is shown that the applicant is a solvent and when the applicant was selected even when he produced the income certificate in the name of his father and when it is a case of defect which could have been verified at the time of scrutiny of the applications and when the same is not pointed out and when it is not stated that the applicant was responsible for not placing the same in the note, it is not just and proper to cancel the order of appointment after a lapse of more than one year. As already observed it is shown that the applicant is having sufficient income and his father died even by the date of filing of this OA in 1991.

8. Thus, it is case of mere irregularity in appointment and it is not a case where the applicant is not eligible for the appointment to the post of EDBPM.

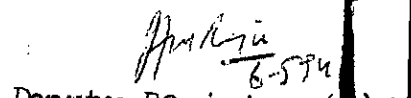
9. Hence, the impugned order dated 19-12-1990 terminating the appointment of the applicant is set aside and the OA is ordered accordingly. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : April 25, 94

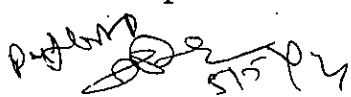
Dictated in the Open Court


Deputy Registrar()CC

To

1. The Director General, Posts, Union of India, New Delhi-1.
2. The Postmaster General, Andhra Circle, vijayawada-3.
3. The Superintendent of Post Offices, Nandyal Division, Nandyal-^{sk}
4. One copy to Mr. J.v. Lakshmana Rao, Advocate, CAT. Hyd.
5. One copy to Mr. N.R. Devraj, Sr. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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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. GORTHU : MEMBER (AD)

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

Dated: 25-4-1994

ORDER/JUDGMENT

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

in

O.A.No. 159/91

T.A.No.

(w.p.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with direction

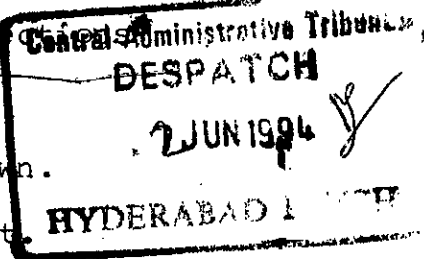
Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.



5/5/94