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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.270/91

Date of Order: 31.1.94

BETWEEN:

K.S.Somasekhar

.. Applicant.

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1. The Union of India, rep. by its Secretary for Communications, New Delhi.
2. Post Master General, Kurnool, Andhra Pradesh.
3. The Superintendent of Post Offices, Hindupur Division, Hindupur, Anantapur District, (A.P.).
4. D. Srinivasulu; S/o D. Srinamulu
R/o Suddakuntapalle Village;
Somandapalli Mandal.

.. Respondents.

Ry - impleaded as per order
of the Tribunal 2729-4-91-

Counsel for the Applicant

.. Mr.J.V.Prasad

Counsel for the Respondents

.. Mr.N.V.Ramana

Mr. K.S.R. Anjaneyulu
for Ry

CORAM:

HON'BLE SHRI A.B.GORTHY : MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

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Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Admn.).

The applicant was appointed, on a provisional basis, as EDBPM, Suddakuntapalli B.O. w.e.f. 10.7.90. While he was working, thus, the respondents issued a notification dated 6.2.91 calling for candidates for selection to fill up the said post of EDBPM, Suddakuntapalli on a regular basis. Aggrieved by the same he has filed this application with a direction that the impugned notification dated 6.2.91 be set aside and that the applicant be continued to work as EDBPM, Suddakuntapalli.

2. The father of the applicant was working as the Branch Post Master, Suddakuntapalli for more than 25 years. On account of failing of eye sight, he was relieved from duty on medical grounds. Even when the father was serving, the applicant used to work as a substitute occasionally. After he was relieved on medical grounds the applicant was appointed on a provisional basis vide Superintendent of Post Office, Hindupur memo dated 10.7.90.

3. We have heard learned counsel for all the parties. Mr. J.V. Prasad learned counsel for the applicant has urged that the applicant's father having faithfully served the department for more than 25 years and having been relieved on medical grounds, the case of the applicant deserved due consideration for appointment on compassionate grounds. Further the official respondents should have taken into consideration that the applicant ^{had been} satisfactorily working as EDBPM and from this point of view also the case of the

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applicant deserves to be considered for appointment as EDBPM. Instead of ~~this~~ appointing the applicant to the post, the official respondents are not justified in issuing the impugned notification.

4. In the reply affidavit filed by the Assistant Post Master General it is stated that the appointment of the applicant vide memo dated 10.7.90 was purely on a provisional basis and this fact was made clear in the appointment order itself which is ^{to} the effect that the provisional appointment would be terminated when regular appointment was made. With a view to fill up the vacancy on a regular basis the respondents notified the vacancies through the Employment Exchange. The names of three candidates, including the applicant, was sponsored by the Employment Exchange and their cases were being considered, ^{when} the department received some complaints regarding the unsatisfactory working of the applicant and that he was also involved in a criminal case. This complaint was enquired into through SDI(P) Penukonda Sub-Division and it was found that it was on account of rivalry between two factions in the village. Notwithstanding the same, the department decided to issue an open notification so as to facilitate a wider and proper selection for filling up the post of EDBPM, Suddakuntapalli. The applicant as also another candidate namely D. Srinivasulu applied in response to the notification. As the selection process was under progress the applicant filed the present OA. When the OA came up for admission, an interim direction was given to the respondents to go ahead with the selection process but not to make any appointment till further orders.

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5. Mr.K.S.R.Anjaneyulu, learned counsel for Respondent No.4 stated that in case respondent No.4 is found duly selected, he has to be given appointment as EDBPM.

6. As regards the issuance of the fresh notification by the department, we find that it was done bonafide~~ly~~ and in the interest of selecting a proper and suitable candidate. ^{thus} We find that the notification issued ^{is} as in order and is not contrary to any rule or instruction. We are therefore unable to exceed to the applicant's claim that the notification dated 6.2.91 should be set aside. From this point of view, we find no merit in the OA and the OA is dismissed.

7. As regards the claim of the applicant for appointment on compassionate grounds, Mr.N.V.Ramana, Standing Counsel for the respondents has drawn our attention to D.G. P&T letter No.43-212/79/PEN dated 4.8.80, which^{is} to the effect that a suitable job in ED cadre may be offered to one dependant of an ED official who dies while in service leaving the family in indigent circumstances. This D.G. P&T letter ^K ~~deserves~~ compassionate appointment of a dependant where an ED official dies while in service. If however there are similar instructions for giving compassionate appointment to the dependants of those who were relieved from service on medical grounds, ^{the} case of the applicant ^{may} ~~deserves~~ to be considered for grant ^{of} ~~him~~ appointment on compassionate grounds.

8. As we are dismissing the OA, the department is at liberty to go ahead and finalise the selection process ^{and}

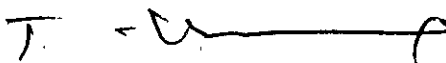
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issue the consequential appointment order. At the same time it is open to the department to consider the case of the applicant for appointment on compassionate grounds provided the extant rules/instructions provide for such compassionate appointment in the ED cadre. No order as to costs.


(T. CHANDRASEKHARA REDDY)


(A.B. GORTHI)

Dated: 31st January, 1994

(Dictated in Open Court)


Deputy Registrar (J)

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To

1. The Secretary for Communications, Union of India, New Delhi.
2. The Postmaster General, Kurnool, A.P.
3. The Superintendent of Post Offices, Hindupur Division, Hindupur, Anantapur Dist. A.P.
4. One copy to Mr. J.v. Prasad, Advocate, 3-4-874/1/A/5 Barkatpura, Hyd.
5. One copy to Mr. N.v. Ramana, Addl. CGSC. CAT. Hyd.
6. One copy to Library, CGT. Hyd. Bench.
7. One spare copy.

~~One copy to Mr. K. S. A. Angamaly CAT Hyd.~~
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