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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. No. 356/91.

Dt. of Decision: 8.7.94.

Machabathuni Sivarama Krishna

.. Applicant.

Vs

1. The Sr. Superintendent of Post Offices,
Postal Department, Guntur.

2. The Post Master General,
Vijayawada,
Krishna District.

3. Malladhi Mallikarjuna Rao

.. Respondents.

Counsel for the Applicant : Mr. A. Venkateswarlu (NOT PRESENT).

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

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

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

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O.A.No.356/91.

Dated of Order : 8.7.94.

O r d e r

X of the Division Bench delivered by Hon'ble Shri A.V.Haridasan, Member(J) X

The applicant, one of the candidates for selection to the post of EDBPM, Budampadu B.O. has filed this application challenging the selection and appointment of the 3rd respondent and has prayed that the order of appointment of the 3rd respondent dt. 1.6.90 be set aside and that the respondents 1 and 2 be directed to appoint the applicant as EDBPM, Budampadu Village, Guntur Dt. The brief facts are as follows:-

The applicant had been performing the duties of the EDBPM, Budampadu B.O. for short intervals during the period when his brother was on leave. When his brother was promoted, the applicant was provisionally engaged as EDBPM of the same office from 19.12.89 till 18.3.90. In the regular selection the 3rd respondent has been selected and given appointment. The grievance of the applicant is that the respondents have not considered the interse merits of the applicant and the 3rd respondent dispassionately and that the selection and appointment of the ~~of the~~ 3rd respondent overlooking the superior claim and merits of the applicant is arbitrary, irrational and violative of Articles 14 and 16 of the Constitution of India. With these allegations, the applicant seeks to quash the above order of appointment of the 3rd respondent and for a direction to the respondents 1 and 2 to appoint him on that post

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2. The 3rd respondent, though served with a notice, remained absent on behalf of the respondents 1 and 2 a counter has been filed. The matter has been admitted. When the application came up for hearing on many occasions neither the applicant nor his counsel was present with the result the case was posted for dismissal today. However, though the applicant and his counsel refrained from appearing before the Tribunal it was felt that it is necessary to consider the case on merits as is apparent from the direction given by the Bench to produce copies of the annexures said to have been attached to the counter. When the application came up for dismissal today before us we were supplied with copies of the comparative statement of merits of the candidates. The learned Addl. CGSC produced, for our perusal, the entire file relating to the selection.

3. Having gone through the pleadings, the documents as also the file relating to the selection, we find that the Sr. Supdt. of Post Offices, Guntur who made the selection has not done it in a proper and dispassionate way. It is evident from the minutes of the selection available in the file that the Sr. Supdt. of Post Offices did not want to consider the applicant for appointment on merits because there is an observation that the provisional service rendered by the applicant was not satisfactory though no record in that regard is placed in the file relating to the selection. Another indication is that the decision of the Sr. Supdt. of Post Offices was not an impartial one as he has made a mis-statement of fact in the minutes relating

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to the selection. This pertained to the property certificate produced by the applicant. While the property and income certificate produced by the applicant has been considered to be of a lower degree of credibility because it was issued only by the Mandal Revenue Officer, we find that the Sr. Supdt. of Post Offices has accepted the property and income certificate issued by the Mandal Revenue Officer in the case of the selected candidate. In what way the certificate produced by the applicant which was issued by the Mandal Revenue Officer is not acceptable is not discernible from the minutes of the selection. Further, we find that in the statement of comparative merits it has been clearly mentioned that the applicant is the owner of the building in which the branch post office was situated. During the course of the arguments, the learned counsel for the respondents submitted that in regard to the educational qualification the selected candidate is superior since he has passed the H.S.C. examination while the applicant has not. However, it is a fact beyond dispute that the applicant has appeared in the Intermediate examination. It is to be stated here that ~~44~~ according to the instructions governing the selection and appointment to the post of EDBPM any qualification above Matriculation is of no importance. If the candidates are Matriculate, the person who has got better marks should have a better chance provided other things remain equal. It is also a fact beyond dispute that the applicant has been discharging the functions of the EDBPM in the very same branch post office and has thus gained experience. A full bench of this Tribunal has held that while making selections for regular appointment to the post

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of EDBPM weightage has to be given to the service rendered on a provisional basis. This aspect has been completely lost sight of by the Sr. Supdt. of Post Offices while he made the selection.

4. In the light of what is stated above, we are of the considered view that it is not possible to uphold the selection and appointment of the 3rd respondent. However, since the marks obtained by the applicant in the H.S.C. examination are not available in the file relating to the selection which is produced for our perusal today and since it is seen that the experience of the applicant has not been given any weightage at all, we are of the considered view that the interests of justice would be met if after quashing the appointment of the 3rd respondent a direction is given to the respondents 1 and 2 to re-do the selection within a reasonable time-frame considering the interse merits of the applicant and the 3rd respondent. Till such time the selection is finalised allowing the 3rd respondent may be allowed
/to continue on the post without conferring on him any right.

In the result, the application is disposed of with the following directions:-

- (1) The selection of the 3rd respondent and the consequent appointment order dt. 1.6.90 is hereby set aside.
- (2) The respondents 1 and 2 are directed to re-do the selection considering the interse merits of the applicant and the 3rd respondent taking into account the respective marks obtained by these two candidates in Matriculation/SSLC examination, giving due weightage for the service rendered by the applicant and treating that the property and income certificate produced by the applicant is quite sufficient.

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5. The process of selection as aforesaid should be completed within a period of one month from the date of communication of this order and if the applicant is found to be more meritorious than the 3rd respondent he should be offered the post within a period of 15 days thereafter. However, the 3rd respondent will be allowed to continue on the post of EDBPM till the selection as aforesaid is completed.

6. No order as to costs.


(A.B.Gorthi)
Member (A)


(A.V.Haridasan)
Member (J). 1

Dated: 8 July, 1994.
Dictated in Open Court.

br.


18/7/94.
DEPUTY REGISTRAR(J)

Copy to:

1. The Senior Superintendent of Post Offices,
Postal Department, Guntur.
2. The Post Master General,
Vijayawada, Krishna District. 6-3-569/11/8, Somajiguda,
3. One copy to Mr.A.Venkateswarulu, Advocate, ~~2nd~~, Hyd.
4. One copy to Mr.N.V.Ramana, Addl.CGSC,CAT, Hyd.
5. One copy to Library, CAT, Hyderabad.
6. One spare copy.

YLKR.

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18/7/94.

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

THE HON'BLE MR. A. V. HARIDASAN : M(J) ✓
AND

THE HON'BLE MR. A. B. G. RTHI : MEMBER(A) ✓

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 8 - 7 - 1994. ✓

ORDER/JUDGMENT:

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

in
O.A.No. 356/91 ✓

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. ✓

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