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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.666/91

Date of Order: 6.12.94

BETWEEN:

G.Mohan Rao

.. Applicant.

A N D

1. Union of India, rep. by its Secretary, Ministry of Telecommunication, New Delhi.
2. Superintendent of Post Offices, Suryapet, Nalgonda Dist.
3. Sub-Divisional Inspector (Postal), Suryapet, West Sub-Division, Sueyapet, 508 203, Nalgonda Dist.
4. B.Indrasekhara Rao, B.P.M., Mangapalli, Nakrekal Mandal, ~~Mang~~ Nalgonda.Dt. .. Respondents.

Counsel for the Applicant

Mr.V.V.L.N.Sharma

Counsel for the Respondents

Mr.N.V.Ramana for R1-3

Mr.D.Linga Rao for R4.

CORAM:

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

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

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X As per Hon'ble Shri A.V.Haridasan, Member (Judl.) X

The applicant who is son of Chenna Krishna who was working as EDBPM, Mangalapalli Village was appointed as a substitute in the place of his father w.e.f. 1.1.86. When Sri Chenna Krishna Rao resigned from the post in September 1987 the applicant was continued as such till 2.10.88. He was later appointed as BPM w.e.f. 4.10.88, on provisional basis. When the department initiated process for selection on regular basis in the year 1989 the applicant also applied. The 4th respondent also was a candidate. The documents produced along with the applications of various candidates were scrutinised. The applicant continued to work on a provisional basis but on 18.5.91 the applicant was made to handover charge to the 4th respondent. The grievance of the applicant is that though he had passed SSC examination was young, energetic and fully qualified to hold the post of BPM the termination of his services after a continuous service of 5½ years abruptly, is an act which is violative of article 311 of the Constitution. Therefore, the applicant filed this application initially for quashing the order of termination of services of the applicant and for a direction to the respondents to reinstate him.

2. The applicant had impleaded only ~~3~~ Respondents 1-3 when he filed this application. He impleaded the 4th respondent subsequently.

3. The respondents 1-3 filed a detailed reply statements in which, they have contended that the applicant was working on provisional basis, that a process for regular selection was initiated by making a requisition before the employment exchange, that the applicant and the 4th respondent

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were among the candidates who applied in response to the notification and that on a consideration of the merits of the candidates the 4th respondent who was found to be more meritorious having higher qualification and being in possession of building suitable to house the post office, was selected and appointed and that the applicant who was holding the post provisional has no legitimate grievance against the appointment of a regularly selected candidate. The fourth respondent in his counter affidavit contends that he is in all respects better qualified and suitable for appointment, and that, by his conduct and character the applicant had became ineligible for being appointed.

4. We have gone through the pleadings and documents and have heard Sri V.V.L.N.Sharma, learned counsel for the applicant, Additional Standing Counsel for the respondents 1-3 and Mr.D.Linga Rao, learned counsel for R4.

5. The questions that arise for consideration are (1) whether the termination of the service of the applicant is suitable. (2) Whether in the light of the allegations made in the application, is the applicant entitled for appointment to the post of EDBPM. We shall deal with these points one by one. Mr.V.V.L.N.Sharma advertizing to the averments made in the application that the applicant was appointed to the post of EDBPM w.e.f. 4.10.88 and that he was made to execute a bond contended that the appointment of the applicant was a regular one and therefore there was no occasion for the respondents 1-3 to initiate a further process of selection and to terminate the services of the applicant. This arguement is absolutely untenable because the applicant himself stated in the application that when a

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process of regular selection was initiated he also applied. Therefore to the knowledge of the applicant himself he was appointed only on provisional basis. Hence the respondents 1 to 3 had to conduct a regular selection, and to appoint the regularly selected hand, the service of provisional hand has to be terminated. Now coming to the prayer in the application for setting aside the appointment of the 4th respondent the applicant has not alleged that the appointment of the applicant is vitiated for any reason. The only averment in the application against the 4th respondent is that he is brother of a Sarpanch. Being a brother of Sarpanch cannot be considered as a disqualification. Shri V.V.L.N. Sharma argued that in the MA.590/94 which he had filed for amending the prayer he had stated that the selection of the 4th respondent was vitiated. The MA.590/94 was filed for a relief to have another prayer incorporated in the application. Once that relief is granted whatever is averred in the MA is not be read as part of the OA. The OA even after amendment does not contain any allegation as to how the selection of the 4th respondent is vitiated.

6. In the reply affidavit filed by the applicant he has stated that he has got better qualification than the 4th respondent, that the 4th respondent has been selected on other consideration and that the termination of his services is arbitrary. Reply affidavit filed only to refute the allegations made in the reply statement and not for the purpose of bringing in any new pleas. If the applicant wanted to have the appointment ^{of the} 4th respondent declared invalid for any reason he should have made the necessary averments in the OA by properly amending the same. Though

Copy to:-

1. Secretary, Ministry of Telecommunications, Union of India, New Delhi.
2. Superintendent of Post Offices, Suryapet, Nalgonda Dist.
3. Sub Divisional Inspector (Postal), Suryapet, West Division, Suryapet, Nalgonda Dist-203.
4. One copy to Sri. V.L.N. Sharma, advocate, CAT, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Sri. D. Linga Rao, advocate, for F-4, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

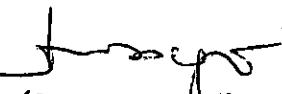
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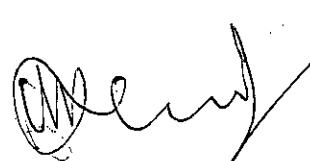
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reply statements by the respondents 1-3 was filed as early as in the year 1992, the applicant has not sought to amend the application making the necessary allegation in the application to be entitled to have the selection and appointment of the 4th respondent declared invalid. The mere denial in the rejoinder of the contention of the 4th respondent that he is more meritorious will not entitle the applicant to have the appointment of the 4th respondent set aside. He has to allege and establish that the selection of fourth respondent was arbitrary or vitiated for any reason. Therefore in the absence of specific allegation in the application that the selection process is vitiated ^{by} any reason, we are not in a position to interfere with the process of selection. When the selecting authority considers the qualification of the candidates before it and makes a selection, unless the selection process is manifestly vitiated, the Courts or Tribunals will not interfere with the routine administrative actions like selection and appointment. In view of this we are not convinced that the applicant has made out sufficient cause to pursue the Tribunal to interfere with the process of selection and appointment of the 4th respondent.

7. In the light of what is stated in the foregoing paragraphs we do not find any reason to interfere with the selection and appointment of the 4th respondent. In the result the application is dismissed without any order as to costs.


(A.B.GORTHI)
Member (Admn.)


(A.V. HARIDASAN)
Member (Judl.)

Dated: 6th December, 1994

(Dictated in Open Court)

Amravati 31/12/94
Dy. Registrar (S)

sd

Contd... 6/-

In the C.A.T. Hyd Bench
at Hyd.

Hm Mr. A. V. Henderson J.M

Hm Mr. A. B. Gorai A.M.

Judgement dt. 6/12/94

in

07-666/91

O.A. dismissed.

No order as to

costs.

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