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Annexure RA-9

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 1206/94.

Dt. of Decision : 28-9-94.

S. Nageswara Rao

.. Applicant.

Vs

1. The Sub-Divisional Inspector,
Postal, Addanki-523 201,
Prakasam District.
2. The Sr. Superintendent of POs,
Prakasam Division, Ongole-523 001.
3. The Chief Postmaster General,
AP Circle, (representing Union
of India), Hyderabad-500 001.

.. Respondents.

Counsel for the Applicant : Mr. C.Suryanarayana

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.)

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28.9.1994 (30)

DA.1206/93 94

Judgement

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

Heard Sri C. Suryanarayana, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. This OA was filed challenging the notification No.B2/K/Thakkallapadu, dated 22-7-1994 issued by R-2 (vide annexure-A.2).

3. When a vacancy had arisen in regard to the post of EDBPM, Thakkallapadu, ~~R-4 herein~~ Smt. K. Padmavathi, was appointed as EDBPM, on provisional basis. Then a notification was issued in 1989 calling for applications for the said post. ~~After selection memo~~ ^{memo} No.83/K.Thakkallapadu dtd.13-9-1990 was issued informing the applicant herein that he was selected for this post on regular basis and hence the provisional appointment of Smt. K. Padmavathi was terminated. Then Smt. K. Padmavathi filed OA.740/91 praying for a direction to the respondents to appoint her to the said post after setting aside the selection of the applicant herein who was impleaded as R-4 in the said OA. The said OA was disposed by order dated 13-4-1994 and the relevant portion of the said order is as under :

"In view of what is stated above, we
are of the considered view that the

entire selection proceedings deserve to be set-aside. We order accordingly. It is open to the respondents to take further steps in accordance with the extant rules to fill up the post of EDBPM, Thakkellapadu, on a regular basis.

OA is ordered accordingly. No order as

Consequent upon the same, the impugned notification dated 22.7.1994 is ~~is~~ issued.

4. The first and the foremost contention for the respondents is that as the impugned notification was issued in pursuance of the order of this Tribunal in OA 740/91 to which the applicant herein was also a party, the same cannot be challenged.

5. The learned counsel for the applicant herein submitted that as Smt. Padmavati had not pressed OA 470/89 on the grounds that it had become infructuous, it was not open to her to come up with OA 740/91. But it is seen from Para-8 i.e., relief portion in OA 470/89 that in the said OA, Smt. Padmavati merely prayed for issual of a direction to the respondents to continue her in service as EDBPM, K. Thakkellapadu BO till regular appointment is made by declaring the impugned order No. PF/BPM/KT Padu, dated 8.6.1989, whereby she was sought to be removed from the provisional appointment of EDBPM of the said BO, as illegal and void. Thus, there was no challenge in regard to the notification No. 83/K. Thakkellapadu, dated 1.11.1989 issued calling for applications for the post of EDBPM, K. Thakkellapadu BO in 1989. Be that as it may, so long as the order dated 13.4.94 in OA 740/91 on the file of this Bench to which the applicant herein was party (R-4 in OA 740/91) stands, and when the impugned notification in this case was issued in pursuance of the order dated 13.4.1994 in OA 740/91, the same cannot be challenged.

6. Accordingly, this OA does not merit consideration. Accordingly, it is dismissed at the admission stage. No costs.

7. It is submitted by the learned counsel for the applicant that this order of dismissal should not debar the applicant to file a review application in OA 740/91, if he is so advised. Ofcourse, if there are grounds for review of the order dated 13.4.1994 in OA 740/91, this order of dismissal does not preclude him to file it and if it is filed, it will naturally be considered in accordance with law.

CERTIFIED TO BE TRUE COPY
Date..... 31/10/94
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

Copy to:-

1. The Sub-Divisional, Inspector, Postal, Addanki-523 201.
2. The Senior Superintendent of Post Offices, Prakasam Division, Ongole-523 001.
3. The Chief Postmaster General, A.P. Circle, Union of Aia, Hyderabad-500 001.
4. One copy to Mr. C. Suryanarayan, Advocate CAT, Hyd.
5. One copy to Mr. N.R. Devaraj, Senior CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare.

kku.

True Copy
C. S. S.
Counsel for Applicant -

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

R.A. 83/94
in
O.A.740/91.

Dt. of Decision : 7-10-94.

S. Nageswara Rao

.. Applicant (R-4 in
OA.740/91)

Vs

1. Smt. K. Padmayathi

.. Respondent/
Applicant in OA.

2. Union of India rep. by
the Secretary,
Ministry of Communications,
New Delhi - 110 001.

3. The Director of Postal Services,
O/o the PMG, VZA Region,
Vijayawada (Krishna Dist.).

4. The Sr. Supdt. of PDs,
Prakasam Distt., Ongole,
Prakasam Distt.

.. Respondents/
Respondents
1 to 3 in the OA.

Counsel for the Applicant : Mr. C. Suryanarayana

Counsel for the Respondents : Mr. N.V.Raghava Reddy, Addl. CGSC.
(R-2, 3 & 4)

Mr. T. Jayaram (R-1)

CORAM:

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

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

R.A.83/94

in

O.A.740/91

Dt. of order:07.10.1994

ORDER

(As per Hon'ble Shri AB Gorthi, Member(Admn))

This review application is from Respondent No.4 in OA 740/91, which was disposed of vide order dated 13.4.1994, by setting aside the selection proceedings by which, the review applicant was finally selected for the post of EDBPM Thakalapadu Branch Office, and directing the respondents to take further steps, if they so desire, to hold a fresh selection in accordance with the extant rules to fill up the said post of EDBPM on regular basis.

2. We have heard Shri C.Suryanarayana, learned counsel for the review applicant at considerable length.

3. The main grievance of the review applicant is, although notice of OA 740/91 was served upon him, a copy of the OA was not enclosed with the said notice. He, however, addressed a letter to the Tribunal on 29.8.1991, stating that, he was regularly appointed as EDBPM, Thakkalapadu after having been duly selected, and that, he was working as such, ever since.

4. Mr C. Suryanarayana further brought out, that the copy of the order in OA740/91 was also not sent to respondent No.4, *Reverin*.

5. The general contention advanced on behalf of the review applicant is that, he was subjected to a proper selection by the competent authority, that he was duly selected and he was regularly appointed and as such, he should not have been disturbed.

Copy to:-

1. Secretary, Ministry of Communications, Union of India, New Delhi-001.
2. The Director of Postal Services, O/O the PMG VZA Region, Vijayawada(Krishna Dist.).
3. The Sr. Supdt of Post Offices, Prakasam Dist, Ongole, Prakasam District.
4. One copy to Sri. C.Suryanarayana, advocate, CAT, Hyd.
5. One copy to Sri. N.V.Raghava Reddy, Addl. CGSC, CAT, Hyd.
6. One copy to Sri. T.Jayant, advocate, for (R-1), CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

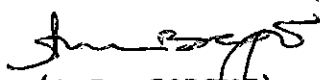
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M 18/10/26

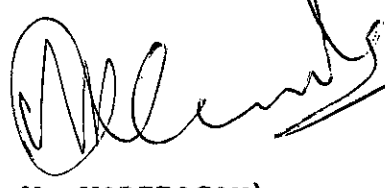
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6. The reasons for which we held that the selection conducted by the official respondents was irregular, ~~was~~ ^{was} stated in detail in our order dated 13.4.1994 in OA 740/91. There is nothing in the review application which would lead us to take a different view, from what we had taken in the said order. The selection, having been found irregular, the official respondents were directed to hold a fresh selection if they so desired.

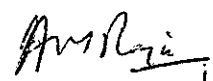
7. In compliance with our above order, steps have been initiated by the official respondents to select a proper candidate on regular basis for the post of EDBPM, Thakkalapadu. Mr C. Suryanaryana expresses the apprehension that the official respondents may terminate the ~~xxxxx~~ appointment of the review applicant even before the finalisation of the selection, proceedings. There should be no justification for such an apprehension; because, even if the continued appointment of the review applicant is considered to be on a provisional basis, ^{his} because of our order in OA740/91, ~~the~~ ^{person} services cannot be replaced by another ^{person} provisionally appointed. Notwithstanding the same, we would like to make a categorical observation that the applicant will make room for the regularly selected candidate on the completion of the selection proceedings which ~~has~~ ^{have} since been initiated by the official respondents.

8. With the aforesaid observations, this review application is rejected.


(A.B. GORTHI)
Member(A)


(A.V. HARIDASAN)
Member(J)

Dated: The 07th October, 1994
Dictated in the open court


Dy. Registrar (Jud.)

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3rd page
mv

Contz... 41

R.A-83/ay ✓

740/91 ✓

Typed by
Checked by

Compared by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

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

Dated:

7/10/ay.

ORDER/JUDGMENT.

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

83/ay ✓

O.A.NO.

in

740/91 ✓

T.A.NO.

(W.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with Directions.

Dismissed.

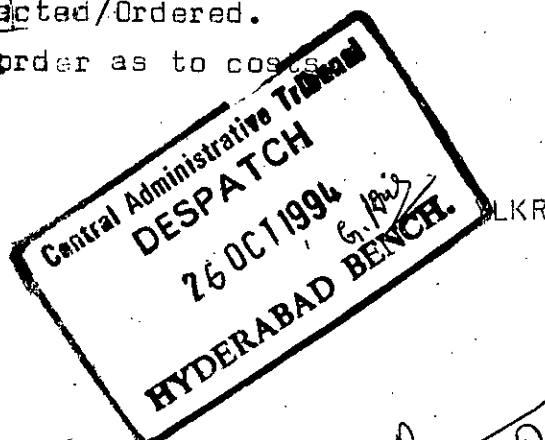
Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs

no spare copy



Mr 18/10/ay