

(SJ-)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.1115/91

DATE OF JUDGEMENT 2nd APRIL, 1992

Between

Sri R. Babu Rao

.. Applicant

A N D

1. The Superintendent of Post Offices  
Parvathipuram.
2. The Post Master General  
AP Northern Region  
Visakhapatnam
3. The Director General Posts  
New Delhi-1.
4. The Sub-Divisional Inspector  
Postal  
Parvathipuram

.. Respondents

Counsel for the Applicant : Sri C. Suryanarayana

Counsel for the Respondents:Sri N. Bhaskar Rao, Addl.CGSC

CORAM:

THE HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER(ADMN)

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

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JUDGEMENT OF THE DIVISION BENCH DELIVERED BY THE  
HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This is an application filed by the applicant herein under Section 19 of the Administrative Tribunals Act, to call for the records relating to the impugned Notification issued by the 1st Respondent under his Memo No.BB1/I-20 dated 6.11.91 and to quash the same declaring that in the absence of any valid action to said terminate the appointment of the applicant, the impugned notification is violative of principles of natural justice, arbitrary, illegal, null and void.

The facts giving rise to this OA in brief may be stated as follows:

1. Consequent to the impending retirement of the incumbent in the post of ED-BPM, Kedaripuram, the 1st Respondent gave the Notification Memo No.BED/Kedaripuram dated 12.4.1991 calling for applications for the said post of ED-BPM, Kedaripuram. The applicant was one of the candidates for the said post. The applicant had passed SSC in March, 1984. The applicant had also registered his name in the Employment Exchange at Vizianagaram on 28.4.86 under Registration No.1097 of 1986. The applicant is a native of Kedaripuram and a Nativity Certificate to this effect dated 8.5.91 is exhibited at Annexure A-1 to the OA. The applicant said fulfilled all the conditions prescribed for the post of ED-BPM at Kedaripuram.

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2. An interview was conducted on 23.5.91 that had applied for the said post. for all the candidates. The applicant was duly selected for the said post vide 1st respondent's letter No.BED/Kedaripuram dated 6.8.91 addressed to the Sub-Divisional Inspector, Postal, Parvathipuram. Accordingly, the applicant was appointed as ED-BPM Kedaripuram B.O. and he took charge of the post on the afternoon of 31.8.91 as per the said proceedings.

3. While so, without giving any ~~xxxxxx~~ reason, on whatsoever, the first respondent issued a fresh notification in his Memo No.BB1/I-20 dated 6.11.91 calling for applications from eligible candidates for appointment as ED-BPM, Kedaripuram B.O. The last date for receipt of applications was prescribed as 6.12.91. So, the applicant has filed the present OA challenging the said notification Memo No.BB1/I-20 dated 6.11.91 on the ground that the same is arbitrary and violative of articles 14 and 16 of the Constitution of India and for the relief as indicated above.

4. Counter is filed by the respondents opposing the OA.

5. It is maintained in the counter that the first selection made by Respondent was examined by second Respondent and it was not found to be in order as the applicant had no reliable source of regular income, did and that the applicant was a coolie and does not have any independent source of regular income which is the essential requisite for selection of the BPMs, and second as such Respondent set aside the selection of the first applicant and instructions were issued to Respondent.

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vide letter No. ST/35/106 dated 26.9.91 to take necessary action to select a person who fulfills all the requisites. So, according to the respondents, [first respondent] re-examined the case and said to have appointed one Sri S. Sankara Rao as Extra Departmental Branch Post Master. The matters, as seen from the counter of the respondents did not stop at that stage. As seen from the counter, the villagers had expressed their displeasure for selecting Sri S. Sankara Rao (who is the son of Ex-BPM) as Branch Post Master because the conduct of the other two sons of the Ex-BPM who were already employed as EDAs in the Department was not satisfactory. So, it is stated that Respondent [ ] issued a renunciation dated 6.11.91 inviting fresh applications for the post of Branch Post Master. [ ]

6. The fact that the applicant had been selected by the Competent Authority in accordance with rules [ ] and appointment of the applicant as [ ] as per rules Extra Departmental Branch Post Master, Kedaripuram is not at all in dispute in this case. The only infirmity [ ] was which the applicant [ ] said to be suffering was that, that he [ ] did not have any regular source of [ ] income which is one of the essential requisite for selection of ED-BPMs. But, before the appointment was made, the respondents should have made an enquiry about the income which the applicant was having. But such a course whether has been followed or not followed is not made known to us. [ ]

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otherwise  
Neverthe~~l~~ less, as the applicant is~~a~~ a qualified can-  
didate and had been selected and appointed, we do  
not think it fit and proper to deprive him the benefit  
of his appointment for the reason that he does not  
have any independent source of regular income which is  
said to be one of the pre-requisite for selection of ED  
Branch Post Masters. But after the applicant was selected  
and appointed as EDBPM, in view of the impugned notification,  
as the applicant's rights are affected in all fairness,  
the applicant should have been served with a show cause  
asking the applicant why his services should not be terminated  
notifice~~l~~ and his explanation should have been taken  
into consideration and ~~as~~ the matter should have been  
decided by the respondents. But, such a course does  
not appear to have been followed ~~as~~ in this case by the  
respondents. In this context, it will be worthy to note  
a decision reported in 1983 (1) SLJ at Page 459  
Sri Ram (Petitioner) Vs District Inspector of Schools  
(Respondents) wherein it is laid down as follows:

"HELD that the principle of natural justice has not  
been complied with. The Inspector should have afforded  
the petitioner an opportunity of hearing before he  
could validly rescind or cancel his appointment.  
Admittedly, no opportunity of hearing was accorded.  
This by itself vitiates the order."

As the applicant had already been appointed ~~EDBPM~~  
~~and he had not been~~ heard at all before the issue~~l~~  
of impugned notification calling for fresh applications  
for the said post of ED-BPM~~S~~ at Kedarpuram, certainly  
the principles of natural justice are violated and violation  
of principles of natural justice, come within the purview

of Article 14, as the important principle of natural justice is that a person should not be condemned unheard. So, in this case, the impugned notification is issued without observing the principles of natural justice as referred to by us, earlier. we are not satisfied with the reasons given by the respondents that the applicant does not have any independent source of income and that it became necessary to issue fresh notification calling for applications for the said post of ED-BPM at Kedaripuram, for which the applicant had been duly selected and appointed. So, in our opinion, the impugned notification is liable to be set aside.

Hence, the notification No.BB1/I-20 dated 6-11-91 issued by the first respondent is hereby quashed.

As per our interim orders dated 3-12-91, we had directed the respondents to allow the applicant to continue in his present post until the next hearing date. The said interim orders dated 3-12-91 were extended upto 23-3-1992. In view of this position, we direct the respondents to allow the applicant to continue in service as ED-BPM, Kedarpuram. The OA is allowed accordingly. In the circumstances of the case, we direct the parties to bear their own costs.

Tibalsanthanam

(R. BALASUBRAMANIAN)

**Member (Admn.)**

(T. CHANDRASEKHARA REDDY)

Member (Judl.)

Dated 2<sup>nd</sup> April 1992

~~Deputy Registrar (Judi.)~~

Copy to:-

1. The Superintendent of Post Offices, Parvathipuram.
2. The Post Master General, AP Northern Region, Visakhapatnam.
3. The Director General Posts, New Delhi-1.
4. The Sub-Divisional Inspector Postal, Parvathipuram.
5. One copy Sri. C.Suryanarayana, advocate, CAT, Hyd.
6. One copy to Sri. N.Bhaskara Rao, Addl. CGSC, CAT, Hyd.
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