

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

DA 973/92.

Dt. of Order: 7-2-94.

Md. Nizamuddin

...Applicant

Vs.

1. The Superintendent of Post Offices, Warangal.
2. The Asst. Superintendent of Post Offices, Warangal South Sub-Division, Warangal.
3. Sri Jilla Malliah, ED/BPM, (Selected candidate) Punnal.
(R-3 impleaded vide orders of the Hon'ble Tribunal dt. 19-1-94 and made in MA 186/93)

...Respondents

Counsel for the Applicant : Shri S. Ramakrishna Rao

Counsel for the Respondents : Shri N.R. Devraj, Sr. CGSC

CORAM:

THE HON'BLE JUSTICE SHRI V. NEELADRI RAO : VICE-CHAIRMAN

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

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JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri S.Ramakrishna Rao, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. When the post of Extra Departmental Branch Post Master (EDBPM), Punnel had become vacant in 1990, the applicant who was a displaced ED Delivery Agent was appointed on 26.6.1990 as EDBPM, Punnel on provisional basis. The notification dated 25.2.1992 was issued fixing 24.3.92 as the last date for receipt of the applications for the said post. A second notification in regard to the same was issued on 27.3.1992 fixing 24.4.1992 as the last date. The third notification dated 28.4.1992 fixing 14.5.1992 as the last date for receipt of applications was also issued.

3. The applicant was appointed as ED Delivery Agent in the Public Call Office (PCO), Punnel in 1980. He was discharged as the said PCO was closed in September 1985. Then the name of the applicant was included in the waiting list for absorption in the comparable ED post or in any ED post ~~as~~ envisaged in DGP&T letter No.43-4/77-Pen., and dated 23.2.1979, the name of the applicant was deleted from the said list on ~~31.3.84~~ 31.8.1988 when the applicant could not be absorbed in any ED post of regular basis within one year from the date of discharge.

4. The applicant alleges that the 2nd respondent erred in issuing the second and third notifications when

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the applications were received in pursuance of the first notification. When the 3rd respondent had not applied in pursuance of the first and second notifications and even when the documents in regard to the property of the 3rd respondent which was produced in pursuance of the third notification does not disclose any title in favour of the 3rd respondent, his appointment has to be held as illegal, according to the applicant.

5. This OA was filed praying for setting aside the selection of the 3rd respondent and to direct the 1st and 2nd respondents to continue the applicant in service by duly absorbing him as per the guidelines and the instructions under the provisions of ~~the~~ absorption of surplus/displaced ED Agents. ~~which posts were abolished by the department.~~

6. Thus, two points ~~exist~~ ^{arise} are for consideration:-
(a) whether the applicant had right for absorption in the post of EDBPM ^{as per} on the ground that he was ~~as~~ a discharged ED Delivery Agent; and (b) whether the selection of the 3rd respondent as EDBPM is illegal.

7. (a) It is not in controversy that the applicant was appointed as ED Delivery Agent, Punnel on 12.8.1980 and he was discharged in September 1985 when ^{the} PQQ in which he was appointed as ED Delivery Agent was closed. The DGP&T letter dated 23.2.1979 lays down that such discharged ED Delivery Agents have to be kept in the waiting list and if they cannot be absorbed within one year, their names have to be deleted from the said waiting list. Even though one year expired by September 1986, the name

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of the applicant was kept in the waiting list upto 31.3.88. By then the vacancy to the post of EDBPM, Punnel had not arisen. Hence, he cannot claim absorption in the post of EDBPM, Punnel, which post had become vacant in 1990, when he was discharged in 1985 on the closer^{wre} of the POC.

8. It is contended for the applicant that even before 31.3.1988, he made a representation praying for absorption when the ED post had fallen vacant at Chennaram and Nandanam villages and as he was not absorbed then, he has to be now absorbed in the post of EDBPM, Punnel. But when the case of the applicant was not considered for the vacancies which had arisen during the period when his name was in the waiting list, he could have moved the court of the Tribunal for the necessary relief then. When he failed to take steps then, his claim in regard to those vacancies has to be rejected on the ground of laches. Any how, the applicant cannot claim absorption in a post which had fallen vacant after his name was deleted from the waiting list. Hence, the first point has to be held against the applicant.

9. (b) It is averred in the reply filed by the Assistant Director of Postal Services, Office of the Post Master General, Hyderabad Region, that the 3rd respondent filed all the required certificates by 24.3.1992 in pursuance of the first notification. Even assuming that there was irregularity in issuing the second and third notifications though they applied with all the necessary certificates in time, no prejudice is caused to the applicant when the other³ candidates selected also applied for in pursuance of the first notification ~~is~~ in time.

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10. Ofcourse, in the certificate given by the MRO, it is mentioned that the 3rd respondent is not having alienable title. But he certified that ~~the 3rd respondent~~ is getting the annual income of Rs.8,000/-. Thus, it is ~~the case where~~ ^{the 3rd respondent} was having adequate source of income as envisaged as per the instructions for recruitment of EDSPM/EDBPM. As such, the appointment of the 3rd respondent as EDBPM, Punnel cannot be held as illegal and we find accordingly.

11. In the result, the OA is dismissed. No costs.

RS
(R. RANGARAJAN)
MEMBER (ADMN.)

V.N.Rao
(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 7th February, 1994.
Open court dictation.

Prabhakar
Deputy Registrar (J0CC)

To vsn

1. The Superintendent of Post Offices, Warangal.
2. The Asst. Superintendent of Post Offices, Warangal South Sub Division, Warangal.
3. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr. N. R. Devraj, Sr. CGSC, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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10/14/94

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE-CHAIRMAN

AND

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

AND

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

AND

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

Dated: 7-2-1994.

~~ORDER/JUDGMENT:~~

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

in

O.A.No. 973/92

T.A.No.

(W.F.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.

