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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.419 of 1992

DATE OF JUDGMENT: 26 OCTOBER, 1992

BETWEEN:

Mr. P. Bikshapathi

Applicant

AND

1. Union of India represented by
The Secretary to Government,
Department of Posts,
New Delhi.
2. The Regional Director of Postal Services,
Hyderabad.
3. The Senior Superintendent of Post Offices,
Hyderabad South East Division,
Hyderabad.
4. The Superintendent of Post Office, *Kacheguda*,
Hyderabad.
5. Smt. Aruna

.. Respondents

COUNSEL FOR THE APPLICANT: Mr. M. Ratna Reddy

COUNSEL FOR THE RESPONDENTS: Mr. M. Jagan Mohan Reddy, Addl. CGS
for Respondents 1 to 4

Mr. S. Ramakrishna Rao, Counsel
for Respondent No. 5

CORAM:

Hon'ble Shri R. Balasubramanian, Member (Admn.)

Hon'ble Shri C.J. Roy, Member (Judl.)

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JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER (JUDL.)

The applicant herein filed this application under Section 19 of the Administrative Tribunal Act, 1985 claiming a relief to declare the action of the respondents selecting the 5th respondent in the place of the applicant as arbitrary and consequently direct the respondent to continue him as Extra Departmental Branch Post Master, Gummadavalli Branch Office, Ibrahimpatnam Mandal, Rangareddy District.

2. The brief facts of the case giving rise to this application are as follows:-

The applicant states that he belongs to Backward Class community. The applicant while working temporarily as EDBPM, in May 1988 Gummadavalli Branch Office, a notification was issued for filling up the said post on regular basis and he applied for the said post. He learnt that he was only the candidate applied for the said post. Again another notification was issued for which he applied. A third notification was again issued in April 1990 and the applicant again applied for the same. The 3rd respondent vide letter dated 22.9.1991 directed the applicant to submit application for the post of EDBPM along with required documents/certificates to his office. The applicant complied with the said directions. The Asstt.

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2nd flg.

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Superintendent of Post Offices, South Sub Division, Hyderabad also visited the Post Office at Gummadavalli and verified the certificates of the applicant. The applicant came to know reliably that one Smt. Aruna, a O.C. candidate (5th respondent herein) is being appointed. The applicant states ~~xx~~ that he had put in 3½ years of service and hence he should be appointed to the post of EDBPM, Gummadavalli. Hence, this application.

3. Respondents 1 to 4 filed a counter affidavit stating that the selection was made on merits basing on the marks secured in SSC Examination. No provisional appointment order was however issued to the applicant though he was working as EDBPM, Gummadavalli. The 5th respondent has taken charge of the post of EDBPM, Gummadivelli and has been continuing till date. There is no rule giving weightage to inservice candidates or candidates from the back-ward classes or temporary incumbents. Hence, the applicant cannot claim any preferential treatment. The O.A. is devoid of merits and is liable to be dismissed with costs.

4. The 5th respondent also filed a counter affidavit with similar contentions as stated by the respondents 1 to 4.

5. The applicant filed additional affidavit in support of this O.A. He states that the Assistant Superintendent of Post Offices as an Enquiry Officer recommended ~~xx~~ his name for the said post pursuant to the 2nd notification issued for which the applicant had applied for the said post. The applicant submitted all the relevant documents including

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the income certificate of Rs.10,000/- on lands ^{ed} own by him certified by the Mandal Revenue Officer, whereas the 5th respondent did not submit the valid income certificate. The 5th respondent also did not register her name in the Employment Exchange. Hence, the applicant states that he alone should be appointed to the post of EDBPM, Gummadavalli.

6. We have heard the learned counsel for the applicant Mr. M. Ratna Reddy, the learned Additional Standing Counsel for the Respondents 1 to 4, Mr. M. Jagan Mohan Reddy; and the learned counsel for the respondent No. 5 Mr. S. Ramakrishna Rao. We have also perused the records produced by the learned Additional Standing Counsel for the Respondents 1 to 4.

7. As per the recruitment rules, the educational qualification for appointment to the post of EDBPM is VIII Standard (Matriculation or equivalent may be preferred). One should have an adequate means of livelihood. The person selected must be able to offer space to serve as the agency premises for postal operations. The premises must be such as will serve as a small postal office with provisions for installation of even a PCO (Business premises, such as shops, etc., may be preferred). The selected person must be a permanent resident of the village where the post office is located. He should be able to attend the post office work as required of him keeping in view the time of receipt, despatch and delivery of mails which need not be adapted to suit his convenience or his main avocation.

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8. Under the heading "Preferential Categories" at Para-6 (Page 58) of the recruitment rules, we do not find that the experience is one of the qualifications. *See also para 15*

467K7 ~~of the EDBP Rules~~

9. We find from the records that the applicant is having a certified annual income of Rs.10,000/- on the lands whereas the 5th respondent is having a certified annual income of Rs.16,000/-. The 5th respondent secured ~~maxx~~ 348 marks out of 500 in SSC but the applicant secured only 209 marks out of 500 in SSC.

10. In view of the above, we have no hesitation in holding that the main factor which was taken into consideration by the Department was that while the applicant is having an income of Rs.10,000/- per annum whereas the 5th respondent is having a certified annual income of Rs.16,000/-. The another point considered by the respondents is that the applicant secured 209 marks out of 500 in SSC whereas the 5th respondent secured 348 marks out of 500 in the SSC examination.

11. Therefore, the applicant has not made out any case of arbitrariness or malafides or not following the recruitment rules. We see no reason to interfere with the selection made by the respondents, and the selection of the 5th respondent for appointment to the post of EDBPM, Gummadvelli, is in order.

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12. The application is accordingly dismissed with no order as to costs.

R. Balasubramanian

(R. BALASUBRAMANIAN)
Member (Admn.)

C.J. Roy
(C.J. ROY)
Member (Judl.)

20/11/92
Dated: 26 October, 1992. Dy. Registrar (Judl.)

Copy to:-

1. The Secretary to Government, Department of Posts, Union of India, New Delhi.
2. The Regional Director of Postal Services, Hyderabad.
3. The Senior Superintendent of Post Offices, Hyderabad South East Division, Hyderabad.
4. The Superintendent of Post Offices, ^{Kachiguda} Hyderabad.
5. One copy to M. Ratna Reddy, advocate, 3-4-8, Dr. Bhoomanna Lane, Kachiguda, Hyd.
6. One copy to Sri. M.Jagan Mohan Reddy, Addl. CGSC, for R-1 to R-4, CAT, Hyd.
7. One copy to Sri. S.Ramakrishna Rao, advocate, for R-5, CAT, Hyd.
8. One spare copy.

Rsm/-

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O.A. 419/92

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CHECKED BY 1611 APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

THE HON'BLE MR. R. BALASUBRAMANIAN:M(A)

AND

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

AND

THE HON'BLE MR.C.J. ROY : MEMBER(JUDL)

Dated: 26/10/1992

ORDER/JUDGMENT:

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

in

O.A. No.

419/92

T.A. No.

(wp. No)

Admitted and interim directions issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No orders as to costs.

pvm

