

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.725/92

date of decision : 19-2-93

M. Syamala

: Applicant

and

1. The Union of India, rep; by
The Secretary
Dept. of Posts & Telecommunications
New Delhi

2. The Chief Postmaster General
Andhra Circle
Hyderabad

3. The Director of Postal Services
(Rectt)
O/o The Postmaster General
Hyderabad

4. The Supdt. of Post Offices
Tirupathi Division
Tirupathi

: Respondents

Counsel for the Applicant

: G. Parameshwara Rao
Advocate

Counsel for the Respondents

: N.R. Devaraj, Standing
Counsel for Central Govt.

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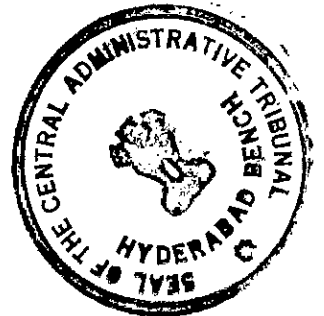
HON. MR. JUSTICE V. NEELADRI RAO, VICE-CHAIRMAN

HON. MR. R. BALASUBRAMANIAN, MEMBER (ADMN.)

Judgement

(Orders as per Hon. Mr. V. Neeladri Rao, Vice-Chairman)

Late Mr. Ramaiah, M, the father of the applicant met with an accident and his leg was amputated and on medical grounds he had taken voluntary retirement from service on 20-9-1985. The applicant is the eldest of the three children of Sri Ramaiah. On 28-5-1986, she applied for the post of



Postal Assistant on compassionate grounds. By then she passed SSC. When this application had come up for consideration before the concerned authority on 31-5-1985, it was noticed that the applicant was not qualified for the post of Postal Assistant, for which the minimum educational qualification is intermediate, and hence it was decided to offer the post of Postal Woman for which she was having requisite/adequate qualification. Accordingly, letter dated 27-6-1988 was despatched. But even before receipt of the same, the applicant submitted to the concerned authorities by letter dated 1-7-1988 that she passed Intermediate and hence she was qualified for the post of Postal Assistant. But the concerned authorities had given 15 days notice to the applicant asking her to submit her acceptance to the post of Postal Woman and she declined it by her letter dated 15-11-1988. The request of the applicant for the post of Postal Assistant as per the second application dated 1-7-1988 was negatived by letter dt. 2-4-1990 in No.D.3/RR/MR/89/SPD. Then the mother of the applicant submitted a representation dated 22-7-1991. When the applicant had not received any reply in regard to the said representation, this OA was filed on 10-8-1992 praying for a direction to the respondents to appoint the applicant as Postal Assistant or alternatively as Postal Woman on compassionate grounds by declaring the order as per letter dated 2-4-90 of the SPD, Tirupathi, as void, illegal and unconstitutional.

2. It is not clear from the affidavit of the applicant as to when she passed the Intermediate Examination. Hence, it is not known as to whether as on 31-5-1988, the date on which the first application of the applicant had come up for consideration, the applicant was qualified for the post of Postal

4. Two alternatives are open to this Tribunal at this stage viz. :

i) Either to grant adjournment so as to enable the learned counsel for the applicant to get the information about the date on which the applicant passed the Intermediate and then to decide the question of law, i.e. as to whether qualification on the date of application or the qualification on the date of consideration of the application, is material. ✓

ii) To enquire as to whether the applicant will now satisfy ^{with} ~~in regard to~~ the post of Postal Woman, for the earlier non-acceptance of the said offer by the applicant, is only under the fond hope that she could have acquired higher post of Postal Assistant.

5. The learned counsel for the applicant submitted in the interest of the applicant that even if the question of law in regard to the first point is going to be decided in her favour, the respondents may challenge it by way of Appeal and hence there ^{may be} ~~is~~ delay in final disposal of this matter. Hence, he submitted that her case in regard to alternative post of Postal Woman may be considered.

6. The learned Standing Counsel for the respondents submitted that there is a delay of two years from the date of final rejection on 2-7-1990 and there ^{are} ~~was~~ no circumstances to condone delay. In view of the material on record, we feel it a fit case for condoning the delay.

7. Heard Mr. G. Parameshwara Rao, Counsel for the Applicant and Mr. N.R. Devaraj, Standing Counsel for the Respondents.

8. As we feel that ~~her~~ non-acceptance of the post of Postal Woman ^{by the applicant} by her letter dated 15-11-1988, ^{when} ~~being~~ considered in the circumstances which existed then, cannot be held as refusal

Assistant. As such for consideration of this application, we do not feel it necessary to decide as to whether the qualification as on the date of application or the qualification as on the date of consideration of the application, had to be taken into consideration. For the same reason we do not want to express as to whether it is necessary ^{for} ~~to~~ the concerned authority to intimate the applicant year after year that her application is pending consideration, if it could not be considered in the year in which it was filed so as to enable ~~to inform~~ ^{to inform} the applicant concerned authority about the acquiring of any further educational qualification.

3. The learned counsel for the respondents strenuously urged that when once the applicant refused to accept the offer of Postal Woman she cannot now come forward with a prayer for a direction to the respondents to give her the post of Postal Woman if for any reason her prayer for a direction to give the post of Postal Assistant cannot be acceded to. But we ^{have to} take for consideration the sequence of events in the proper ~~pres-~~ perspective. Even before the applicant received the communication dated 27-6-1988, whereby the offer of Postal Woman was made, she submitted a letter to the effect that she passed Intermediate examination and she was qualified for the post of Postal Assistant and she requested for the said post. It is human nature to aspire for higher things if they are within the reach. Probably, the applicant might have felt that she had a very strong case in regard to her request for the post of Postal Assistant and if she accepted the post of Postal Woman her case for the post of Postal Assistant might not ~~have been~~ ^{have been} considered and under those circumstances she might have declined the offer of Postal Woman.

to agree to the post of Postal Woman and as this itself is a case of providing job on compassionate grounds and as the fact that she even agrees for the lower post now, indicates that this compassionate ground still exists., it is just and proper to direct the respondents to provide the post of Postal Woman to the applicant in the next vacancy ⁱⁿ Direct Recruits, which had to be given on the compassionate grounds.

9. The OA is ordered accordingly. No costs.

CERTIFIED TO BE TRUE COPY
[Signature]
 Date.....11/3/93.....
 Court Officer
 Central Administrative Tribunal
 Hyderabad Bench
 Hyderabad.

To

1. The Secretary, Union of India,
 sk Dept.of Posts & Telecommunications, New Delhi.
2. The Chief Postmaster General, Andhra Circle,Hyd.
3. The Director of Postal Services (Rectt)
 O/o The Postmaster General, Hyderabad.
4. The Superintendent of Post Offices,
 Tirupati Division, Tirupati.
5. One copy to Mr.G.Parameswara Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
7. One spare copy.

pvm