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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.717/93

Date of Order:2.3.94

BETWEEN:

G.Ankalappa

.. Applicant.

A N D

The Supdt. of Post Offices,
Anantapur Dist.

2. The Chief Post Master
General, Andhra Pradesh,
Hyderabad.

3. The Director General of
Posts and Telegraphs,
New Delhi.

-- Respondents.

Counsel for the Applicant

.. Mr.T.P.Acharya

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

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

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

18/12/94

(31)

J U D G E M E N T

I AS PER SHRI V. NEELADRI RAO, VICE-CHAIRMAN I

Heard both the ^{learned} counsels.

The applicant is working as ED Packer. 50% of the posts of postmen ^{have} ~~has~~ to be filled up by promotion from the departmental officials and the remaining 50% ^{have} ~~has~~ to be filled up by promoting the ED Agents or outsiders. The departmental officials are eligible for promotion only on the basis of selection. But 50% of the posts allocable to ED Agents ^{have} ~~has~~ to be filled up on the basis of seniority, while the remaining 50% ^{have} ~~has~~ to be filled up on the basis of selection. If ED Agents are not available, outsiders are considered for promotion to the posts of Postmen. If sufficient number of departmental officials are not qualified for promotion to the posts of postmen, the remaining vacancies allocable to departmental officials also have to be filled up by promoting ED Agents.

2. Notification was issued on 19.7.90, notifying 5 vacancies for departmental officials and 4 vacancies for ED Agents and outsiders. Out of the 5 vacancies notified for the departmental people, one was reserved for ST. After the necessary examination was conducted, the selection was made as per memo. dated 21.2.91 (vide Annexure 2).

It discloses that 2 O.Cs from departmental people were promoted and 2 ED Agents were promoted on the basis of seniority and 2 ED Agents were promoted on merit. It also shows that one EDMC belonging to ST community and one ED BPM belonging to SC community were also promoted.

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3. As per the merit list, the applicant is at Sl. No. 70, but as per seniority he is at Sl.No.3. The contention for the applicant is that when only 2 departmental officials were qualified for promotion, the vacancies available for OCs ^{has} ~~had~~ come to 6 and instead of filling up of all those 6 posts on the basis of seniority and merit, one was given to SC and the other was filled up ^{by} ~~up~~ ST candidate and it is not in accordance with the rules and if 3 posts are filled up on the basis of seniority, he too should have been promoted. As he is 3rd in the list as per seniority, he made a representation requesting for his promotion on the basis of seniority. When the same was not agreed to by order No. B4/PM/Exam/90 dated 29.5.93, this OA was filed praying for declaration ^{that} of the said order as arbitrary and illegal and for direction to the respondents to select the applicant to the post of Postman with retrospective date from the date on which the other candidates as per memo. dated 21.2.91 were selected and for consequential benefits.// It is stated for the respondents that a separate 100 point Roster is maintained in regard to the promotion from ED Agents. It is urged that as per notification dated 19.7.90, only 4 vacancies were notified for ED Agents and as all of them are against OC point, no vacancy was notified as reserved in regard to ED Agents, and when it has become necessary to divert 2 of the vacancies allocated to the departmental people for want of qualified persons ^{from} ~~from~~ them, and when the remaining 2 points as per 100 point Roster are against SC ^{and} ~~ST~~, it has become necessary to reserve the remaining ^{two} ~~to~~ SC ^{and} ~~ST~~. There is

To

1. The Superintendent of Post Offices,
Anantapur Dist.
2. The Chief Postmaster General,
Andhra Pradesh, Hyderabad.
3. The Director General of Posts and Telegraphs,
New Delhi.
4. One copy to Mr.T.P.Acharya, Advocate, 1-2-361/2, Domalguda, Hyd.
5. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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force in the above submission for respondents.
Hence the contention for the applicant that the remaining 2 posts should not have been filled up from amongst SC/ST candidates is not tenable.

4. It is also pleaded for the ^{applicant} respondents as that Shri P.S.L. Narayana who was given promotion on the basis of seniority as per memo. dated 21.2.91 (vide Annexure 2) crossed the age of 42 years, he is not eligible for promotion as per rules. But the applicant has not made clear as to whether Shri Narayana crossed 42 years even by 19.7.90, the date of notification. Further, the said contention for the applicant cannot be considered as Shri Narayana ^{is} not impleaded as the party to these proceedings. Hence we are not further adverting to the said contention for the disposal of this OA.

5. During the course of arguments, the learned counsel for the applicant submitted that Shri P. Papa Rao, BPM, Chintakunta who was promoted on the basis of seniority as per Annexure 2 has not joined at all. If it were to be so, the applicant who is the third ^{qualified} as per seniority has to be promoted on the basis of seniority.

6. So the proper direction that has to be given in this OA is as under:-
"Respondent 1 has to promote the applicant as Postman if Shri Papa Rao, BPM, Chintakunta has not joined the post of postman and if the applicant is the ^{qualified} seniority quota of ED Agents."

7. The OA is ordered accordingly. No costs.

Member (Admin.)

Vice-Chairman

Dated the 2nd March, 1994

Open court dictation

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Amilgiri 18374
DY. Registrar (C)ee