

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.
O.A.No.222 of 1993.

Between

K.Raju

Dated: 17.3.1993.

...
And

Applicant

1. Union of India, rep. by the Secretary, Ministry of Communications, New Delhi.
2. Director of Postal Services, O/O PMG APSR Kurnool.
3. Superintendent RMS AG Division, Guntakal.
4. SRO HSC-II RMS AG DN, Anantapur.

...

Respondents

Counsel for the Applicant : Sri. T.Jayant
Counsel for the Respondents : Sri. N.V.Ramana, Addl. OGSC.
Negiwa Shadly

CORAM:

Hon'ble Mr. Justice V.Neeladri Rao, Vice Chairman
Hon'ble Mr. R.Balasubramanian, Administrative Member

The Tribunal made the following order:-

Admit. Issue notice to the Respondents.

Until further orders, Status-quo as on today be maintained. Post the O.A. on 29.4.1993, for counter in the meanwhile.

4
Deputy Registrar(Judl.)

17393

Copy to:-

1. Secretary, Ministry of Communications, Union of India, New Delhi.
2. Director of Postal Services, O/O PMG APSR Kurnool-005.
3. Superintendent RMS AG Division, Guntakal.
4. SRO HSC -II RMS AG DN, Anantapur.
5. One copy to Sri. T.Jayant, advocate, CAT, Hyd.
Negiwa Shadly
6. One copy to Sri. N.V.Ramana, Addl. OGSC, CAT, Hyd.
7. One spare copy.

Rsm/-

R.S.M.
C.R.M.

6.1.222/93

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V. NEELADRI RAO : V.C.

AND

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

AND

THE HON'BLE MR. CHANDRA SEKHAR REDDY
: MEMBER (J)

AND

THE HON'BLE MR.

DATED: 17/3/1993

ORDER/JUDGMENT:

R.P./C.P/M.A. N.

T.A. NO.

(W.P. NO.)

in
222/93

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed as withdrawn

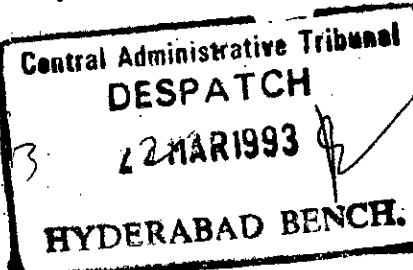
Dismissed

Dismissed for default

Rejected/Ordered

No order as to costs.

pvm



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

OA Nos. 269/93, 207/93, 208/93, 221/93, 222/93, 217/93
360/93, 311/93, 312/93, 313/93, 314/93, 315/93, 316/93,
317/93, 318/93, 319/93, 320/93, 321/93, 322/93 & 323/93.

Dt. of Order: 25-2-94.

Between :-

1. B.Nagarjuna (Applicant in OA 312/93) ✓
2. P.Ramendraneyulu (Applicant in OA 310/93) ✓
3. K.Srinivasulu (Applicant in OA 311/93) ✓
4. K.Rajw (Applicant in OA 222/93) ✓
5. M.C.Nallappa (Applicant in OA 269/93) ✓

A N D

1. Union of India rep. by the Secretary, Ministry of Communications, New Delhi.
2. Director of Postal Services, O/o PMG APSR, Kurnool-5.
3. Superintendent, RMS AG Division, Guntakal-515801.
4. Sub-Record Officer (SRO), RMS AG Division, Anantapur-515001.

... Respondents in
OAs 312, 310, 311, 222 & 269 of '93

Between :-

1. M.Fakuruddin (Applicant in OA 313/93) ✓
2. S.Mahabub Peeran (Applicant in OA 314/93) ✓
3. G.Venkateswary (Applicant in OA 315/93) ✓
4. G.Somanna (Applicant in OA 316/93) ✓
5. S.Khaderbasha (Applicant in OA 317/93) ✓
6. Shaik Tahir Basha (Applicant in OA 318/93) ✓

A N D

1. Union of India rep. by the Secretary, Ministry of Communications, New Delhi.

2. Director of Postal services,
O/o PMG APSR, Kurnool-5.
3. Superintendent, RMS AG Division,
Guntakal-515801.
4. Head Record Officer (HRO),
RMS AG Division, Guntakal-515801.

... Respondents in OAs 313,
314, 315, 316, 317 & 318 of '93.

Between:-

1. B.Subbarayudu (Applicant in OA 207/93)
2. P.Subbarayudu (Applicant in OA 319/93)
3. K.V.Chalapathi (Applicant in OA 320/93)
4. G.Venkateswarlu (Applicant in OA 208/93)

A N D

1. Union of India rep. by the Secretary,
Ministry of Communications, New Delhi.
2. Director of Postal Services,
O/o PMG APSR, Kurnool-5.
3. Superintendent, RMS AG Division,
Guntakal-515801.
4. Sub-Record Officer (SRO),
RMS, AG Division, CUDDAPAH

... Respondents in OAs 207,
319, 320, 208 of 1993.

Between :-

1. M.Nagaraja Rao (Applicant in OA 321/93)
2. S.Mansur Bash (Applicant in OA 322/93)

A N D

1. Union of India rep. by the Secretary,
Ministry of Communications, New Delhi.
2. Director of Postal Services,
O/o PMG APSR, Kurnool-5.
3. Superintendent, RMS AG Division,
Guntakal - 515801.
4. Sub Record Officer (SRO),
RMS AG Division, Kurnool - 518003.

.... Respondents in OA 321/93
& OA 322/93

DA 323/93.

N.Jayaramulu

...Applicant

Vs.

1. Union of India, rep. by the Secretary,
Ministry of Communications, New Delhi.

2. O/o PMG APSR, Kurnool - 518005.

3. Superintendent, RMS AG Division,
Guntakal-515801.

4. Inspector RMS , Ist Sub- Division,
SRO , Hindupur - 515201.

...Respondents

DA 221/93.

G.Yessebu

...Applicant

Vs.

1. Union of India, rep. by
The Secretary, Ministry of Communications,
New Delhi-1.

2. Director of Postal Services,
O/o PMG APSR, Kurnool - 518005.

3. Superintendent RMS AG Division,
Guntakal.

4. IIRM AG II Sub Division,
Guntakal.

...Respondents

DA 217/93.

S.Venkateswarlu

...Applicant

Vs.

1. Sub-Record Officer,
Railway Mail Service,
Ag.Division, Cubbapah.

2. The Superintendent of RMS,
Guntakal Division, Guntakal.

3. The Post Master General,
AP Southern Region,
Ashok Nagar, Kurnool.

4. P.Subbarayadu,

...Respondents

3229

Counsel for the Applicant : Shri T.Jayanth in OAs
269, 207, 208, 221, 222,
310, 311, 312, 313, 314,
315, 316, 317, 318, 319, 321,
320, 322 & 323 of 1993

Shri J.Veera Reddy in
OA 217/93

Counsel for the Respondents : Shri N.R.Devraj, Sr.CGSC
in OAs 269, 207, 208, 217,
310, 311, 312, 313, 314,
315, 316, 317, 318, 319,
320, 321, 322 & 323/93.

Shri N.V.Raghava Reddy,
Addl.CGSC in OAs 221 & 222
of 1993.

CORAM:

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

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

....5.

4/10/08
D/S

OAs 269/93, 207/93, 208/93, 221/93, 222/93, 217/93, 360/93
311/93, 312/93, 313/93, 314/93, 315/93, 316/93, 317/93,
318/93, 319/93, 320/93, 321/93, 322/93 and 323/93.

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JUDGMENT

DT: 25.2.1994.

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

Heard Shri T.Jayant, ~~learned counsel~~ for the
and N.V.Raghava Reddy,
applicants and S/Shri N.R.Devaraj, ~~learned standing counsel~~
for the respondents.

2. All these OAs can be conveniently disposed of by
common order as the same point arises for consideration in
all these OAs.

3. A notification dated 16.3.1992 (Annexure R-IV) was
issued by the Superintendent, RMS, AG-Division, Guntakal
for filling up of the Extra Departmental Mail Men (EDMM)
vacancies from among the part time casual labourers who
~~satisfy~~ specifying conditions referred to therein. Then all these
applicants and ~~another~~ a person were appointed. It is stated
for the respondents that on the basis of the complaints
received, an investigation was made by the vigilance section
of the P&T, and it was noticed that all these applicants
worked only as substitutes but not as part time casual
labourers and hence a report was submitted to the effect that
the substitutes who were ^{not} eligible for consideration in
pursuance of the notification dated 16.3.1992 were ~~not~~
appointed for extraneous reasons. Then, the notices dated
30.11.1992 were issued to all these applicants to make
representation against the proposal for nullifying their
recruitment as they were not eligible for consideration for

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selection as per the notification dated 16.3.1992. Those notices are in identical terms. Then these applicants submitted their respective representations wherein they stated that they are outsiders and they were eligible for consideration for the posts of EDMM referred to in the notification dated 16.3.1992. It is stated that after consideration of their representations it was found that the applicants worked only as substitutes and hence they were removed as per the impugned orders. They are assailed in these OAs.

4. Whenever ED Agents go on leave, ~~they have to~~ ^{he has} nominate ~~their~~ ^{his} substitutes while applying for leave, and on approval of the substitutes by the Superintendent, RMS, the leave was granted and the substitutes work during the leave ^G vacancy of the ED Agents, and the ED Agents ^{is} responsible for the ~~conduct of thefts and steals~~ ^{referred to as} substitutes.

5. It is stated that whenever a regular Class-IV employee goes on leave, the Superintendent, RMS appoints a person during the leave vacancy of the Class-IV employee and such appointee who works in the leave vacancy of the Class-IV employee is ~~the~~ outsider.

6. In the circular No.45-24/88-SPB.I, dated 17.5.198 (Annexure R-III), it is categorically stated that a substitute engaged against an absentee ED Agent should not be designated as casual labourer. Even in the order of priority that is laid down as per the above circular, the substitutes are shown at Sl.No.5, while the casual labourers, full time or part-time are shown at Sl.No.3. In para-2 of the s

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circular, it is stated that even the outsider should be considered as ^acasual labourer.

7. In the additional affidavit filed on 20.2.1994 by the applicant in OA 321/93, it is stated that he worked as an outsider. In Annexure-2 to that additional affidavit on the reverse, the applicant was referred to as an outsider in the endorsement made by the Sub ~~RECOR~~ Record Officer (LSG).

8. The learned counsel for the respondents submitted (applicant in G 132(193)) a document dated 5.3.1992 wherein Shri Nagaraja Rao stated that he worked as a substitute from 1982.

9. During the course of the arguments, we inquired from Shri N.R. Devaraj as to whether there is any bar for one who worked as a substitute for some period from being engaged as an outsider at a later date. It was fairly conceded by him that there is no such ^{any} a bar.

10. So, it is not clear as to whether all or any of these applicants worked as substitutes only or whether they also worked ~~as~~ outsiders for some time.

11. Annexure R-IV notification states that any part-time casual labourer who worked for a minimum of one year (4 days) and who is within the age of 18-25 was eligible for the post of EDMM. It is also stated therein that weightage in ^{for which} the age will be given for the period one worked as casual labourer.

12. It can be stated that one who merely worked as a substitute was not eligible for consideration as the ~~RECOR~~ Annexure R-IV notification made it clear that the

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recruitment was only from among the part-time casual labourers. But if one worked for a minimum of one year as a part-time casual labourer and if he satisfies the other conditions referred to in the said notification, there was no bar for consideration of his case for selection as EDMM as per the said notification even if he also worked as a substitute for some period. As it is not clear as to whether the same was kept in ^{view} mind by the respondents before the impugned orders were issued, we feel that it is just and proper to give a direction for verification in regard to the same.

13. Before referring to the direction, it is necessary to refer to the contention for the applicants that in such cases, the inquiry under Rule 8 of ED Agents (Conduct and Service) Rules has to be followed. But while referring to Rule 6 therein, the Chief Justice Shri Malimath who then was ⁽¹⁾ for the Bench of the Kerala High Court observed that termination of service on any administrative ground contemplated by Rule 6 is a ground or reason that arises after the appointment and not the ground that arises before in regard to the appointment. We feel that the same applies with equal force even in regard to Rule 8 of the said rules. As fraud is alleged in regard to the appointment of the applicant, Rule 8 of the ED Agents (Conduct and Service) Rules is not applicable. Even in the above judgment, it was stated that it is open to the authorities to take appropriate action if so advised in accordance with law in regard to the situation which do not arise.

(1) SLR 1990(1) Kerala High Court p. 757 (P.V. Madhavan Nambiar & anr. vs. DV Radhakrishnan)

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under Rule 6 of the rules. In such cases it is open to the concerned authority to order removal if fraud is established. In such inquiries, it is necessary to observe the principles of natural justice. Ofcourse, in this ~~case~~ an opportunity was given to the applicants to show cause notice requiring them to make representations against the proposal for nullifying their appointment. But as already observed, it is clear as to whether the ~~res~~ ~~the applicants worked as casual labourers for atleast one year or even~~ ^{in fact} ~~they worked for substitutes for some~~ stated, time. Hence, as already ~~it has~~ become necessary for us to give a direction for fresh inquiry by keeping in view the observations in this order.

14. Guntakal has to verify the relevant records from ~~1985~~ till 16.3.1992 in the presence of the applicants and/or his representative. That representative should not be either retired employee or an office bearer of the unit. He should be a person working under the control of the Superintendent, RMS, AG-Division, Guntakal. The record that has to be verified is only that record which discloses about the payment of the employee as an outsider. It has to be made clear that it is not a case of the applicants that they worked as casual labourers other than ^{as} the outsiders.

15. It is only after hearing both the sides ~~that~~ it is decided that it is reasonable to verify the record from 1.4.1985 only. Both the sides agreed for the following

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time schedule:-

12.4.1994 - In regard to the applicants in OAs 269/93, 207/93, 208/93, 221/93 and 222/93.

13.4.1994 For the applicants in OAs 217/93, 360/93, 311/93, 312/93 and 313/93.

14.4.1994 - For the applicants in OAs 314/93, 315/93, 316/93, 317/93, 318 and 318/93.

15.4.1994 -- For the applicants in OAs 319/93, 320/93, 321/93, 322/93 and 323/93.

16. The respective applicants have to apply for casual leave if they intend to be present at the time and date of the inquiry. A special casual leave has to be given for their representatives.

17. We have to make it clear that it is only one of verification on the basis of the records available with the Superintendent, RMS, AG-Division, Guntakal and also ~~the~~ ^{the} ~~Superintendent~~ ^{Superintendent}, Guntakal to the applicants in regard to the appointment ~~as~~ ^{as} outsiders, if any. No oral evidence is permitted.

18. It is needless to say that if on verification any of these applicants had not worked as part time casual labourer (part-time casual labourer is one who worked for less than 8 hours a day as per Annexure R-III) for atleast 240 days as envisaged in the notification dated 16.3.1992 (Annexure R-IV), they are liable to be removed from service

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on the ground that they were not eligible for consideration in pursuance of the notification dated 16.3.1992 (Annexure R-IV).

19. The OAs are ordered accordingly. No costs.

OR
(R. RANGARAJAN)
MEMBER (ADMN.)

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

DATED: 25th February, 1994.
Open court dictation.

Amulya Murthy
Deputy Registrar (Judl.)

vsn.

Copy to:-

1. Secretary, Ministry of Communications, Union of India, New Delhi-1.
2. Director of Postal Services, O/O PMG APSR, Kurnool-5.
3. Superintendent, RMS AG Division, Guntakal-01.
4. Sub-Record Officer (SRO), RMS AG Division, Anantapur-01.
5. Head Record Officer (HRO), RMS AG Division, Guntakal-01.
6. Sub Record Officer (SRO), RMS AG Division, Kurnool-03.
7. Inspector RMS 1st Sub Dn., SRO, Hindpur-201.
8. IRM AG II Sub Division, Guntakal.
9. One copy to Sri. T. Jayanth, advocate, CAT, Hyd.
10. One copy to Sri. J. Veera Reddy, advocate, CAT, Hyd.
11. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyd.
12. One copy to Sri. N.V. Raghava Reddy, Addl. CGSC, CAT, Hyd.
13. One copy to Library, CAT, Hyd.
14. One spare copy.

Rem/-

15. Sub-Record Officer (SRO) K-H.S, AG, Division, Cuddapah.
16. The Post Master General, AP Southern Region, Ashok Nagar, Kurnool.

10th Feb 1994
P. J. A. M.

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CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE T
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEEL
VICE CHAI

AND

THE HON'BLE MR.A.B.GORTHI

AND

THE HON'BLE MR.TCCHANDRASEKAR
MEM

AND

THE HON'BLE MR.R.RANGARAJ

Dated: 25/2/1994

ORDER/JUDGMENT

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

O.A.No.

in
269

T.A.No.

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HYDERABAD