

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.Nos. 174/93 and 274/93

Date of Order: 24-7-95

Between:

A.V.Srinivasa Rao.

.. Applicant in O.A.174/93

G.V.M.Koteswara Rao.

.. Applicant in O.A. 274/93

and

1. Postmaster General, Eastern Division,
Vijayawada.
2. The Superintendent of Post Offices,
Narasaraopet, Guntur Dist.A.P.
3. N.Hari Babu.

... ~~xxxxxx~~
.. Respondents in O.A.174/93

and

1. The Regional Inspector General of Post Offices,
Vijayawada, Krishna Dist.
2. Superintendent of Post Offices, Narasaraopet Division,
Narasaraopet, Guntur Dist.
3. The Postmaster, Narasaraopet, H.O.
Guntur Dist.
4. Sri N.Hari Babu.

Respondents in O.A.274/93.

For the Applicant :- Mr. A. Anasuya, Advocate in O.A.174/93
Mr. G.V.L.N. Murthy, Advocate in O.A.274/93.

For the Respondents: Mr. N.V. Raghava Reddy,
Sec./Add. CGSC

CORAM:

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

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

OA No.174/93 and 274/93

Pre delivery judgement in the above OAs
prepared as per the dictation of the H.M.(A) is
placed below for concurrence please.

The H.M.(A)

The HVC

KMV
(CVK Mohan Varma)

PS

19.7.1995

O.A.174/93 & O.A.274/93

Dt. of decision: 24-7-1995.

JUDGEMENT

{ As per Hon'ble Sri R. Rangarajan, Member (A) }

Heard Smt. A. Anasuya, learned counsel for the applicant, ~~xxxxxx~~ and Sri N.V.Raghava Reddy, learned counsel for the respondents in O.A.No.174/93, and heard Sri G.V.L.N.Murthy, learned counsel for the applicant and Sri M.J.M.Reddy, learned counsel for the respondents in O.A.274/93.

2. These two OAs are disposed of by a common order as points for consideration involved in these two OAs are same.

3. The post of EDBPM, Gogulapadu BO became vacant w.e.f. 1-7-1992 consequent on the discharge of Sri G.V. Srinivasa Rao, EDBPM, Gogulapadu BO on his completion of 65 years of age on 30.6.92. The said Srinivasa Rao is the father of the applicant in OA 274/93.

for sponsoring candidates
4. R-2 addressed a letter for filling up this vacancy, to the Dist. Employment Exchange, Guntur on 23.6.92. As no response was received from the above Employment Exchange the vacancy was notified by R-2 calling for applications for the post from public with last date as 21.10.92. In response to the above notification, eight applications were received within the stipulated date which includes the applicant in both the OAs and R-3 in OA 174/93 (Respondent No.3 in OA 174/93 is Respondent No.4 in OA 274/93.)

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R-2 sent the applications to SDI(P), Narasaraopet on 26.9.92 for the verification of the documents with originals. The SDI(P) returned all the applications with enclosures duly verified by them to R-2 through his letter dt.5.12.92. The documents of applicant in OA 274/93 (G.V.M.Koteshwara Rao) were got verified even earlier while he was provisionally appointed and hence verification of documents of the applicant in OA 274/93 was not done as it ^{had} already been verified. The selection of BPM ^{was} finalised by R-2 on 6.1.93 and Sri Hari Babu (SC) who is the 3rd respondent in the OA 174/93 and 4th respondent in OA 274/93 was selected and appointed as EDBPM, Gogulapadu BO.

5. These two OAs are filed praying for a declaration that the appointment of Sri Hari Babu (R-3 in OA 174/93 and R-4 in OA 274/93) to the said post of EDBPM to Gogulapadu Village, Narasaraopet, Guntur District is arbitrary, illegal and contrary to law, void ab initio, and against principles of natural justice ^{and also} /equality before Law which is provided as per Art.16 of the Constitution of India irrespective of caste, creed, colour etc. by calling for records pertaining to B-3/Gogulapadu, Dt.10.2.93 and for a consequential direction to appoint the applicants in the respective OAs as EDBPM in the said Branch Office, in place of Sri Hari Babu.

6. The main contention of the applicant in OA 174/93 can be summarised as follows:-

- (1) As per notification dt.9.9.92 the applicant for the said post of EDBPM to be selected should be having adequate means of livelihood and also ~~xxxxxxx~~ adequate source of income and must be able to offer suitable place to locate the Post Office with provisions for installation of even a PCO. R-3 does not fulfil these conditions.

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(2) The applicant, being a B.Com graduate, is to be preferred compared to R-3 in this O.A. who is only a matriculate, and

(3) Selection of R-3 who is a reserved community candidate (SC) overlooking the other OC candidate is irregular as notification does not state that the post is reserved for SC community candidate.

7. The first contention of the applicant is that he is resident of Gogulapadu having landed property in the said village and a Daba house which is centrally located in the village and he is getting an income of over Rs.20,000/- approximately per year. His house is a big one and is best suited for the purpose of providing a BO and also best suited for establishing a PCO, and is very convenient for the villagers to approach the Post Office as it is centrally located. R-3 is having annual income of only Rs.6,000/- and immovable property of Rs.35,000/- and the accommodation provided by him for the PO is in corner of the village and is not easily accessible. Further, it is alleged by the applicant that the accommodation provided is not suitable for housing the Post Office as it is in a dilapidated condition. To prove this point he has also produced a sketch of the accommodation provided by R-3, signed by the Sarpanch, Gram Panchayat, Gogulapadu for housing the PO.

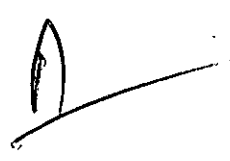
8. It is admitted that Hari Babu (R-3 in this OA) is a resident of the village like the applicant. As per notification dt.9.9.92 under the heading 'Income and Ownership of property', it is stipulated that "a person applying for the post must have adequate means of livelihood and must have an adequate source of income and must be able to offer suitable place to locate the PO with provision for installation of even PCO". From the reply statement filed by the

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official respondents, it is seen that R-3 is having the income of Rs.6,000/- and having property worth Rs.35,000/-. As the notification only stipulates that the selected candidate should have adequate property and income for being appointed as EDBPM, the Department had come to the conclusion that the annual income and property possessed by R-3 is adequate, and this view is supported by DG, P&T's letter dt.20.1.79 which clarifies "that large quantum of property or income is no consideration". Hence the contention of the applicant that he should be selected as he is having higher annual income and property worth Rs.1,40,000/- more than the R-3 cannot be sustained.

9. The next contention is that the house property provided by R-3 is notadequate enough to house the PO along with PCO. It is a fact that R-3 is having his own house in the Scheduled Castes colony in the said village. As per the sketch submitted by the Sarpanch, Gram Panchayat, Gogulapadu village, it is seen that the office accommodation provided is 12 feet x 12 feet. He has an adjacent vacant room for his personal use. Though it is stated that the colony was constructed long back and the house is in dilapidated condition, R-2 and the SDI(P), Narasaraopet must have taken these points into consideration before deciding whether the proposed building for the PO is adequate for the purpose for which it is intended. It is not for the Tribunal/Court to give any specification for deciding the nature of the building to be offered for housing the PO and PCO. If the authorities concerned are satisfied regarding the worthiness of the building and the safety precautions available for housing the PO, it is not necessary to question their wisdom in this regard. The notification dt. 9.9.92 only stipulates that the person to be appointed to the post must be a permanent resident of the village where the PO is



to be located. It does not say anything regarding the condition of the building and its location in the village. If the authorities concerned are satisfied that the accommodation offered for housing the PO is sufficient and will be convenient to the villagers, it is not for us to question their decision and such decision has to be accepted. As the R-2 and SDI(P), Narasaraopet are satisfied themselves regarding accommodation, we see no reason to interfere in this connection. The selection made cannot be negated on this ground.

10. The further contention is in regard to the educational qualification of the applicant vis-a-vis R-3. As per the notification dt. 9.9.92 the educational qualification prescribed is 8th standard but matriculates or equivalents preferred. As per the D.G., P&T's Lr.No.43/312/78-PM, dt. 20.1.79 no weightage will be given to educational qualification above matriculation. In view of this a comparison should only be made with respect to qualification prescribed as per notification. As R-3 passed SSC, he fulfilled the educational qualification for posting him as EDBPM. Even if the applicant is a B.Com graduate, he cannot claim preference over R-3 because of his higher qualification. Further the applicant has secured only 219 marks in SSC, whereas the selected candidate secured 266 marks in SSC. Hence, the applicant cannot challenge the selection of R-3 on this ground.

11. It is stated for the respondents that two candidates viz. Sri Murali and Sri Hari Babu, R-3 in this OA, both belonging to SC community were considered for selection since they come under preferential categories as there is not enough representation of SC community candidates in the working strength of EDBPM in the Division. It is further stated that

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total number of BPM posts in the Division are 336, out of which only 20 persons from SC community are working as EDBPM. As there is deficiency in SC representation, an SC candidate was selected.

12. In this connection, it is necessary to reproduce the instructions issued by DG, P&T under his Lr.No.43-84/80-Pen., dt.13.3.94. This letter reads as follows:

"It has now been decided that while making selection to the posts of ED BPM/ED SPMs in divisions where SC/ST representation in ED appointment in general is inadequate, SC/ST may be given preference. This is, however, subject to the condition that they fully satisfy all criteria for such appointment; provided further that notwithstanding this concession, any candidate with matriculation qualification subject to satisfaction of all other criteria, will be preferred to those with less than matriculation qualification. No weightage need be given in qualification above the level of matriculation."

From the above letter, if the representation of Scheduled ~~Castes/~~ Tribes in ED posts is generally inadequate, Scheduled Tribes ~~Castes/~~ may be preferred, provided they satisfy all the criteria for such appointment. It is also made clear in that letter that no weightage need be given in qualification above the level of matriculation.

13. As the representation of SCs in the post of EDBPM in the Division under R-2 is deficient, as can be seen from the statistics given by the respondents, we see no irregularity if an SC candidate is selected in preference to other OC candidates. This selection is in accordance with the instructions quoted above. If a notification is issued calling for applications only from SC candidates and none applied in pursuance of the same, it may become

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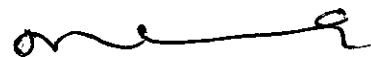
necessary to issue another notification from other candidates. This will be time consuming and to avoid such contingency a general notification dt. 9.9.92 was issued by R-2 and as candidates from reserved community responded to that notification, R-2 preferred them in view of the inadequacy/representation of SC candidates in his Division. In view of the above, we see no irregularity in selecting the R-3 even if the notification does not prescribe that the post is reserved for SC.

14. In OA 274/93, the applicant therein contended that he should be posted as EDBPM as he is already working as a provisional appointee in that PO after retirement of his father who held the post for 32 years. The above contention is in addition to the contention/already raised in OA No. 174/93 which were discussed in the earlier paragraphs. The post of EDBPM is not an hereditary post, and it is not necessary that the son, if eligible, should occupy the post of EDBPM, vacated by his father. To meet the exigencies of service he was appointed as a provisional EDBPM in that PO when his father retired from service. This does not give him any vested right to continue as EDBPM in a regular capacity, if he does not qualify in that selection on the basis of the notification issued. He has to compete with others who applied in response to the notification and take his chance in the selection. It is also to be noted that the applicant in this OA, though an undergraduate, need not be given any preference for his higher qualification and provisional appointment as EDBPM as there are no rule or instruction to give weightage on that count.

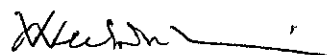
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15. From the above, it is seen that candidate selected for the post is possessing requisite qualification and also comes under preferential category, who belongs to SC community who has to be preferred as there is no adequate representation from this community in this Division. Therefore, no extraneous consideration was taken into account in this selection except following the rules.

16. In view of the above, we see no merit in both the OAs and hence both OAs are dismissed. No costs./

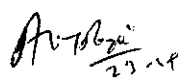


(R. Rangarajan)
Member (A)



(V. Neeladri Rao)
Vice Chairman

Dt. 24-7-95


27.11.96
Deputy Registrar(J)CC

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To

1. The Postmaster General,
Eastern Division, Vijayawada.
2. The Superintendent of Post Offices,
Narasaraopet, Guntur Dist.A.P.
3. The Regional Inspector General of Post Offices,
Vijayawada, Krishna Dist.
4. The Postmaster, Narasaraopet, H.O.Guntur Dist.
5. One copy to Mrs. A.Anasuya, Advocate, 2-2-1130/19/5B
Prasanthnagar, New Nallakunta, Hyderabad.
6. One copy to Mr.G.V.L.N.Murthy, Advocate, 2-1-566/B/1/A
Nallakunta, Hyderabad-44.A.P.
7. One copy to Mr.N.V.Raghava Reddy, Addl.CGSC.CAT.Hyd.
8. One copy to Library, CAT.Hyd.
9. One spare copy.

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