

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.NO.465/93

Date of Order: 14.11.96

BETWEEN :

Pateela Rosaiah

.. Applicant.

AND

1. Superintendent of Post Offices,
Tenali Division, Tenali.

.. Respondent.

Counsel for the Applicant

.. Mr.G.Rama Rao

Counsel for the Respondent

.. Mr.N.V.Raghava Reddy

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

----- : MEMBER (JUDG.)

J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Heard Mr.Naveen Rao for Mr.G.Rama Rao, learned counsel for the applicant and Mr.N.V.Raghava Reddy, learned standing counsel for the respondents.

2. The applicant is an E.D. Packer at Nidubrolu, Tenali Division, Vijayawada region. A notification was issued vide No. B II/3/92, dated 10.8.92 (A-1) calling for volunteers for the post of Postman. It is stated that the applicant applied for the same. In para-4(ii) of the notification it is stipulated that "ED Agents should not be morethan 50 years of age. There is relaxation of 5 years in case of SC/ST candidates. The crucial date for determining the age is 1.7.92". But that examination for the post of Postman for the vacancies for the



year 1992 in Vijayawada region was not conducted. Another notification No.BII/3/92-93 dt. 6.11.92 (A-II) was issued, once again, calling for the volunteers for the post of Postman in Vijayawada Region for the combined vacancies of the year 1992 and 1993. In the notification dt. 6.11.92 the age limit has been stipulated in para-6 (2) wherein "the maximum age limit for the ED Agents is 50 years with 5 years relaxation for SC/ST candidates as on First July of the year of the examination". In para-9 of the said notification it is also stated that "the ED Agents who have applied previously for the examination in response to the notification issued vide this office letter No.BII/3/92 dt. 10.8.92 need not apply again". As the applicant had already applied in response to the notification dt. 10.8.92, the applicant did not apply for the notification dt. 6.11.92 which is in accordance with the rules stipulated in the notification dt. 6.11.92.

3. Inspite of his applying for the post of Postman the respondents have not called him for the examination conducted ~~.....~~ after the issue of the notification dt. 6.11.92 on the plea that on 1.7.93 he was over aged as the examination was conducted in the year 1993. Annexure to letter No.B II/1/3/93, dt. 27.1.93 (enclosure A-1) shows that the applicant was not permitted for the Postman examination to be held in the year 1993.

4. Aggrieved by the above he has filed this OA to declare the proceedings No. B II/1/3/93, dt. 27.1.93 (A-3) issued by R-1 in not permitting the applicant for Postman examination though he is eligible and qualified as per notification ^{dt. 10.8.92} as unsustainable by holding the rejection as arbitrary illegal and unconstitutional and for a consequential direction to the respondents to consider his case to the post of Postman with all consequential benefits.

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5. The OA was admitted on 18.6.93. Earlier to the admission of the OA notice before admission was given on 7.5.93 with an interim order to the effect that "any appointments that are going ~~to~~ to be made in pursuance to the examination held on 7.2.93 will be subject to the result in this OA". This would mean that the respondents should have included this clause in the posting orders issued to the Postmen selected on the basis of the examination held on 7.2.93.

6. The main contention of the respondents in not permitting him to appear for the examination held on 7.2.93 is due to the fact that he is over aged i.e. above the age of 50 years, being an OC candidate, as on 1.7.93 the year in which the examination was held. Due to his over age he was not permitted to sit for the examination held in the year 1993 even though he was eligible for writing the examination for the year 1992.

7. On 11.11.96 we have asked the learned counsel for the respondents to find out whether the applicant had fulfilled the age condition for sitting for the examination ^{if} held in 1992 and also the information regarding the bar of ED staff of Tenali division for being considered for the Postman examination against vacancies in other divisions of ~~Vijayawada~~. There are no vacancies in Tenali division. The learned counsel for the applicant submitted that the applicant is within the age limit for writing the postman examination in the year 1992 if such an examination had been conducted as he was less than 50 years of age as on 1.7.92. It was also confirmed by the learned standing counsel that the ED Agent of any division can appear for the post of Postman in Vijayawada region even if no vacancies are available in the particular division in which ED Agents are working. This would mean that the applicant ^{could} write the postman examination for the post of Postman for the vacancies

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available in any of the divisions of Vijayawada region even if there are no vacancies in the Tenali division where the applicant is posted as ED Agent.

8. If the examination for the post of Postman for the year 1992 had been conducted the applicant would have written the examination as he/fulfilled the age qualification as on 1.7.92. But the respondents combined the examination for vacancies for the year 1992 and 1993 and conducted the examination in the year 1993 to suit the convenience of the department. As the year of the examination was 1993 the applicant did not fulfil the age condition as on 1.7.93. The failure on the part of the respondents in not conducting the examination in the year 1992 for the vacancies that arose in 1992 should not stand in the way of the applicant to sit for the combined examination for the post of Postman for the year 1992 and 1993 held in the year 1993.

9. The applicant is eligible for writing the examination for the post of Postman in Vijayawada region for the vacancies that were available in the year 1992. Refusal to consider him and not permitting him to write the postman examination for the vacancies in the year 1992 is irregular and arbitrary. Hence we are of the opinion that the applicant should be considered for the vacancies that had occurred in Vijayawada region for the year 1992 if he is otherwise found suitable. As the applicant was prohibited from writing Postman examination held in the year 1993 which is a combined examination for the vacancies of postman for the year 1992 and 1993 a review examination has to be conducted now for the applicant alone and the applicant should be permitted to write that review examination. No doubt that the review examination will be of similar standard as that of examination conducted on 7.2.93. If he passes that examination and he comes within the number of vacancies

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available for the year 1992 on the basis of the total marks obtained by him and the other candidates who wrote the combined examination in the year 1993 then the applicant should be posted as Postman against the vacancies of 1992 in accordance with the rules adhering to the other conditions for the promotion. If in pursuance of the above he is posted, the applicant is entitled for seniority on par with his junior by insertion of his name at the appropriate place in the panel issued in 1993 for the post of Postman. He is ^{also} eligible for fixation of pay on that basis. Arrears, if any, that accrue on that basis should be paid to him in due course. Time for compliance is 4 months from the date of receipt of this order.

90. With the above directions the OA is disposed of.
No costs.

B.S. JAI PARAMESHWAR
(B.S. JAI PARAMESHWAR)

14/11/96

Dated: 14th November, 1996

(Dictated in Open Court)

R. RANGARAJAN.

Amrit Singh
Amrit Singh
by Registrar (B)

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