

(Signature)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD.

BENCH : AT HYDERABAD

DA No.490/93.

Dt. of Order:18-8-93.

S.Munivasulu

...Applicant

Vs.

1. Supdt. of Post Offices,
Tirupathi Division, TIRUPATHI.
2. Post Master General,
Kurnool Region,
KURNOOL.

...Respondents

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Counsel for the Applicant : Shri S.Ramakrishna Rao

Counsel for the Respondents : Shri N.V.Ramana, Addl.CGSC

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CORAM:

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

THE HON'BLE SHRI T.CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Divn. Bench passed by Hon'ble
Shri A.B.Gorthi, Member (A)).

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The applicant who was appointed as Extral Departmental Mobile Branch Post Master (E.D.M.B.P.M. for short), with effect from 2-7-90 ~~and~~ continued in that appointment till 8-1-93, on which date the Mobile Branch Office at Nagileru was dis-banded and converted into Stationery Delivery Branch Office, to be located at Venkata Krishna Palem. Even after the re-organisation, the applicant was allowed

to work as Extra Departmental Branch Post Master, Venkata Krishna Palem, till the impugned notification dt.4-3-93 issued by the Respondents calling for applications from candidates for selection to the post of EDBPM, Venkata Krishna Palem. The prayer of the applicant is that the impugned notification be quashed and that he be allowed to continue as EDBPM, Venkata Krishna Palem.

2. The post of EDMBPM, Nagileru ~~fell vacant as~~ Mr.T.Babu ~~having~~ ^{had} been put off duty. Applications were invited from all eligible candidates for appointment as EDMBPM at Nagileru Mobile Branch Office vide memo dt.27-12-89. As there was no satisfactory response to the said memo another notification was issued vide memo dt.15-2-90. In response to ^{the} ~~later~~ memo the applicant submitted his application together with all supporting documents. He was duly selected and given the appointment, though on provisional basis, by memo dt.28-6-90. The appointment order states that ^{the} applicant was selected for the post and appointed on a provisional basis and that his services would be liable to be terminated in case Mr.T.Babu is put back to duty. The case of Sri T.Babu was finalised on 14-10-90 when he was removed from service. Consequently the applicant continued to function as EDMBPM, Nagileru. The applicant's contention

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is that he worked very hard² in that post and consequently it was decided by the Respondents to convert it into the Stationery Deliverence Office. Final orders creating the Stationery Delivery¹~~ance~~ Branch Office and re-naming it as Venkata Krishna Palem Branch Office were issued vide memo dt.21-1-93. The applicant was asked to shift his residence to Venkata Krishna Palem. He did so and also hired and provided sufficient accommodation for the Branch Post Office. In these circumstances the applicant prays that he should be allowed to continue as EDBPM and the process of fresh selection initiated by the respondents should be quashed.

3. The Respondents in their counter affidavit clarified that initial engagement of the applicant as EDMBPM at Nagileru Mobile Branch Office ^{was a} ~~was~~ purely provisional and temporary as it was assumed that Mr. T.Baby had to be taken back on duty. As the post of EDMBPM was abolished with the creation of new Stationary Delivery¹~~ance~~ Office, Venkata Krishna Palem, the applicant has no right to claim the post of Branch PostMaster, Venkata Krishna Palem. The respondents are therefore justified in initiating the process for holding a regular selection for filling up ^{the} ~~a~~ post of EDBPM, Venkata Krishna Palem. The contention of the Respondents is

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that the process of the selection should be allowed to be completed so that a candidate who is duly selected could be appointed as EDBPM, Venkata Krishna Palem.

4. We have heard Shri S.Ramakrishna Rao, counsel for the applicant and Shri N.V.Ramana, counsel for the Respondents. Shri Ramakrishna Rao, counsel for the applicant urged before us that the initial appointment of the applicant was preceded by a proper selection in accordance with the extant instructions. It was only because the applicant was found eligible and suitable in all respects for appointment as EDMBPM that he was given the said appointment. In the notification calling for applications from eligible candidates the respondents categorically stated that "the vacancy is temporary but likely to continue". Admittedly the ^{vacancy arose &} ~~cause~~ on account of ⁴ putting off Mr.T.Babu from duty. There is also no dispute that Mr.T.Babu was never put back to duty but he was removed from service with effect from 14-10-90. It is also admitted that the applicant was allowed to continue as EDMBPM till 8-1-93 on which date he took over as the BPM of Venkata Krishna Palem, Branch Office. It was at the instance of the respondents the applicant shifted his residence to Venkata Krishna Palem and he also managed to acquire some accommodation for the

Branch Post Office.

5. On behalf of the Respondents it has been contended that with the creation of the Branch Post Office at Venkata Krishna Palem, the respondents are justified in issuing a fresh notification for selecting a candidate for the post of EDBPM, Venkata Krishna Palem. From the facts averred in the O.A. as also in the counter affidavit it would be apparent that what actually happened is that the ~~Mobile~~ Mobile Branch Office at Nagileru has been converted into Stationary Delivery Branch Office and located at Venkata Krishna Palem. The Branch Office at Venkata Krishna Palem would cover exactly the same area as was ^{being} ~~been~~ covered by the Mobile Branch Office, Nagileru, ^{the functions of} and EDBPM of Nagileru and the BPM of Venkata Krishna Palem are almost one and the same. In these circumstances ~~and~~ and in view of basic fact that the applicant's appointment as EDBPM, Nagileru, ^{was} after a proper selection which was in accordance with the extant instructions, we find no justification in the respondents' action in issuing again a fresh notification for the purpose of appointment ^{of a} fresh candidate. It would be against the spirit of DGP & T memo dt.19-8-78 read with memo dt.23-2-79. These office memos are to the effect

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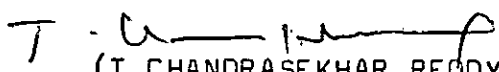
1. Supdt. of Post Offices, Tirupathi Division, Tirupathi.
2. Post Master General, Kurnool Region, Kurnool.
3. One copy to Sri. S.Rama Krishna Rao, advocate, CAT, Hyd.
4. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.


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Handwritten notes:
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that where an ED Agent is deprived of the employment because of the closing down of the office he should be provided with alternative employment ^{and} if no immediate alternative employment can be given the name of such employee should be kept on waiting list, so that he could be re-engaged as soon as a vacancy occurs in the same village or in any other villages in ^{the} vicinity or neighbourhood of his place of residence.

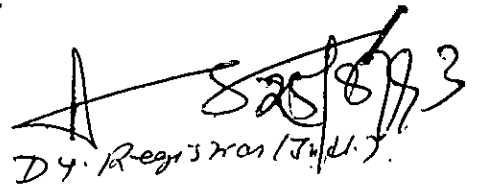
6. In view of the ^{above} ~~facts~~, we find merit in the application and it is hereby allowed. The impugned notification is set aside and that the applicant will be allowed to continue in the post of EDBPM, Venkata Krishna Palem. No order as to costs.


(T. CHANDRASEKHAR REDDY)
Member (J)


(A. B. GORTHI)
Member (A)

Dated: 18th August, 1993.
Dictated in Open Court.

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Dy. Registrar (T.D.)

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O.A. 49094

TYPED BY

COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 18/8/93, -1993

ORDER/JUDGMENT:

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

in

O.A.No.

49093.

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with direct

Dismissed

Dismissed as withdrawn

Dismissed for default.

Dejected/Ordered

No order as to costs.

