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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.

O.A.NO. 831 of 1994.

Between

Dated: 8.2.1995.

G.Koteswar Rao

And

Applicant

1. Sub Divisional Inspector (Postal) Narsaraopet Sub Division,
Guntur District.
2. Masthan Reddy S/o not known, R/o Narsaraopet (Selected
Candidate) Guntur District.

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Respondents

Counsel for the Respondents : Sri. N.R.Devaraj, Sr. CGSC.
: Sri. K.S.R.Anjaneyulu (R-2)

CORAM:

Hon'ble Mr. A.V.Haridasan, Judicial Member

Hon'ble Mr. A.B.Gorthi, Administrative Member

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O.A. 831/94.

Dt. of Decision : 8-2-1995.

ORDER

¶ As per Hon'ble Shri A.V.Haridasan, Member (Judl.) ¶

Shri G.Koteswara Rao the applicant in this case had served as Substitute Extra Departmental Delivery Agent. Ravidadu from 15-3-1991 and thereafter was appointed on a provisional basis pending regular selection to that post with effect from 28-9-1992. While making regular selection to the post the applicant, along with the other candidates, who responded to the notification of the respondents, was also considered. However, after the selection process the 2nd respondent was selected and appointed with the result the applicant's provisional service was terminated. The applicant is aggrieved by his non-selection and the selection and appointment of the 2nd respondent. His case is that since he possess all the requisite qualification and he is a member of the Scheduled Caste, especially, when he was serving on the post on provisional basis, the official respondents should have considered him more meritorious than the others and the selection of the 2nd respondent who is not a residence of the village in which the post office is situated is arbitrary and irrational.

2. The official respondents in their reply indicated that there is no special consideration for Scheduled Caste, Scheduled Tribe while the percentage representation by the reserved community has been fully satisfied and therefore the fact that the applicant belongs to SC does not confer on him any better right for selection than others. They have also indicated that going by the merits namely the percentage of marks

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in matriculation examination as also in other respects, the applicant did not come up to be considered against the selected candidates and therefore the applicant does not have any legitimate grievance to be redressed.

3. Apart from perusing the pleadings in this case, we ^{have} ~~are~~ also carefully gone through the file relating to the selection that led to appointment of the 2nd respondent. The essential qualification prescribed for the EDDA is only 8th standard, but a preference is to be given to those who are matriculates. No waitage for higher qualification ^{above matriculation} is to be given. Though the qualification prescribed for EDDA and EDSPM and EDBPM remained the same, by subsequent instructions, matriculation was made an essential qualification for appointment to the post of EDDA, EDSPM and EDBPM. Among matriculates a person who has got higher marks has a better chance for being selected. Shri S. Ramakrishna Rao, learned counsel for the applicant argued that though the applicant has got less mark than the 2nd respondent in the matriculation examination, since he has the minimum educational qualification prescribed as also the preferential qualification, higher marks in the matriculation examination of the 2nd respondent alone should not be ^{the} criterion and the fact that the applicant belongs to Scheduled Caste and that he had rendered provisional service, had also to be taken into consideration and that if that was done the applicant should have been selected in the place of the 2nd respondent, ^{why} has no prior experience and who does not belong to the village in which the ^{post office} ~~the~~ is situated. There is no requirement in the instructions in regard to EDDA that he should be the resident of the village in which the

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post office is situated. It is sufficient, if he belongs to a place, near to the place of work to perform the duties. Therefore the fact that the second respondent is not residing permanently in the village, but he is living very close to that cannot be considered as a de-merit. The marks obtained by the applicant in the SSC examination is 233/600. While the mark obtained by the 2nd respondent is 314/600. Shri S.Ramakrishna Rao, learned counsel for the applicant argued that to the

the O.C.B.T has clarified that the matriculation examination should be insisted upon only in the case of EDDA, EDSBM and EDBPM and therefore the marks obtained by the candidates in the matriculation examination should not have been made/criterion for selection for EDDA, EDSBM and EDBPM. He was not in a position to agree with this argument, because even before the instructions which made matriculation the essential qualification for appointment to the post of EDDA, EDSBM and EDBPM, though the essential qualification prescribed was 8th standard it was stipulated that matriculation would be a preferable qualification.

Therefore a person who has got higher marks in the examination matriculation should be considered more meritorious than the person who has got less marks.

There can be no doubt that going by the merits in the examination

the person who has got higher marks is at a higher level than the applicant. Though the applicant is entitled to some ~~weightage~~

in accordance with the ruling of the Tribunal, it is clarified in the same judgement of the

Full Bench itself that the provisional service should not be ~~the~~ sole ~~7~~ criterion, but

qualification, other things being equal. Here as the second respondent has got much higher marks than the applicant, the

applicant cannot say that on merits he was comparable to the second respondent. Even with weightage the applicant cannot as of right claim to be more meritorious. Under these circumstances, we are not in a position to brand the selection and appointment of the 2nd respondent as arbitrary or irrational. It appears that it has been done only on a dispassionate and objective assessment of the merits of the candidates. Since there is no shortfall in the percentage representation of the SC in the EDDA posts, we are of the view that the applicant cannot put forth preferential claim on the ground that the selection and appointment of the second respondent was arbitrary or irrational as well as revealed from the selection and appointment of the second respondent.

4. In the result, we do not find any merit in this application and the same is dismissed, leaving the parties to bear their own costs.

(A.B. Gorthi)
Member (Admn.)

(A.V. Haridasan)
Member (Judl.)

Dated: 12th February 1995.

For Regd
27/2/95
Dy. Registrar (J)

In the CAT Hyd Bench
Hd.

Am Mr. HAVH m. (3)
Hon Mr. HHSU.

Judgement dt. 8.2.95

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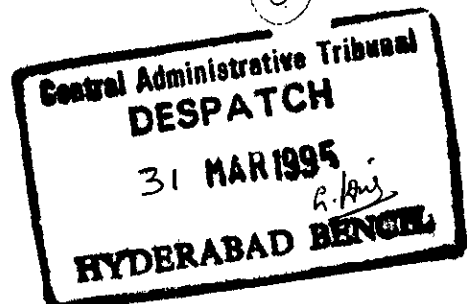
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orders as to costs.

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