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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 997/94.

Dt. of Decision : 12-8-94.

Pilli Balamallaiah

.. Applicant.

Vs

1. Superintendent of Post Offices
Hanumakonda Division,
Hanumakonda.
2. Director of Postal Services,
Hyderabad Region,
Hyderabad.
3. Chief Postmaster General,
A.P. Circle, Hyderabad.

.. Respondents.

Counsel for the Applicant : Mr. S.Ramakrishna Rao

Counsel for the Respondents : Mr. N.R.Devaraj, Sr.CGSC.

CORAM:

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

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

J U D G E M E N T

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

Heard Shri S. Ramakrishna Rao, learned counsel for the applicant and also Shri N.R. Devaraj, learned Sr. Standing counsel for the Respondents.

2. This is an unfortunate case of the applicant who was an ED Packer of Cheriyal sub-post office and is now having no opportunity for promotion to Group D post. The facts which are not in controversy are that as per the extant rules, the applicant who was an ED Packer of Cheriyal sub-post office along with other ED employees appeared for the written test for consideration for promotion to Gr. 'D' post in Hanumakonda division in Warangal District. The applicant was placed at sl. 8 in the panel ^{published} ~~declared~~ vide 1st Respondent memo. No. B5-3/4/81 dated 9-12-81. The first 4 of the said panel were promoted in the vacancies which had arisen by the end of 1990. A new scheme was introduced for promotion to Gr. D from amongst ED employees as per letter ~~NO. 44-31/87-SPB-I~~ dated 28-8-90 by the Ministry of Communications. As per the said scheme, the promotion to Gr.D post from the ED employees has to be considered

on the basis of seniority subject to satisfactory service. It is also made clear therein that the said scheme is applicable for vacancies occurring on or after 1-1-91.

3. It is contended for the applicant that the panel dated 9-12-81 (Annexure 2) specifically states that the candidates will be absorbed subject to the availability of vacancies and it means that the said list will be in force till it is exhausted and hence the ~~new~~ scheme should be made applicable only in regard to the vacancies which will be available after absorption of those who are empanelled in the list dated 9-12-81.

4. The scope of the scheme as per letter dated 28-8-90 was considered by the Bench of which one of us (Shri A.B. Gorthi, Member (Admn.) is a Member in OA 1014/92. The judgement dated 3-9-93 ^{G.A.} of the said Bench was delivered by one of us (Shri A.B. Gorthi) wherein it was held that it is open to the department to amend the recruitment rules and the department has not acted arbitrarily in issuing the letter dated 28-8-90 and it does not ^{smack} ~~smell~~ unfairness. It ~~was~~ also held therein that the scheme as per letter dated 28-8-90 is with regard to vacancies in Group 'D' which occur on or after 1-1-91. XXXXXXNEW

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It is now well settled that the amendment to the recruitment rules will be effective for vacancies which ^{arise} ~~arose~~ on or after the date of amendment and the pre-amendment rules will be applicable to those which had arisen by that date. The only right which ^{entitles} ~~occurs~~ to those who were in the panel dated 9-12-1981 is for absorption in regard to vacancies which had arisen and which arise till it is exhausted ^{it} ~~till~~ the recruitment rule is not amended. But when there is power to amend the recruitment rule and when it is so amended, one can claim right on the basis of the ~~un~~amended rule only in regard to vacancies which had arisen prior to the date of amendment. It is not ~~in~~ ^{plus} that the ~~case~~ of the applicant his case was not considered for absorption in regard to any vacancy which had arisen prior to 1-1-91. He could not get promotion as his turn has not come for consideration for vacancies which had arisen prior to 1-1-91. Of course, but for the amendment, the applicant would have got the promotion and he might ^{was} ~~not~~ be, having ^{legitimate} ~~reasonable~~ expectations for promotion, and he ^{is} ~~will~~ be losing that in view of that amendment. But when there is power to amend and when the exercise of the said power cannot be held to be as arbitrary or unfair or unjust, the applicant cannot ^{claim} ~~have~~ any right on the basis of his empanellment in the panel dated

9-12-81 as it stands annulled in regard to those who are not absorbed by 1-1-91, the date from which the scheme as per letter dated 28-8-90 has come into force.

5. Hence this OA which is filed for assailing the impugned order dated 22-7-94 of Respondent 1 (Annexure 1) whereby it is stated that the panel stands scrapped in regard to the candidates who are not absorbed does not merit consideration and accordingly it is dismissed at the admission stage itself. No costs.

(A.B. GORTHI)
MEMBER (ADMN.)

(V. NEELADRI RAO)
Vice-Chairman

Dated 12th August, 1994
Open court dictation

NS

Prasanna
Deputy Registrar(J)CC

To

1. The Superintendent of Post Offices,
Hanumakonda Division, Hanumakonda.
2. The Director of Postal Services,
Hyderabad Region, Hyderabad.
3. The Chief Postmaster General, A.P.Circle,
Hyderabad.
4. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

A-B. GORHA

THE HON'BLE MR. R. RANGARAJAN : M(A.D.N)

DATE: 12-8-1994

ORDER/JUDGMENT

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

in

O.A.No. 997/94.

(T.A.No.

(W.P.NO

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed at the admission stage

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

No spare copy

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