

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 245/94 &
O.A. 247/94.

Dt. of Decision : 4-8-94.

1. Smt. Y. Naga Rani
2. Mrs. Nama Madhavi

.. Applicant in
O.A. No. 245/94
.. Applicant in
O.A. No. 247/94.

VS

1. Chief Postmaster General,
A.P.Circle, Hyderabad-1.
2. Director of Postal Services,
O/o the Postmaster General,
A.P.S.R.Kurnool-518 005.
3. Superintendent of Post Offices,
Kurnool Division.



..
OAs 245/94 &
247/94.

Counsel for the Applicants : Mr. K.S.R. Anjaneyulu, in
OAs. 245/94 & 247/94.
Counsel for the Respondents : Mr. K. Bhaskara Rao,
Addl. CGSC. in
OAs. 245/94 & 247/94.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)
THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

ORDER

[As per Hon'ble Shri A.V.Haridasan, Member(J)]

As the facts, circumstances and questions of law involved in both these cases are similar, these two cases are being ~~heard~~ heard and disposed of jointly.

2. The Postmaster General, AP Southern Region, Kurnool, issued a notification in Andhra Prabha Telugu Daily on 3.8.1993, inviting applications for selection to the posts of Postal Assistants for Kurnool and for other Divisions. Smt Y.Naga Rani applicant in OA 245/94 and Kum Nama Madhavi applicant in OA 247/94 were among those who applied ~~persuant~~ to this notification. After due process of selection, 7 persons were selected and Kum Nama Madhavi applicant in OA 247/94 was placed at Sl.No.5 and Smt Y.Naga Rani, applicant in OA 245/94 was placed at Sl.No.6. The applicants in these two cases and others who were selected in the said selection were sent for training for two and half months at the Postal Training Centre, Mysore, w.e.f. 11.10.1993. The said training was completed and while the applicants were awaiting orders for practical training and regular posting orders, they received a letter from the third respondent stating that, the second respondent had ordered that the practical training may be kept in abeyance, without indicating any reason. Thereafter, the ~~→~~ second respondent, vide his letter dated 3.1.94 informed the applicants that on a thorough review of the selection process, certain irregularities were revealed in the process of selection which resulted in some meritorious candidates ~~were~~ ^{being} not considered for selection and therefore, a decision has been taken to cancel the whole selection and re-notify the vacancies. The applicants in response to this notice, submitted their explanation in which, they

indicated that they were selected in due process of selection, being fully eligible and qualified, and that, they had undergone training and therefore, the administration could not validly cancel their selection. They further added that, any irregularity committed in the office of the respondents, cannot affect their vested right to be posted on the posts for which they had been selected and trained. Thereafter, the Director of Postal Services Kurnool, vide his order dated 16.2.1994 (Annexure 1 to the OA) in both the cases, cancelled the selection and ordered the Superintendent of Post Office, Kurnool by Memo No.B1/RE/PA/III dated 27.8.1993 (Annexure 5 to the OA) to renotify the vacancies and it is under these circumstances, impugning the order dated 16.2.1994 at Annexure 1 to the OA, and challenging the action taken by the respondents in cancelling the selection of the applicants, these two applications have been filed. The impugned actions of the respondents are mainly challenged on the ground, that, after selecting and sending the applicants for training in a due process of selection by a Committee, it is highly arbitrary and unreasonable to cancel that selection on the basis of certain complaints and therefore, the action of the respondents being vitiated by colourful exercise of power and being violative of Art. 14 & 16 of the Constitution of India is liable to be set aside. The applicants pray that the impugned order at Annexure 1 to the OA may be quashed and the respondents 2 and 3 be directed to appoint the applicants in these cases as Postal Assistants pursuant to their selection and Training.

3. Since the factual background in both these cases is identical, the respondents filed a reply statement in OA 247/94 and sought for permission to adapt

the same reply statement for the purpose of hearing of OA 245/94 also.

4. Shri P. Parasuram, Asst. Postmaster General in the office of the Chief Postmaster General, AP Circle, Hyderabad has filed the counter affidavit on behalf of the respondents. In this affidavit, Shri Parasuram on behalf of the respondents has sworn that, immediately after the applicants and other persons → selected → were deputed for training, some complaints were received from one B. Vijayalakshamma of Allegadda, Shri JNMVR Prasad of Chnanglamerri and N. Trivikram of Nalgonda, addressed to the Chief Postmaster General alleging that, there were malpractices in the recruitment of Postal Assistants in Kurnool Division and that, those who → have obtained less percentage of marks than these persons, who had also applied for the post, were selected and sent for training. → that a news appeared in Eenadu dated 12.10.93 that some more complaints were received in the regional office and Divisional office at Kurnool → that finally a complaint was received from one Mr M. Rangaiah stating that, his daughter who had applied for the postal assistants under 'Registered Post' and who had obtained 80% marks in the intermediate examination belonging to SC, was not selected and that, on the basis of this complaint, a Vigilance enquiry was held and in which certain → malpractices such as, suppression and removal of applications submitted by more meritorious candidates were unearthed and that in these circumstances, the Chief Postmaster General issued directions to cancel the selection and to hold fresh selection after receiving issuing fresh notification. It has also been averred that after the investigation,

major penalty proceedings have been initiated against four officials who were found responsible for the malpractices.

5. The respondents therefore contend that since the entire selection process was vitiated, they had no option, but to cancel the selection and re-notify the vacancies so that the more meritorious candidates are not left out with^{out} being considered.

6. In order to satisfy our judicial conscience that the action taken by the department is proper and bonafide, we called upon the respondents to make available for perusal the entire file including the complaints, the action taken on them, and the reports of the Vigilance Enquiry which led to the impugned action. We have, with meticulous care, gone through the pleadings, as also the file relating to the Enquiry in this case. On a close scrutiny of the records, we are fully satisfied that the action taken by the respondents in cancelling the selection and re-notifying the vacancies was motivated by pure and bonafide intention. Clear instances of malpractices have been unearthed during the inquiry. The applications submitted by were seem to removed and meritorious candidates have been suppressed. Even an application sent by registered post which reached the office well before the last date fixed for receipt of the applications, after travelling from table to table, was seem to have vanished into air. All these factors came to light during the vigilance enquiry and it is after taking into consideration of all these facts and circumstances, that the respondents have come to the conclusion that the vitiated selection has to be cancelled, and a fresh selection held giving equal opportunities to all candidates who are eligible, qualified and interested in offering their candidature.

We do not find any arbitrariness or malafides in the action taken by the respondents and therefore, we fully endorse the action taken by the respondents. We are of the view that if this was not done by the respondents, it would have been ~~more~~ very unfortunate.

7. Shri KSR Anjaneyulu, _____ counsel for the applicants in both these cases submitted that, the applicants are not guilty and they have not contributed to whatever malpractice occurred and therefore, it will be harsh and unjust as far as the applicants are concerned, if they are deprived of their right to be appointed after they are successful in the process of selection. We have our sympathies for the applicants who were selected and trained. When the whole process of selection is vitiated by malpractices the vitiating circumstances cut the root of their selection also. So, they cannot be given any benefit on account of the selection. It is brought to our notice that the applicants ^{must have now} / become over-aged ~~←~~ ~~→~~ and that may stand in the way of their candidature not being considered in the fresh selection that is going to be held. We are of the considered view that on account of cancellation of the selection, those who have participated in the selection process should not be put to dis-advantage. Therefore in the interest of justice, it is necessary that the earlier candidature of those who have responded to the notification should be given opportunity to apply for the fresh selection though they have become over-aged by then.

8. In the light of the fore-going discussions, we find that the applicants are not entitled to the relief which they have sought in ~~these~~ applications.

..7..

These applications are disposed of with a direction to the respondents that if the applicants in these OAs or any other candidate who have applied in response to the earlier notification dated 3.8.1993 apply for selection in pursuance to the fresh notification, their candidature should not be turned down on the ground that they have now become over-aged if they were within the age limit when they applied earlier. Shri KSR anjaneyulu learned counsel for the applicant submits that on account of the pendency of these applications, the applicants in both these cases have not applied for selection and that, a direction may be given to the respondents to consider their application if made within a specified time. This request is reasonable. We direct the respondents to receive the applications if submitted by the applicants in these OAs within 15 days from today and to consider them also for selection. There is no order as to costs.

CERTIFIED TO BE TRUE COPY

Date.....15.8.1994.....
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

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Copy to:-

1. Chief Post Master General, A.P.Circle, Hyderabad-1.
2. Director of Postal Services, O/O Postmaster General, A.P.S.R.Kurnool-005.
3. Superintendent of Post Offices, Kurnool Division, Kurnool-001.
4. Two copies to Sri. K.S.R.Anjaneylu, advocate, CAT, Hyd.
5. Two Copies to Sri. K.Bhaskara Rao, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

8th Dec
Re 16/18/81

OP 245/948

Opp.	OP 247/94
Opp.	11.8.94
Opp.	12.8.94

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