

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 1126/94.Dt. of Decision : 03-6-97.

B. Laxman

.. Applicant.

Vs

1. The Superintendent of Post offices,
Sangareddy Division, Sangareddy.

2. S. Venkatesamy

.. Respondents.

Counsel for the applicant : Mr. S. Ramakrishna Rao

Counsel for the respondent : Mr. K. Bhaskara Rao, Addl. CGS

CCRAM:

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

THE HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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ORDER

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

Heard Mr.S.Ramakrishna Rao, learned counsel for the applicant and Mr.K.Bhaskara Rao, learned counsel for R-1. R-2 received the notice but did not appear. He was called, absent.

2. The undisputed facts of the case are as follows:-

The post of EDBPM Nallavalli B.O. a/w Narsapur S.O. had fallen vacant on account of death of regular incumbent on 7-6-93. Employment Exchange was approached on 21-6-93 to sponsor the ^{filling up} candidates within 30 days for the said post. As no reply was received from the employment exchange upto 20-7-93 an open the last date for receipt of application as 20-8-93. In response to that open notification 11 applications were received including ^{that of} the applicant as well as R-2. The cases of all the applicants were rejected except R-2 and one Mr.Ch.Kistaiah. R-2 was selected for the post.

3. This OA is filed for setting aside the selection of R-2 as EDBPM, Nallavalli and for a consequential direction to R-1 to finalise the selection on merits from among the eligible candidates for the post of EDBPM, Nallavalli. It is stated in the reply that out of 11 candidates who responded to the notification 7 applications were not found ~~eligible~~ including that of the applicant on account of non-production of property certificate income certificate and SSC certificate etc., Only two applications were found ~~in~~ the selection viz., R-2 and one Mr.Ch.Kistaiah S/o Ashaiah. But those two applicants did not produce the property certificate, though they have produced the income certificate. Hence after the expiry of the last date, those two applicants were asked to submit the necessary certificate. Even though the case of the applicant was rejected for non-production of property certificate, he was not given an opportunity to produce the property certificate as was done in the case of R-2 and one Mr.Ch.Kistaiah.

4. We have called for the records in this connection and perused the same. The records submitted reveal that the case of the applicant was not considered as he had not produced the income certificate and he had not mentioned anything of the fact of the possessing property. R-2 produced the income certificate for Rs.2,000/-p.a. but he did not produce the property certificate. Mr.Ch.Kistaiah also produced income certificate for Rs.6000/-p.a in his favour but he had not produced the property certificate. Hence, it was decided by R-1 to call for the property certificate in favour of the two applicants viz., R-2 and Mr.Ch.Kistaiah from the competent authority. It was further directed to inform both the candidates to produce the property certificate issued by the MRO concerned and also copies of property document within 10 days in order to finalise the selection ^{continuing} ~~continuing~~ ^{equally} them clearly that failure to produce the certificate will ~~reject~~ them from the purview of the selection. The above direction was dated 14-12-93 much later than the last date of submission of the application. When R-2 and Mr.Ch.Kistaiah had not produced the property certificate and they were given a further chance even after the expiry of the last date for receipt of the application to produce the said certificate it is not understood why such a concession was not extended to the applicant who had also not produced the property certificate. The above treatment is a case discrimination and violation of principles of natural justice. Hence, it has to be held that the exclusion of the applicant just because he had not produced the property certificate when similar cases were treated differently, it has to be held that the rejection of the application of the applicant is irregular.

5. We have also seen the office note dated 25-5-94. In the office note it is stated that Mr.Ch.Kistaiah had not produced the property certificate inspite of opportunity given to him. Hence,

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his name was deleted for consideration for the selection. R-2 produced the income certificate from MRO and the property certificate from Gram Sarpanch since MRO ^{was} is not willing to give such a certificate. When R-2 had not produced the property certificate issued by the competent authority it has to be held that consideration of his case also ^{was} is irregular and any applicant who was not fulfilled the conditions stipulated in the notification cannot be considered for any reason. Hence, the selection committee should have rejected the case of R-2 also and initiated fresh selection procedure for filling up the vacant post EDBPM. Instead of doing so, they justified the selection of R-2 by stating that R-2 had secured more marks in SSC compared to other candidates. The concession given is not called for. A responsible official of the Government should conduct a selection in accordance with the spirit of the rule and any discretion in selection, if not provided for in the rule is not warranted as this will lead to complication at a later date and lead to grievances from others who apply ⁱⁿ response to the notification. Hence, we are of the opinion that the whole selection procedure is vitiated by following irregular methods and probably favouring a candidate. In that view we are of the opinion that the whole selection has to be set aside and ^a fresh notification calling for volunteers from the open market/employment exchange for filling up the post in accordance with the rules is to be initiated.

6. The post of EDBPM is an important post. Hence, this post cannot be kept vacant for long. Hence, the incumbent who is now working in that post is to be treated as ^a provisional appointee and he should be continued, till such time a regular appointee is posted.

7. In the result, the following direction is given:-

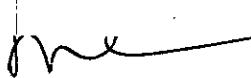
The selection initiated in response to the notification dated 21-7-93 is set aside. The posting of R-2 as EDBPM on the basis of the above notification cannot be justified and hence his selection is also set aside. A fresh selection has to be initiated calling for application from eligible candidates and the post filed after the completion of the due process of the fresh selection. Till such time a regular candidate is posted in pursuance of the above direction whoever is working now as EDBPM, Nallavalli should be continued as a provisional candidate with no right for continuance after posting of regular candidate.

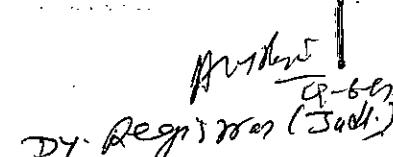
8. The OA is ordered accordingly. No costs.


 (B.S. JAI PARAMESHWAR)
 MEMBER (JUDL.)

3.6.97

Dated : The 3rd June 1997.
 (Dictated in the Open Court)


 (R. RANGARAJAN)
 MEMBER (ADMN.)


 D.Y. Regi (Regd.)
 (JUDL.)

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: M
(J)

DATED:

3/6/97

ORDER/JUDGEMENT

M.A./R.A./C.A. NO.

D.A. NO.

1126/97

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

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II Court.

