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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

DA 491/94.

Dt. of Order: 25-11-94.

K.S.Somasekhar

.. Applicant

Vs.

1. The Superintendent of Post Offices,
Hindupur, Anantpur District.
2. The Post Master General,
A.P.Southern Region, Kurnool-5.
3. D.Srinivasulu S/o D.Sriramulu,
resident of Suddakuntapalli
village, Somandepalli Mandal,
Hindupur Division.

.. Respondents

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Counsel for the Applicant : Shri Krishna Devan

Counsel for the Respondents : Shri N.R.Devraj, Sr.CGSC
Shri K.S.R.Anajneyulu, for R-3

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CORAM:

THE HON'BLE SHRI A.V.HARIDASAN : MEMBER (J)

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

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OA 491/94.

Dt. of Order: 25-11-1994.

(Order passed by Hon'ble Shri A.V.Haridasan, Member (J)).

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The applicant has assailed the appointment of the Respondent No.3 as EDBPM, Suddakuntapally and has prayed that it may be declared that the applicant is entitled to be appointed on that post setting aside the selection and appointment of Respondent No.3 vide impugned order dt.15-4-94.

The facts in brief are as follows :-

When the Postal Department placed requisition with the Employment Exchange for sponsoring candidates for appointment to the post of EDBPM, Suddakuntapally, three candidates including the applicant who was working on provisional basis were sponsored. However the selection proceedings could not be finalised as the authorities felt that none of the candidates was suitable. Thereafter, a further notification was issued on 6-2-1991. The name of the applicant as also that of Respondent No.3 was sponsored by the Employment Exchange. The applicant challenged the notification by filing O.A.270/91 on the ground that he was entitled to be absorbed in that post. By way of an interim order issued in that case, the selection process was held up and the applicant continued to officiate on provisional basis. However, ultimately the above O.A. was dismissed on 31-1-1994. After the dismissal of the above said O.A., the Respondents 1 and 2 finalised the selection process and appointed the Respondent No.3 in the

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post. It is aggrieved by the selection and appointment of the Respondent No.3 that the applicant has filed this application. His case is that Respondent No.1 and 2 have not considered the qualifications of the applicant vis-a-vis that of Respondent No.3 properly and that the appointment of Respondent No.3 is irregular, arbitrary and violative of article 14 and 16 of the Constitution. According to the applicant the Respondent No.3 does not own any property nor does he have any independent income.

3. The Respondents

contended that the applicant having not produced any document in support of independent income and possession of property, he was not found suitable and the Respondent No.3 who had produced documents to show that he possessed property and was earning independent income and is also having a building suitable for housing the post office was rightly selected and appointed. It was also contended that the Respondent No.3 has passed matriculation while the applicant has failed in matriculation examination.

4. In the reply statement filed by the Respondent No.3, he

has refuted the allegation that he does not own property and independent income. According to the Respondent No.3 he is more meritorious than the applicant and therefore there is no merit in the applicant's challenge against his appointment.

The applicant has filed a rejoinder, in which it is contended that the Respondent No.3 does not possess any property and is

support of this, he has produced a certificate issued by Village Asst.Officer, counter signed by Mandal Revenue Officer.

5. The short question which falls for our consideration is whether the Respondent 1 and 2 have acted arbitrarily in selecting the Respondent No.3 in preference to the applicant. A perusal of the file relating to the selection shows that the case of the applicant that the Respondent No.3 is not possessing the property and is not earning any independent income has no basis at all. The Respondent No.3 had produced along with his application a Gift deed by which he has given his house to his son. He has also produced a Mandal Revenue Officer's Certificate to the effect that he has an yearly income of Rs.10,000/-. Shri Krishna Devan, learned counsel for the applicant invited our attention to the annexure 1 and 3 attached to the reply affidavit filed by him, in which Village Asst.Officer, in his certificate dt.7-5-94 had stated that the Respondent No.3 does not have in his own name any Agricultural land or house property in the village. Shri Krishna Devan argued that this certificate of the Village Asst.Officer, which is counter signed by the Mandal Revenue Officer shows that the Respondent No.3 does not have any property as on 7-5-1994 and that therefore the Respondent No.3 could not have been validly selected and appointed since independent means of livelihood is an essential qualification for appointment to the post of EDBPM. We are not convinced about the genuineness of what is stated in the so called certificate issued by the Village Asst. Officer and counter signed by Mandal Revenue Officer. The Respondent No.3 had produced along with his application a registered document which shows that substan-

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tial property had been registered in his own name and the applicant has not shown that the Respondent No.3 has been divested of his property. The procedure of Village Asst. Officer issuing a certificate to one person saying that another person does not own any property also appears to be highly curious. However, on the date on which the applications and the relevant documents were scrutinised, by the Respondent No.2, the Respondent No.2 was satisfied that the Respondent No.3 had independent income and also owned properties. It was on that basis that the Respondent No.2 had selected the Respondent No.3 being more meritorious as he had passed matriculation, was resident of the village and had independent means of livelihood. We therefore do not find any reason to interfere with the selection of the Respondent No.3 by the Respondent No.2. Shri Krishna Devan, counsel for the applicant at the last leg of his argument stated that as the applicant had been provisionally working in the post for the last four years, he was entitled for weightage and the fact that the Respondent No. passed the matriculation does not confer on his any better qualification. It has been held by the Full Bench of this Tribunal sitting at Ernakulam that while provisional appointment of an E.O. Agent is entitled to be given weightage but in the same judgment it has been made clear that provisional service and eligibility is not the only criteria and it is ~~one of the~~ criteria. Though a pass in the S.S.C. examination is not an essential qualification for appointment xxx xxx xxx xxx xxx xxx xxx

of EDBPM, according to the instructions on the subject though 8th standard is the essential, a pass in the SSC is preferred. As the applicant does possess the preferential qualification, the Respondent No.3 has been brought since he is better qualified and documents to show that independent means of livelihood. The case of the applicant that he is entitled to be considered more meritorious has no merit.

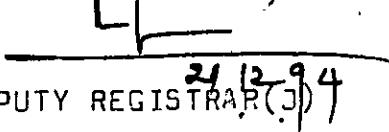
6. In the light of what is stated in the above paragraphs, we do not find any merit in the application. Hence the application is dismissed leaving the parties to bear their own costs.


(A.B.GORTNI)
Member (A)


(A.V.HARIDASAN)
Member (J)

Dt. 25th November, 1994.
Dictated in Open Court.

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DEPUTY REGISTRAR (J) 24/12/94

TO

1. The Superintendent of Post Offices, Hindpur, Ananthapur District.
2. The Post Master General, A.P.Southern Region, Kurnool - 5.
3. One copy to Mr.Krishna Devan, Advocate,CAT,Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC,CAT,Hyderabad.
5. One copy to Mr.K.S.R.Anjaneyulu, Advocate for R3,CAT,Hyderabad.
6. One copy to Library,CAT,Hyderabad.
7. One spare copy.

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2nd court case

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

THE HON'BLE MR.A.V.HARIDASAN : MEMBER (J)

AND

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

DATED: 25.11.94.

ORDER/JUDGMENT.

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

O.A.NO. 491/94. ⁱⁿ
T.A.NO.

~~Admitted and Interim Directions issued.~~

~~Allowed.~~

~~Disposed of with Direction.~~

~~Dismissed.~~

~~Dismissed as withdrawn~~

~~Dismissed for default~~

~~Rejected/Ordered~~

~~No order as to costs.~~

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