

(27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 758 OF 1994

DATE OF ORDER: - 4th June, 1997

BETWEEN:

POTHAN KHASIM KHAN

.. APPLICANT

AND

1. The Asst. Superintendent of Post Offices,
Chilakaluripet Sub Division, Chilakaluripet,
Guntur District 522616,

2. Shri Ponugupati Chandrasekhar. .. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr. B.KRISHNA MOHAN

COUNSEL FOR THE RESPONDENTS: Mr.K.BHASKAR RAO, Addl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

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

ORDER

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

Heard Mr.B.Krishna Mohan, learned counsel for the applicant. None for the respondents.

2. Notice has been served on R-2. But he did not appear nor any one on his behalf appeared.

2. The applicant was initially appointed as a substitute EDMC/DA in the Bopudi Branch Office,

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Chilakaluripet Sub Division. He was subsequently appointed on provisional basis when the permanent incumbent was posted in a Group-D post. In order to regularly fill up that post, a public notification was issued on 28.2.94 fixing the last date for receipt of applications as 30.3.94. In response to the said notification, 9 applications were received including that of the applicant and R-2. R-2 was selected for that post.

4. This OA is filed challenging the posting of R-2 as EDMC/DA by the impugned order No.Pf/EDMC-DA. Boppudi/94-95 | dated 4.6.94 (Annexure A-V to the OA) and for a consequential direction to the respondents to regularise the services of the applicant against that post.

5. The main contentions of the applicant are analysed as follows:-

(i) The applicant was provisionally appointed. The provisional appointee has to be regularised as in the order No.Pf/EDMC-DA/Boppudi BO/93-94 dated 20.7.93 (Annexure A-II) it is not indicated that the provisional appointment is for a specific period and that he will be replaced by a regular appointee.

The very fact that the applicant was posted on ~~merely~~ ^{clearly} provisional basis ~~merely~~ means that he will be replaced by a regular appointee. Even if the period for regular appointment is not indicated and it is not stated that he will be replaced by a regular appointee, it would not mean that the applicant has right for regularisation in that

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post. Hence this contention is rejected.

(ii) The applicant submits that the selected candidate should be a resident of that locality where the post office is located, in terms of Para 4 of the notification dated 28.2.94 (Annexure A-III). As R-2 is not a resident of that village, he cannot be selected.

..... ~~.....~~ DEATH OF THIS
Tribunal that the residence condition should be insisted only after the appointment is made but not earlier to the appointment. If R-2 has not become permanent resident of the locality in which the post office is located even today, then the selection of R-2 as EDMC/DA should be set-aside. ~~If~~ the respondents ^{should} ~~could~~ examine whether ^{R-2} ~~he~~ is the resident of that village where the post office is located, on his assumption of the charge as EDMC of that post office ~~as~~ ^{and} he is not the resident of that locality, proper noting should be made and on that basis, the selection of R-2 has to be ~~set aside~~ decided.

(iii) The applicant submits that R-2 does not know cycling which is one of the pre-requisite conditions for the post of EDMC/DA in terms of Condition NO.6, sub clause II of Para 6 of the Section 3 of ED Staff Service Rules.

The respondents should examine whether such a rule is still in existence and if it is in existence and R-2 is not fulfilling that condition, then also the appointment of R2 should be set-aside.

(iv) The next contention of the applicant is that even R-2 is posted only on provisional basis. A

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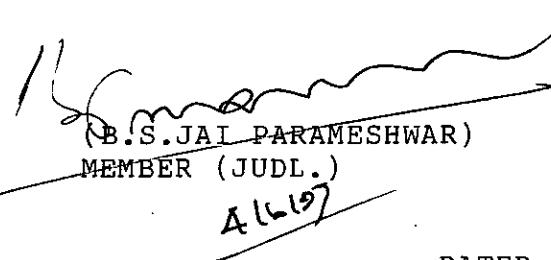
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provisional appointee cannot be replaced by another provisional appointee. As the applicant was working as a provisional appointee, he has been replaced by another provisional appointee and hence the appointment of R-2 is irregular.

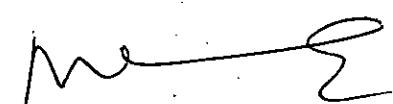
If the applicant is aggrieved by the provisional ~~order~~ ^{have} he should obtain a stay order by contesting the same. But there is no stay order in this connection. Hence at this juncture, we cannot look into the case of the applicant for replacement of R-2. Hence this contention fails.

6. In view of what is stated above, R-1 should examine in regard to the residency of R-2 and his qualification for cycling as observed above and take a final decision in regard to continuance of R-2 as regular EDMC/DA.

7. With the above directions, the OA is disposed of. Time for compliance is two months from the date of receipt of a copy of this order. No order as to costs.

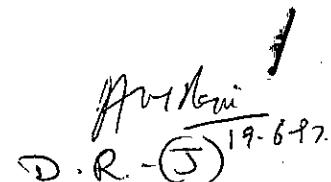

(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)

AL-197


(R.RANGARAJAN)
MEMBER (ADMN.)

DATED:-4th-June,-1997
Dictated in the open court.

vsn


D.R.-G 19-6-97

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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:

4/6/97

ORDER/JUDGEMENT

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

in

C.O.A. NO. 758/94

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

II Court.

केन्द्रीय प्रशासनिक विधिकरण Central Administrative Tribunal इंद्रजल/DESPATCH
- 4 JUL 1997
हृदयवाल आयगीत HYDERABAD BENCH