

(198)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

B.A. 1512/94.

Dt. of Decision: 19.12.94.

Ch. Laxmaiah

.. Applicant.

Vs

1. Sub Divisional Inspector,
(Postal) Huzurnagar Sub Division,
Huzurnagar.

2. Supd. of Post Offices,
Suryapet.

3. B. Mongaiah

.. Respondents.

Counsel for the Applicant : Mr. K.K. Chakravarthy

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

CORAM:

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

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

D.A. 1512/94.

DT. of Decision : 19.12.94.

ORDER

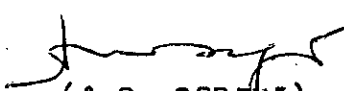
¶ As per Hon'ble Shri A.V.Haridasan, Member (Judl.) ¶


The applicant who has been working as EDMC on provisional basis with effect from 28.01.1992 filed OA.823/94, when the department issued a notification calling for applications from candidates belongs to ST Community for appointment to the post on the ground that the department had no power to limit the field of choice to ST candidates only. The applicant who belongs to SC be considered for regular appointment; especially when he was working on the post on a provisional basis for quite some time. The OA 823/94 was dismissed for default at the admission stage itself. The respondents 1 and 2 proceeded ^{with the} process of selection and have selected and appointed third respondent on the post on a regular basis. The third respondent belongs to ST. It is challenging the appointment of third respondent made in October 1994, when this application has been filed. It has been alleged by the applicant that the action of the respondents 1 and 2 of selection confining the field of choice to ST candidates only is arbitrary and irrational. Hence the applicant has prayed for cancellation of the appointment of third respondent and for a direction to the respondents 1 and 2 to consider the applicant for the post.

2. at we have perused the application and the papers/Annexure-II and also heard Shri K.K.Chakravarthy, appearing for the applicant and Shri N.R.Devaraj ^{who} taking notice on behalf of the respondents 1 and 2 opposed the

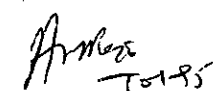
and having perused the materials on record, we are of the considered view that there is nothing in this application which requires admission and further deliberation. The applicant had, when the process of selection was initiated by issuing a notification by the official respondents, filed an OA and that OA has been dismissed to the for default. It is only pursuant/same notification that the respondents 1 and 2 have finalised the selection process and appointed the third respondent who belongs to ST and who was found to be eligible and suitable for the post. Shri K.K.Chakraverthy submitted that as a matter of fact, the official respondents had issued a fresh notification and therefore inspite of the dismissal of OA.823/94 the application is still maintainable. We are not persuaded to agree/with this argument. There is no averment in the application that apart from the notification which was under challenge in OA.823/94, a fresh notification was issued. On the other hand, what is alleged in this application is that taking advantage of the dismissal of the OA.823/94, the respondents 1 and 2 finalised the notification and appointed the third respondent. Therefore the submission that fresh notification was issued and an appear to be correct as such/argument is against the pleadings in this case. Further even on issuance of a fresh notification the applicant is not entitled to challenge it because the ground on which the notification was challenged were identical to what is alleged in application also. Considering the merits of the case prima-facie we are not convinced that there has been any infraction of the rules or instructions in regard to appointment of persons belonging to SC and ST categories to ED posts. There is clear instructions to the effect that the percentage of the posts as provided for Group C and D atleast be maintained in making appointment to the ED posts. Shri N.R.Devaraj, learned counsel for the

respondents under instruction from the departmental representative stated that as there was short fall in the ST Community people in ED Post the department has considered and taken a decision to restrict the field of choice in this case to persons belonging to ST and that the process of selection and appointment of third respondent was done perfectly in accordance with the letter and spirit of the instructions on the subject. We are of the considered view that there is no legitimate grievance for the applicant which requires admission and adjudication of this application by the Tribunal. Hence this application which is found to be prima-facie devoid of merit is rejected under section 19 (3) of the Administrative Tribunals Act.


(A.B. GORTHI)
MEMBER (ADMIN)


(A.V. HARIDASAN)
MEMBER (JUDGE)

Dated : The 19th December 1994.
(Dictated in Open Court)


DEPUTY REGISTRAR (J)

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To

1. The Sub Divisional Inspector, (Postal), Huzurnagar Sub Division, Huzurnagar.
2. Superintendent of Post Offices, Suryapet.
3. One copy to Mr. K.K. Chakravarthy, Advocate, CAT Hyderabad.
4. One copy to Mr. N.R. Devraj, Sr. CGSC, CAT Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

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

AND

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

12 12 95

ORDER/JUDGEMENT.

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

in

O.A.No. 1512/94.

Admitted and interim directions
issued

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

~~Rejected/Ordered~~
No order as to costs.

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