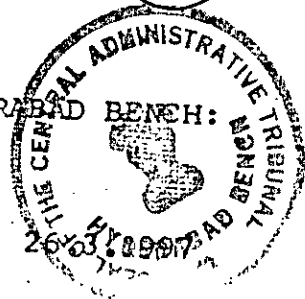


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD



OA No.164/94

Date of Decision: 26.03.1997

BETWEEN:

T. KRISHNA MURTHY

.. Applicant

AND

1. The Senior Superintendent
of Post Offices,
Chittoor Division,
Chittoor District
2. The Post Master General,
Andhra Circle, Rayalaseema Area,
Kurnool (A.P.)
3. A Siva Kumar,
Branch Post Master,
Thirtham

.. Respondents

Counsel for the Applicant: Mr. N. Janaki Rama Rao,

Counsel for the Respondents: Mr. N.V. Raghava Reddy

CORAM:

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

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

Jai

JUDGEMENT

(Per Hon'ble Sri R. Rangarajan: Member (Admn.))

None for the applicant. ^{Heard} Sri N.V. Raghav Reddy learned counsel for the respondents.

As the OA was filed in 1994 we are disposing the OA under Rule 15 (1) of the C.A.T. (Procedure) Rules 1985.

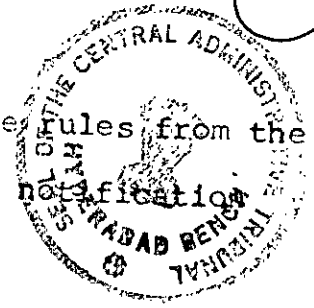
The applicant applied for the post of ESDPM, Thiruthani Branch office in response to open notification Dt.18.5.93. 8 Candidates applied for the post. But that notification was cancelled on the premise that none of the candidates applied in response to the notification ^{was} qualified for selection. A re-notification was issued on 12.7.93 (page -10) for filling up that post. In response to second notification 3 candidates applied including the applicant and respondent-3. Respondent-3 was selected for the post and he has taken over charge-as can be seen from the Annexure-10 to the OA dated 1.11.1993.

This OA is filed praying to call for the proceedings No.B3-359 dated 19.10.93 by Respondent-1 served on the applicant on 1.11.93 and further to quash the second notification dt.12.7.1993 issued by respondent-1.

The point to be considered in this OA is whether the first notification was cancelled on justifiable grounds and also to see whether the applicant was appointed only on provisional basis to fill up the vacancy caused due to the retirement of permanent incumbent of the post. After verifying the facts it is to be seen whether the second notification was issued for justifiable reasons and also to see whether the

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selection was made in accordance with the rules from the candidates who applied in response to the notification dated 12.7.1993.



We have perused the file. In response to the first notification 8 applicants had applied. We have seen the chart made out by SDI (P), Palamner. As per the chart all the applicants except one Hoture Saradamma, others did not possess any individual income and ^{no} property ^{was} is also not in their names. The said Hoture Saradamma was working as an Anganwadi teacher and the school timings clashed with the timings of the post-office. In view of the above position the R-1 has cancelled the first notification. The order of respondent-1 on the file for cancellation of the first notification reads as below:

" Of the 8 candidates one did not attend the verification by SDI(P). Six have no income of their own or property. The eighth one also has no property but working as an Anganwadi Teacher. There may be clash in the working hours. The best course will be to re-notify the selection. "

We have also seen the application submitted by the applicant in response to the first notification. Under Sl.No.9 "Income from the present occupation" the applicant has stated "Nil". "Any other source of Income" he has stated "Father's pension". Under Sl.No.10 he stated that he possessed one house. The certificate in that connection issued by Mandal Revenue Officer, Bireddy Palli is enclosed. But there is no registered document enclosed showing the said house is in his name. Hence we are satisfied neither the applicant nor the other applicants had possessed the necessary income and property to qualify them for selection to the said post. Respondent-1 has correctly rejected all the applications and ordered re-notification for filling up that post.

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Respondent-1 by his letter Dt.29.6.93 had asked the SDI(P), Palmaner Sub-division to fill the post of BPM, Thirtham by provisional appointment, observing usual formalities so as to ensure the relief of permanent incumbent on superannuation without fail. Response to that direction SDI(P), Palmaner had appointed the applicant herein as EDBPM, Thirtham Branch Office provisionally as can be seen from his letter addressed to R-1 dated 9.7.93. We also find that the applicant had given a declaration that he ^{would} ~~will~~ handover the charge of Thirtham Branch Office to the regularly selected candidate at any time. This letter is written in Telugu Dt.30.6.93. An English translation of the letter is also kept on the file. From this letter one can easily infer that the applicant is aware of the fact that he is only a provisional appointee. Though the applicant submits in his rejoinder that his signature was obtained on blank sheet and the contents were filled later, such submission cannot be taken on the face value. We do not see any force in this contention.

From the above application it is evident that the first notification was cancelled as no eligible candidate applied in response to that notification and the applicant was posted only on provisional basis taking an undertaking from him that he ^{would} ~~will~~ vacate that seat when a regularly appointed candidate ^{was} ~~is~~ posted as EDBPM, Thirtham Branch Office.

The second point to be considered is whether the post was filled in accordance with the rules on the basis of the second notification.

In response to the second notification 3 candidates applied for the same including the applicant and R-3. We find from the statement enclosed to the file that all the applicants ^{fulfilled} ~~fulfil~~ all the conditions. When all are equal

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then the marks obtained in the SSC is the determining factor. R-3 has obtained 57.8 marks in the SSC whereas the applicant had obtained only 53.6 percent and the 3rd applicant obtained only 39.8 percent marks. Hence the R-3 was declared as a meritorious candidate and was appointed to the EDBPM, Thirtham. The applicant was asked to handover charge to the regularly selected candidate. We do not find any irregularity when respondent-3 took over charge as EDBPM, Thirtham from the applicant.

The applicant attributes motive for selecting respondent-3. He submits that R-3 had not applied in response to the first notification. In order to enable respondent-3 to get appointment the first notification was cancelled and the re-notification was issued. Respondent-3 has applied only in response to the 2nd notification and hence the whole procedure was repeated to ensure that respondent-3 is posted. We do not see any reason to accept the above contention. When a re-notification is ordered anybody can apply, even if they have not applied in response to the first notification. There is nothing on record to prove that favouritism was shown to respondent-3. If somebody has shown favouritism then that person should have been impleaded to hear his version. None who had shown favouritism had been impleaded. Hence it has to be held that the applicant has not proved his bonafides as regards to his contention of showing favouritism to respondent-3. In view of what is stated above,

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we hold that the selection is unbiased and finalised in accordance with the rules and hence the challenge is not tenable.

In light of the above we find no merit in this OA. The OA is dismissed. No costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

[Signature]
न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
हैदराबाद बेंच
HYDERABAD BENCH

केस नम्बर
CASE NUMBER... 21-164/94
निर्णय दिनांक
Date of Judgment... 26/3/...
प्रति कम्प्यूटर तैयार किया गया दिनांक
Copy Made Ready on... 22/4/97

अनुमान अधिकारी (नव दिक्)
Section Officer (J)

Review Application

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL AT HYDERABAD BENCH AT
HYDERABAD

Review M.A.No.

of 1997

in

O.A.No.164 of 1997

REVIEW APPLICATION

Filed on: 8-8 - 1997

Recd 8/8/97
R.N.K. Reddy
Am

Filed by:-

Mr.N.Janaki Rama Rao,
Advocate,

Counsel for the petitioner



May be filed
8/8/97