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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL-APPLICATION-N0.423-of-1994

DATE-OF-ORDER:- 21st-February,-1997

BETWEEN:

B.V.B.P.SASTRY

.. APPLICANT

AND

1. The Superintendent of Post Offices,
Kakinada Division, Kakinada,

2. Shri Ch.V.S.S.Subramanyam

RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.S.RAMAKRISHNA RAO

COUNSEL FOR THE RESPONDENTS: Mr.N.R.DEVARAJ, Sr.CGSC for R1
Mr.VVNL SARMA for R-2

CORAM:

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

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

ORDER

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

Heard Mr.S.Ramakrishna Rao, learned counsel for the applicant, Mr.W.Satyanarayana for Mr.N.R.Devaraj, learned senior standing counsel for the respondent No.1 and Mr.VVNL Sarma, learned counsel for the Respondent No.2.

2. The notification bearing No.BE/157 dated 22.11.93, was issued for selection to the post of EDBPM, Pillanka BPO under Yanam Sub Post Office. The last date for submission of the applications as per the notification ^{was} is 21.12.93.

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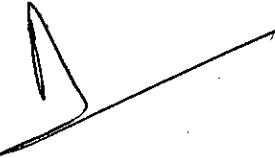
The notification stipulates in regard to submission of certain documents in Para 3 of the notification. One of the documents relates to the income and property certificate in original issued by MRO. In Para 5 of the notification, it is clearly stated no documents will be accepted later or in piece-meal after the last date is over. The applicant as well as R-2 applied for the post. It is stated that R-2 was found eligible for appointment. The applicant who was already working as Provisional EDBPM in the Post Office filed this OA on 7.4.94 challenging the reported selection of R-2 and for further direction to R-1 to issue a fresh notification and make the selection only from those who applied in time.

3. An interim order dated 8.4.94 was issued in this OA to maintain "status-quo" as on the afternoon of that date until further orders". It is stated that the applicant is continuing as provisional EDBPM on the basis of that interim order.

4. Before we analyse the issue involved in this OA, it is necessary to bring on ~~to~~ the record the method adopted in the selection. To find out the method of selection adopted in this case, we have called for the selection proceedings. The File No.68/94 was produced.

5. It is seen from the Office note dated 16.2.94 that 22 applications were received in response to the notification referred to above. Out of the 22 applications, only 19 applications were received in time before the last date. From the noting it can be surmised

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that none of the applicants fulfilled the conditions as stipulated in the notification. Hence the SPO (R-1 herein) selected five of the candidates applied in response to the notification out of 19 and shortlisted them for further consideration for appointment to the post of EDBPM, Pillanka. Both the applicant and R-2 were among the five. It is stated in the note that the applicant was working as a Part-time Clerk in the Primary Agricultural Cooperative Credit Society, Latchipalem, and hence he was asked to produce the certificate from the Society showing working hours and permit them to work as EDBPM. The applicant was also asked to produce the necessary documents in regard to holding of property in his name. Similar letter in regard to the authenticity of possessing property in the name of the applicant was also sent to the other candidates including R-2.

6. On the basis of the material obtained through the correspondence, the SPO had made necessary selection ~~for~~ selecting R-2. In the notings of the SPO while making selection it is seen that the candidature of the applicant was rejected as his working hours in the Cooperative Society clashed with the working timings of the post Office. Further the applicant did not possess higher marks in the SSC than R-2. In the case of R-2, the SPO held that the joint property should be bifurcated and got registered in his name and on that basis he had provisionally selected him subject to the submission of the registered partition deed in a fortnight. It is further observed that the selection is liable for cancellation without assigning any reason. The applicant and R-2 being more or less on the

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same boat, R-2 was preferred as he possessed higher marks in the SSC than the applicant.

7. Now the issue involved is whether the selection was done in accordance with law. The notification clearly stipulated that all the certificates included in the notification should be submitted along with the application and that too on or before 21.12.93. Incomplete applications or applications submitted later than 21.12.93 have to be rejected. The case of the applicant was rejected on the ground that his working timings of the Cooperative Society clashed with the working hours of the Post Office. Further, the applicant had no property registered in his name at that time. Hence rejection of the case of the applicant cannot be questioned. R-2 eloquently justifies how the applicant is ineligible for consideration for the post of EDBPM. As we ourselves agree that the applicant is ineligible, it is not necessary to go further into the contention of R-2 relating to the ineligibility of the applicant for consideration for the post of EDBPM.

8. The next question arises as to whether R-2 had fulfilled all the conditions for appointment to the post of EDBPM, Pillanka. Shri Sharma tenaciously argued that R-2 had fulfilled all the conditions very nearly and hence his selection is in accordance with the rules. Hence there is no need for holding any fresh selection cancelling the earlier notification issued on 22.11.93.

9. The main point now arises whether R-2 has fulfilled all the conditions. Before that we will like to

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observe in regard to the acceptance of the incomplete application for any appointment. In India the job market is very tight. There are many unemployed in the market. Hence observation of rules while selecting a candidate for any post meticulously in accordance with the rules need not be over emphasised. Selection for appointment is a very touchy matter. Those who are not selected will always throw stones on the impartiality of the selecting official. Hence the selecting official has to balance his acts while selecting. The only way that a selecting official cannot be termed as impartial is by strictly and meticulously following the rules. If the rules are strictly and meticulously followed, then even if any complaint arises, such complaint can easily be ~~answred~~ avoided by showing the rules. If any departure from the rule is allowed even if it is ~~a~~ minor, the selecting official cannot disown the responsibility for the selection. Hence it has to be observed that the selection is a process wherein rules play a very important part. ~~Deviations to the rules is~~ ^{Adherence} must and cannot be ignored even for ~~a~~ minor details. In that perspective, the present selection has to be viewed whether it was done in accordance with the rules or not.

10. With the above prelude, we will now look into the conduct of the selection. In the first instance there is no rule in the EDBPM Recruitment Rules to short-list the ineligible candidates. If there are no eligible candidates as per the rules, the course left to the authorities is to cancel that notification and order a fresh notification. Even presuming in this case some departure was done, whether those departures ^{could} ~~can~~ be condoned or not. In the

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notification it is clearly stated that the certificate of income and property in original issued by the MRO should be attached to the application and the application which is complete should be received on or before 21.12.93. If that be the case, there is no need for the respondents to call for the registered documents showing the property registered in the name of the applicants. This would mean that the respondents'-organisation did not believe in toto the certificates of income and property issued by the MRO. Then because of that, they ~~want~~ ^{insist upon} the registered documents in this connection. Hence it has to be held that such a so as to ensure the bonafide eligibility of the applicant for appearing for selection. It is evident here that R-2 ~~had~~ not submitted the registered documents. It is also evident from his reply wherein he states that he got the documents registered only in February, 1994 i.e, later than ~~fixed~~ the last date for submission of the application.

11. The next contention of the learned counsel for R-2 is that the DGP&T, New Delhi's letter NO.43-198/85 dated 14.8.85 stipulates that the verification should be carried out before the candidates were appointed. It does not say that the candidates may apply even without documents and those documents which are not attached to the application can be verified before appointment. The above quoted letter only stipulates that the documents enclosed to the application should be verified before the appointment is made so that fake documents are not entertained and because of the fake documents, the selected candidate is thrown out of job after selection. Hence the letter of the DGP&T in

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no way helps R-2.

12. The learned counsel for R-2 submitted that five candidates were short listed because they claim to have necessary certificates and in that view there is no need for short ~~listing~~ ^{listed} ~~the~~ candidates to submit the documents in original and they were not called upon to do so at the time of submission of the application.

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the earlier paragraphs. The MRO certificate is not believed. If it is believed then they should not be asked to call upon to produce the original documents. In that view, the application should contain all the documents including that of the property document registered in his name in addition to the certificate of the MRO. Hence this contention has no legs to stand.

14. In a similar case in another EDBPM selection, we had held that the incomplete application forms without property documents etc. should be rejected. That dictum still holds good in this case also.

15. In view of what is stated above, we are convinced that none of the candidates who responded to the notification dated 22.11.93 ~~had~~ fulfilled the conditions stipulated in the notification. When none of them ~~had~~ fulfilled the condition at the threshold itself, the question of short listing ~~does~~ ^{did} ~~not~~ ^{at all -} arise. The short listing is only to reduce the number of candidates who ~~have~~ ^{are} found fully eligible for consideration for selection. In

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this case none of the candidates who applied in response to the notification fulfilled all the conditions. Hence all the applications should have been rejected at the initial stage itself and a fresh notification should have been issued. For the reasons best known to the respondent-authorities, they made short listing on some *prima facie* consideration for which there is no rule existing. In view ~~of the irregular consideration of the respondents, this present litigation has come into way.~~

16. In view of what is stated above, we are convinced that the notification dated 22.11.93 and the proceedings taken thereafter in pursuance of the notification should be set-aside and a fresh notification should be issued and on the basis of the fresh notification, suitable eligible candidate should be selected for the post of EDBPM, Pillanka.

17. The applicant is enjoying the status of EDBPM, Pillanka due to the interim order. This is an unintended benefit to the applicant. Hence we are convinced that the status-quo order issued should be vacated forthwith and the selection should be done by issuing a fresh notification in accordance with the rules.

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

The notification dated 22.11.93 and the other proceedings in pursuance of the above said notification ~~is~~ ^{are} set-aside. R-1 is directed to issue a fresh notification for filling up the post of EDBPM, Pillanka BPO under Yanam

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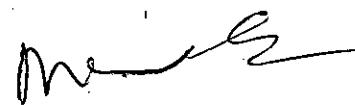
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Sub Post Office in Kakinada Postal Division, East Godavari District. The status-quo order issued on 8.4.94 in this OA stands vacated.

19. The OA is ordered accordingly. No order as to costs. (The selection proceedings were perused and returned back).


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

21.2.97


(R.RANGARAJAN)
MEMBER (ADMN.)


D.Y. Reg. (JUDL.)

DATED:- 21st February, 1997
Dictated in the open court.

vsn

self
28/4/97

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

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

AND

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

DATED:

21/2/97

Order/Judgement
R.P/C.P/M.A.-No.

D.A.NO.

423/97

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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