

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD
* * *

O.A. 9/94.

Dt. of Decision : 8.6.1994.

Duggimpudi Chinna Mallareddy

.. Applicant

Vs

1. The Superintendent of Post Offices,
Nandyal Division,
Nandyal - 518 501.
2. The Postmaster General,
A.P. Southern Region,
Kurnool.
3. The Director General,
Department of Posts,
(representing Union of India)
Dak Bhavan,
New Delhi - 110 001.
4. Duggempudi Venkatanarayana Reddy
S/o D. Satyanarayana Reddy,
aged about 22 years,
Obulakkapalle. (N/A) Dupadu,
poorakasa - Dist - 523330. .. Respondents.

Counsel for the Applicant : Mr. T.V.V. Murthy for
Mr. T. Jayant

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC

Mr. C. Suryanarayana for RA.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

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

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O.A.No.9/94.

Date: 8.6.1994.

J U D G M E N T

{ as per Hon'ble Sri R.Rangarajan, Member(Administrative) }

A regular vacancy of E.D.B.P.M., Obulakkapalle arose on 30.6.1990 due to discharge of Shri D.Venkata Reddy, regular B.P.M. on attaining the age of 65 years. R-1 addressed the District Employment Exchange, Ongole, on 22.1.1990 for sending a panel of atleast 3 candidates within a period of 30 days. Since there was no response, R-1 issued a notification inviting applications from public vide Memo No.B-6/B.P.M./Obulakkapalle dt. 23.2.1990 (Annexure A-1) fixing 23.3.1990 as last date for receipt of applications. Wide publicity was arranged in the village about the vacancy. Only two applications were received - one from the applicant herein and the other from R.4. These two applications were sent to S.D.I.(P), Markapur and got verified on 6.4.1990. While returning the verified applications, it was reported by SDI, Markapur that the applicant herein did not produce any documentary evidence in support of having any property in his own name and that the entire property is in the name of his father. The applicant has also reported ~~to~~ have no house in his name. Further the applicant did not produce income certificate along with his application dt. 17.3.1990 but submitted an income certificate dated 10.4.1990 issued by Mandal Revenue Officer, Peddaraveedu at the time of verification. There was a complaint against the candidature of Shri D.V.Narayana Reddy (R-4) from the villagers. The complainants alleged that the retiring B.P.M. created records of adoption to get a job for his brother's son and that the said D.V.Reddy ^{does} not possess any property or house in his name. The complaint was got enquired through

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S.D.I.(P), Markapur and reported that the allegations were not proved. In the meanwhile many complaints were received at the office of R-2 alleging irregularities in the selection and corrupt practices adopted by R-1. The D.P.S., Kurnool ordered Assistant Director-1 to enquire into the allegation. The allegation of corrupt practices adopted by R-1 has not been proved. But, however, it was established though not through the enquiry that the applicant is not eligible for selection prima facie as the candidate did not show any evidence in support of the property at the time of verification. R-1, the SPO, Nandyal was instructed to finalise the selection keeping in view the rules on the subject. R-1 rejected both the applicant and R-4 herein for the following reasons:-

- (i) Application of the applicant was rejected as he was found ineligible as he did not show any documentary evidence in support of the property certificate issued by M.R.O., Peddaraveedu, during the course of the investigation by S.D.O.(P), Markapur. Though he has got more marks than R-1 in S.S.L.C. his candidature was rejected for reasons stated above.
- (ii) Candidature of R-4 was rejected as he did not enclose income certificate along with the application but produced it later and after the last date fixed for application.

2. In the meanwhile, R-4 filed O.A.No.846/90 on 19.10.1990 on the file of this Bench which was finally disposed off on 14.10.1993 as premature as the selection is not finalised and directed R-1 to consider the case in accordance with law. In the mean time R-4 submitted a petition on 22.11.1993 alleging that the applicant has produced bogus property certificates. R-1 considered the application on 28.11.1993 and decided to

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issue re-notification. Accordingly, re-notification of the vacancy was issued by R-1 vide Memo No.B-6/B.P.M./Obulakkapalle dt. 20.12.1993, fixing the last date for applications as 18.1.1994. In response to the renotification, 6 applications were received and the applicant in the present O.A. is one amongst them.

3. The applicant alleges that he has produced ~~documentary~~ evidence in support of his property in time as required and hence he has been selected by the competent authority on 2.6.1990 and orders were passed to handover the charge of B.O. to the applicant. But, as he was not posted as E.D.B.P.M., Obulakkapalle and a re-notification dt. 20.12.1993 (Annexure-A-32) was issued, he assails the re-notification order dt. 20.12.1993 and prays for quashing the same and for a further direction to the respondents to select and appoint him as E.D.B.P.M., Obulakkapalle, B.O.

4. The main point to be decided in this O.A. is whether the applicant had filed the necessary documentary ^{along with his application} evidence in support of his property and income to make his candidature eligible for consideration for selection. The contention of the applicant is that he had submitted the necessary property certificates at the time of submission of his application which was duly verified by S.D.I.(P) Markapur at the time of his verification on 10.4.1990, which was denied by the respondents.

5. We have heard the elaborate submission of the learned counsel for the applicant Shri T.V.V.S.Murthy for Sri T.Jayanth and the learned Standing Counsel for respondents Sri N.V.Ramana.

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6. Before we go into the merits of the case, it is preferable to bring on record the observation of this Tribunal in similar cases and also the instructions of the P & T Department in this connection.

7. In O.A.No.914/90 and 193/91 (P.Appa Rao Vs. Supdt. of Post Offices, Parvathipuram and others) which was decided on 5.11.1993, ~~where~~ both of us were party to that judgment it was held "it is not open to the concerned authority i.e. Superintendent to entertain the case of any person when the application of that person is incomplete."

8. In O.A.No.186/91 (Kum. G.Sarada Vs. Supdt. of Post Offices, Parvathipuram), wherein the applicant had furnished only a letter from her father that she owned immovable property and did not submit any property certificate. This was considered not satisfactory or sufficient by the respondents. It was held in that O.A. after careful examination of the material before the Tribunal that non-selection of the applicant in that O.A. was legal and not arbitrary and unfair as she has not submitted the documents at the relevant time.

9. Section-III of Swamy's ~~3~~ Compilation of Service Rules for E.D.Staff in Postal Department (1990 Edition) deals with methods of recruitment of E.D.Staff. Para-19 of this Section-III stipulates that appointment of E.D.As has to be strictly in accordance with the rules and irregularities ^{have} ~~has~~ to be checked. It is further emphasised in this para that "it is therefore, necessary for the concerned Officers to keep vigilant eye on such cases in order to check such irregularities in appointment of E.D.As. and especially EDBPMs so that appointment of EDAs are made strictly in accordance with the rules." (Reference: Department of Posts Lr.No.41/295/87-P.E.I dated 27.8.1987).

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10. With the above observations of this Tribunal and the rules position as stated above, the records have to be scrutinised to adjudicate the rival contentions in this case.

11. The applicant along with his application had submitted the property certificate and the income certificate issued by the Mandal Revenue Officer, Peddaraveedu as Enclosure No.7 & 8. This property certificate issued on 12.3.1990 by Mandal Revenue Officer, Peddaraveedu is reproduced below:-

"This is to certify that Sri Duggempudi Chinna Malla Reddy s/o Pedda Koti Reddy native of Obulakkapalli of Peddaraveedu Mandal possessed immovable property in Thokapalli revenue village bearing S.No.39 an extent of Acs.7-14 Cents. The value of the land per Acre is about Rs.10,000-00 and the total value of the land is about Rs.70,000-00 and he possessed Building in Obulakkapalli village, the value of the Building is Rs.20,000-00 only. Hence, the total value of the property is about Rs.90,000-00 Rupees Ninety thousands only."

A perusal of the above certificate does not give any indication as to who owns the property - whether it is in the name of the applicant or in the name of the father. If it is not in his name, whether he can claim any share in the property. The certificate appears to be vague.

12. The S.D.I., Markapur who verified the applications ~~submitted~~ in pursuance of the notification issued on 23.2.1990 (Annexure A-1) submitted a report bearing No.P.F./BPM/Obulakkapalle dt. 11.4.1990. In this report, regarding the property of the applicant, the following remarks have been given.

"Regarding property, Sri Duggempudi Chinna Malla Reddy has shown the property certificate obtained

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from the M.R.O. But he has not shown any evidence (documentary) in support of his plea. It is learnt that the whole property is in the name of his father, but not in the name of the candidate. He has not shown any evidence in support of his plea of his own house. It is also learnt that the Pukka House in which he is residing is in the name of his father. The candidate has not shown any evidence in support of his own property. He has produced the property certificate obtained from the M.R.O. for the value of Rs.90,000/-. It is learnt that Sri Duggempudi Chinna Malla Reddy is having one elder brother and parents. The whole property is in the name of his father and the property is not yet divided among the sons and parents."

13. In the office note put up by the office in a tabular form extracting the details given in the application, under column-8 - property as shown in the application - it has that the candidate has not shown any evidence in support of owning the above property. He further intimated that the above land and the building are in the name of his father." In spite of these remarks, R-1, for reasons best known to him has selected the applicant on the file without indicating any reasons for selecting him. R-1 has also not indicated why he has selected this candidate when his application is incomplete and does not follow the rules as prescribed. Fortunately no formal order of appointment has been issued. Presumably this may be due to complaints received against the selection, malafides attributed to R-1 in this selection and the consequential enquiry that followed by Assistant Director-I, Whether the application is complete or not as per the notification is to be checked by the respondents. In this case, though S.D.I.(P), Markapur has submitted in his enquiry report that the application of the applicant herein received in pursuance of his notification dt. 23.2.1990 is incomplete and that the applicant herein failed to show documentary

evidence in support of the property certificate issued by the M.R.O., Peddaraveedu during the course of his verification, R-1 has not given any credence to above report while finalising the selection proceedings. As stated earlier, no final order has been issued to the applicant. As observed by this Tribunal and the rules position as indicated and sustained and further processed for selection. In this case, the required certificates were not received along with the application nor were they produced at the time of verification. We do not see any insertions or manipulations of records in this connection. The file produced before us is complete made to keep the applicant out of consideration for selection. The records have to be believed as they are prepared then and there and does not give any clue of preparing them with any mala fide intentions.

14. The applicant relies on the decision in O.A.No.814/91 decided on 11.5.93 [Shivadasan Akkathadathil Vs. Union of India and 4 others] and O.A.No.595/89 decided on 23.2.1993 (Mrs. Sakam Usha Rani Vs. Union of India and Ors.). These two citations have no relevance to this case as the applications in this case had been received incomplete and no further check can be above held certain provisions in the recruitment rule as void. Hence, this can easily be differentiated from the citations quoted above.

15. In the result, we hold that the application of the applicant in response to the notification dt. 23.2.1990 was received incomplete and hence cannot be entertained. The incomplete application has been rejected rightly. Selecting

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the applicant in response to the notification dt. 23.2.1990 by R-1 even in file cannot be sustained when the application received is incomplete. In view of this we see no reason for quashing the second notification dt. 20.12.1993. The provisional arrangements so far made for discharging the duties of E.D.B.P.M. Obulakkapalle may be allowed to continue till a duly selected incumbent is posted as E.D.B.P.M., Obulakkapalle.

16. In view of what is stated above, this application merits no consideration and hence dismissed. No costs.

(R.Rangarajan)
Member (Admn.)

(V.Neeladri Rao)
Vice Chairman

Dated 8 June, 1994.

Deputy Registrar(J)CC

Grh.
To

1. The Superintendent of Post Offices,
Nandyal Division, Nandyal-501.
2. The Postmaster General, A.P.Southern Region,
Kurnool.
3. The Director General, Dept.of Posts,
Union of India, Dak Bhavan, New Delhi-1.
4. One copy to Mr.T.Jayant, Advocate, CAT.Hyd.
5. One copy to Mr.N.v.Ramana, Addl.CGSC.CAT.Hyd.
6. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

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

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER(CUDL)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 8-6-1994.

~~ORDER~~ JUDGMENT:

~~M.A./R.A/C.A.~~ No.

in

O.A.No.

9/94

T.A.No.

(W.P.)

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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