

(19)

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

O.A. No. 526 of 1994.

Between :-

Mrs. T. Manorama.

...

Applicant.

and

1. The Sr. Supdt. of Post Offices,  
Nizamabad.

2. The Post Master-General, Hyd. Region,  
Hyderabad.

... Respondents.

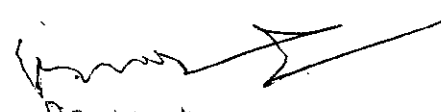
COUNTER AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS.


I, V.S.Krishna Murthy, S/o V. Satyam, aged 54 years,  
Occupation : Govt. Service, do hereby affirm and state as follows :

1. I am the Asst. Director, O/o the Postmaster-General,  
Hyd. Region, and as such I am fully acquainted with all facts  
of the case. I am filling this Counter Affidavit on behalf of  
all the Respondents ~~as I have been authorised~~ as I have been authorised  
to do so. The material averments in the O.A. are denied save  
those that are specifically admitted hereunder. The applicant  
is put to strict proof of all such averments except those that  
are specifically admitted hereunder :

The brief history of the case is as follows :

Consequent upon one Sri Gangadhar, Branch Postmaster,  
Ranjal Branch Office was placed under put off duty on 29.8.89.  
The applicant was appointed as Branch Postmaster, Ranjal w.e.f.  
28.10.89 provisionally. Subsequently the said Gangadhar was  
removed from service on 17.2.92. Thus the vacancy was notified  
on 3.3.92 fixing the last date of receipt of the application as  
2.4.92. Simultaneously the Employment Exchange was also addressed  
to sponsor the candidates. 7 applications were received within  
the stipulated time. The said applications were sent for  
verification to the Sub-Divisional Officer, Meanwhile complaints


  
Deponent.

  
Investigator.

were received against the candidates who applied for the post of BPM. A specific complaint against one Sri B. Nageshwar, who is one of the applicant was received complaining that a Police case was pending against him. The said complaint was enquired into and the Asst. Supdt. of Post Offices, (Nizamabad North) who was enquired into the complaint reported that the case was booked against the said Nageshwar by the villagers which was dropped as the allegations were found to be not genuine. Consequently the selection was conducted and 3 candidates were found eligible for the post including the said Nageshwar and the applicant herein. The said Nageshwar got more marks than other two candidates and hence he was selected for the said post. He took the charge of Branch Office with effect from 1.4.92 from the applicant. Subsequently it was learnt that a Criminal case was pending against the said Nageshwar in the Court of Judicial Magistrate, Bodhan under C.C. No. 27/92 which fact the said Nageshwar did not mention in the attestation form submitted by him. This fact of pending criminal case has come to light when the attestation form submitted by him was passed on to the District Magistrate for verification. Thus his services were terminated, for suppressing of pendency of the criminal case and the applicant was appointed as Branch Postmaster with effect from 1.2.94 on provisional basis. Thus it was necessitated to conduct fresh selection to fill up the said vacancy of Branch Postmaster at Ranjal Post Office.

On the basis of the above facts the respondent submits the reply to para-6 of the O.A. as follows :-

It is submitted that the applicant had worked as BPM, Ranjal from 28.10.89 to 31.8.92 on provisional basis. She was appointed on provisional basis on 28.10.89 in the place of Sri E. Gangadhar, the regular BPM who was put off duty, pending disc. action. He was subsequently removed from service w.e.f. 17.2.92

  
Attestor.

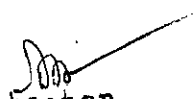
  
Deponent.

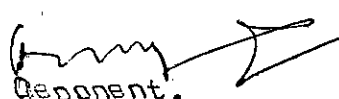
and not from 17.2.93 as stated in the O.A. by the applicant.

Action was taken to fill up the post of BPM, Ranjāl on regular basis, by issuing notification calling for applications for the BPM post on 31.3.92, fixing the last date as 2.4.92. All the applications received were sent for verification. Meanwhile complaints were received against Sri B. Nageshwar one of the candidates, that a Criminal case is pending against him. The Asstt. Supdt. of Post Offices, Nizamabad (North) who enquired into the complaint with the Sub-Inspector of Police, Edapally, in the report has stated that, according to the Sub-Inspector of Police, Edapally a case booked against Sri B. Nageshwar by the villagers was & dropped as the allegations were found baseless.

Sri B. Nageshwar who secured highest marks in the qualifying examination of all the eligible candidates, was selected for the post and the charge of the BO was transferred to him w.e.f. 1.9.92 from the applicant. Thus the applicant had worked as BPM from 28.10.89 to 31.8.92, i.e., two years and 10 months in a provisional capacity and not three years and on regular basis as stated by the applicant. It is submitted that the post of Extra Departmental Branch Postmaster do not come under the category of casual laborer.

It is submitted that Sri B. Nageshwar one of the eligible candidate for selection as Branch Postmaster, was selected as he had secured highest marks in the qualifying examination, than all the other candidates. Thus no irregularity was committed in selecting Sri B. Nageshwar. The fact of pending of a criminal case came to light only after the attestation form of Sri B. Nageshwar was sent to the District Magistrate. The services of Sri B. Nageshwar was terminated w.e.f. 1.2.94 after giving him notice, for the reason that he suppressed the fact of pendency of a criminal

  
Attestor.

  
Deponent.

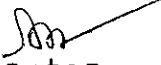
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case in the attestation form, and that not as a result of the outcome of criminal case, which was dropped. The date of final disposal of disc. proceedings against Sri E. Gangadhar is 17.2.92 and not 17.2.93 as stated by the applicant.

The services of Sri B. Nageshwar were terminated 1.2.94 after giving due notice, for suppressing the fact of pendency of a criminal case against him. Smt. Manorama, the applicant was again appointed as BPM, Ranjal on provisional basis w.e.f. 1.2.94.

The applicant happened to work as BPM, Ranjal on provisional basis for two years and ten months from 28.12.89 to 31.8.92 by chance, during the pendency of disc. proceedings against the regular incumbent and as such she has no right to claim for regular appointment as submitted already. Sri B. Nageshwar was selected as BPM, Ranjal in accordance with the provision of rules, and he was transferred to him on 1.9.92. Thus the selection process initiated with the notification of selection issued on 3.3.92 was completed by 1.9.92. The services of Sri B. Nageshwar was terminated from 1.2.94 for not furnishing the pendency of a criminal case against him in the attestation forms, and not because of the outcome of the criminal case. The criminal case was subsequently dropped. As such the contention of the applicant that she would have been appointed as regular BPM in Aug., 1992 as he is the next eligible candidate and if the Dept. had taken cognisance of criminal case pending against Sri B. Nageshwar is not tenable. The applicant is not eligible for regular appointment.

Sri B. Nageshwar challenged the notice of termination given to him in O.A. 99/94 in the Hon'ble CAT. The O.A. was disposed of on 12.4.94 with a direction to the Respondent No.1.

  
Attestor.


  
Deponent.

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to pass final orders on the representation dt. 24.1.94 of the applicant. The Respondent disposed of the representation dt. 24.1.94 on 8.6.94 as directed. Action to fill up the post again is being initiated by the Respondent No.1.

The prayer of the applicant to declare her as entitled for regular appointment as ED-BPM of Ranjal is therefore not tenable and it is prayed that the O.A. be dismissed with costs.

For the reasons stated above, the applicant has not made out any case either on facts or on law and there is no merit in the O.A. It is, therefore prayed that this Hon'ble Court may be pleased to dismiss the O.A. with costs and pass such further and other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

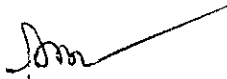
  
Deponent.  
Assistant Director of Postal Services  
O/o. The Postmaster-General,  
Hyderabad Region, Hyderabad-500 001

Solemnly and sincerely affirmed this

17<sup>th</sup> day of Oct, 1994 and

he signed his name in my presence.

Before me.

  
Attestor.  
Assistant Director of Postal Services  
O/o. The Postmaster-General,  
Hyderabad Region, Hyderabad-500 001

Deponent.

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2. The Postmaster-General,  
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... Respondents.

*Counter Affidavit*



*26/10.*

*Counter  
deposited  
today on  
21-10-94*

*Filed by*

**N.R. DEVARAJ**

Advocate &

Standing Counsel for Railways,

8, Lalithanagar,

Jamei Osmania,

HYDERABAD-500 044

*may be filed  
on  
25/10/94*