

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ANDHRA PRADESH BENCH
AT HYDERABAD

O.A. NO. 684 of 1994

Between:

A.V. Krishna Prasad,
S/o A.V. Subbaramaiah,
age 23 Years
Branch Post Master,
Kothapalem BO A/W
Stonehousepet, Nellore Dist.

.. Applicant

Senior Superintendent of Post Offices

Nellore Division - Nellore .. Respondent

Address for Notice : D. Subrahmanyam

to the Applicant Advocate,
8, Padmaja Apartments

Gandhinagar,

HYDERABAD - 500 380.

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This Application is against the order of the respondent Notifying for selection to the Post of EDBPM, Kothapalem (Impugned order - Annexure (1)). Even though Employment Exchange has sponsored this applicant for selection as BPM in the Year 1992 and the selection has Not been completed. This applicant is also working as BPM provisionally from 2-7-92 without any break. Aggrieved by the arbitrary issue of Second Notification without finalising the selection on the basis of applications sponsored by the Employment Exchange, the applicant approaches this honourable tribunal.

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D. Subrahmanyam

A.V. Krishna Prasad.

2. JURISDICTION OF THE TRIBUNAL:

The applicant humbly submits that the subject matter of the order against which the application is made is within the jurisdiction of this honourable tribunal as per section 14 of the Administrative Tribunals Act, 1985.

3. LIMITATION:

The Applicant humbly submits that the application is within the limitations as prescribed in section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE:

The Applicant herein humbly states that he was provisionally appointed as Branch Post Master, Kothapalem BO in Nellore Postal Division and assumed charge on 2-7-92 (vide Annexure-II post (Vide Xerox Copy of the Aquittance Roll - Annexure - III) B-3/BPM/Jayapuram, dated at Nellore 22-7-92, (Annexure-IV) that his name was sponsored by the Employment Exchange, that the Applicant should fill in the Application sent enclosed along with all the required Certificates. Accordingly the Applicant filled-in the prescribed Application and Submitted to the respondent along with the Certificates required Nellore East Sub-Division verified the correctness of the Certificates in May '93 and found them in order.

The Applicant was not issued with any formal orders of appointment and was not communicated with the result or his application either. He has, however, been continuing as BPM on provisional basis since 2-7-92 till date his services have been faultless. All of a sudden after

about two years the respondent again issued a Notification calling for applications for the post of BPM, Kothapalem to cover up the inordinate delay in finalising the earlier selection. In reality the selection process was started two years earlier and the applicant submitted his application in response to such process vide the respondents letter B-3/BPM/Jayapuram, dated 22-7-1992. Thus the selection process initiated in 1992 has not been completed by the respondent even after about two years and when such process is still pending issue of 2nd Notification for the same post is illegal unjust and arbitrary and therefore this application.

While the selection process initiated in 1992 were, the minimum educational Qualifications for the post of BPM have been revised upwards and the intention of the Respondent is to apply these revised standards and have a fresh selection to the Post of BPM to cover up the inordinate delay by the respondent in finalising the selection. It is also a bid to get rid of the applicant who has put in sufficiently long service as ~~.....~~ Master on provisional basis. Having thus been aggrieved by the impugned order of the respondent, the applicant finds no other remedy than to approach this honourable Tribunal.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

The Applicant herein humbly submits that

- i) The action of the respondent in issuing a Second Notification for the selection of BPM, while the earlier process is still pending, is unjust arbitrary and therefore invalid ab initio.

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W. S. Salunke Esq.

A. V. M. Salunke Esq.

(3)

- ii) The initiation of the respondent again for selection of BPM is for the purpose of covering up the inordinate delay in finalising the earlier selection and hence is opposed to all principles of Natural Justice.
- iii) The respondent cannot initiate selection process for the post, which the applicant is holding since about two years and rendering faultless service. The respondent could not show any lapse in the service of the applicant and hence the second Notification is untenable, illegal and unjust.
- iv) The issue of Second Notification is motivated to get rid of the applicant who has put in about two years of service in provisional capacity. To defend the ~~delay in selection~~ is issued.

6. DETAILS OF THE REMEDIES EXHAUSTED:

The applicant has submitted a representation to the respondent (Vide Annexure-V) with copy to the Post Master General - Vijayawada praying for withdrawal of the Second Notification issued. This has not been conceded to date. ~~As the remedy required is urgent in nature, the applicant~~ approaches this honourable Tribunal for redressal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant humbly declares that he has not filed any application or suit in any Tribunal or Court for the same relief as prayed herein nor any application or suit is pending in this regard in any Tribunal or Court.

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Subrahmanyam

A.V. Krishna Rao

8. RELIEF(S) SOUGHT:

The Applicant humbly prays this honourable Tribunal be pleased to direct the respondent:

(a) To rescind the Notification issued in his Memo No.

B-3/BPM/Kothapalem, dated 26-4-94.

(b) To regularise the provisional appointment of the applicant as BPM which has been since about two Years without any break and there was no fault found in his quality of service and pass such other order or orders which this honourable Tribunal deems fit and proper in this case.

9. INTERIM ORDER IF ANY PRAYED FOR:

The applicant humbly prays the Tribunal be pleased to direct the respondent to stop any further action in this case and pass Order Memo No.B-3/BPM/Kothapalem, dated 26-4-94 and pass any other order or orders which this honourable tribunal deems fit and proper in the facts and circumstances of the case.

10. PARTICULARS OF BANK DRAFT/POSTAL ORDER FILED IN RESPECT

OF APPLICATION FEE:

P.P.O./B.C./D.D./Remainder

(a) Postal Order

(b) Date

: 7-6-94

(c) Amount

(d) In favour of

: Registrar, CAT Hyderabad

An Index in duplicate containing the details of the documents relied upon in enclosed.

Subrahmanyam

A.N. Kurnoor Rao

12. LIST OF ENCLOSURES:

Vakalat and Material Papers.

A.V. Subbaramaiah

SIGNATURE OF THE COUNSEL.

A.V. Krishna Prasad

SIGNATURE OF THE APPLICANT.

VERIFICATION

I, A.V. Krishna Prasad, S/o A.V. Subbaramaiah, age 23

Years working as Branch Post Master, Kothapalem BO A/W Stonehousepet, S.O. Nellore Division resident of Kothapalem do hereby verify that the contents of Paras 1 to 4 are true to my personal knowledge and contents of paras 5 to 12 are believed to be true on legal advice and that I have not suppressed any material facts.

PLACE:

A.V. Krishna Prasad

SIGNATURE OF THE APPLICANT.

DATE: