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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 733/95

DATE OF ORDER : 03-03-1998.

Between :-

A.Saily

... Applicant

And

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

2. P.Ashok

... Respondents

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Counsel for the Applicant : Shri P.Rathaiah

Counsel for the Respondents : Shri V.Bhimanna, Addl.CGSC

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CORAM:

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri B.Appa Rao for Sri P.Rathaiah, counsel for the applicant and Sri V.Bhimanna, standing counsel for the respondents.

2. The applicant in this O.A. was provisionally appointed as EDBPM of Dadigi Village with effect from 22-9-94 as the regular incumbent was selected as Postman in Departmental Examination. The Employment Exchange was addressed on 22-8-94 to sponsor the eligible candidates. There was no response. Hence an open notification was issued on 22.9.94 calling for the applications from the eligible candidates. Seven applications including that of the applicant were received. The applications were got verified on 6-12-94 and the selection was finalised in favour of Respondent No.2 who had fulfilled all the prescribed conditions.

3. This O.A. is filed for setting aside the selection of Respondent No.2 as EDBPM, Dadigi Village and for a consequential direction to Respondent No.1 to follow the rules and regulations prescribed in selection of EDBPMs. // The main contention of the applicant in this OA is that Respondent No.2 in order to get the posting as EDBPM Dadgi complained against the applicant. The respondents in their reply in para-3 submitted that the complaint written by Respondent No.2 was received and the same was got enquired and that the complaint was not taken into account while finalising the selection. The applicant repeatedly trying to impress on us that because of the complaint, the selection was vitiated. Such

a vitiation will take place if the complaint is taken into account while finalising the selection but we find that the position is to the contrary. Hence the complaint of Respondent No.2 is no way affected the case of the applicant for getting selected as EDBPM. Both the applicant and Respondent No.2 were equal in all respects. Hence the meritorious candidate had to be selected. The merit had to be decided on the basis of the marks obtained in SSC Examination. It is stated in para-3 of reply that the applicant had secured 284 marks whereas the Respondent No.2 secured 320 marks in the SSC examination. Hence the Respondent No.2 got selected. When all things are equal, the respondent No.2 was selected as he got more marks in SSC Examination. Hence the applicant cannot challenge that appointment when he has not secured higher marks than Respondent No.2.

4. The applicant submits that he had worked as a provisional candidate for a very long time and in view of Judgement reported in 1992(1)SLJ 541 (G.S.Parvathy Vs. The Sub Divisional Inspector (Postal) & others), he should be considered as a better candidate than Respondent No.2 and on that basis he should have been selected and posted. The said citation was perused. The experience is to be counted if everything is equal. That matters when the applicant and Respondent No.2 are equally placed in all respects including the marks obtained in the SSC Examination then the candidate who got earlier experience has to be preferred instead of a candidate without any experience. In this case the applicant has got less marks than Respondent No.2 and cannot be compared with Respondent No.2. Hence the citation referred to above is not helpful to the applicant. The learned

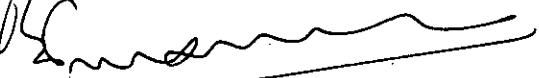


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counsel for the applicant submits that the applicant's experience may be counted when he applies next time for the similar post.

This is left to the Department. In this connection no direction can be given.

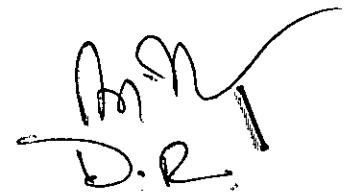
5. In view of what is stated above, we find no merit in this case. Accordingly the OA is dismissed. No costs.


(B.S.JAI PARAMESHWAR)
Member (3)

3/3/98


(R.RANGARAJAN)
Member (A)

Dated: 3rd March, 1998.
Dictated in Open Court.


D.R.

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Copy to:

1. The Senior Superintendent of Post Offices,
Nizamabad Division, Nizamabad.
2. One copy to Mr.P.Rathaiah, Advocate,CAT,Hyderabad.
3. One copy to Mr.V.Bhimanna, Addl.CGSC,CAT,Hyderabad.
4. One copy to D.R(A),CAT,Hyderabad.
5. One duplicate copy.

YLKR

G.J.S.
17/3/98

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. BURANGARAJAN : M(A)

AND

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

DATED: 3/3/98

~~ORDER/JUDGMENT~~

M.A. /R.A./C.M.D.

in

D.A.NO.

733/95

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

YLKR

