

38

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

O.A.No.873/95.

Date of decision: 23rd March, 1998.

Between:

M.D. Masood Ali. .. Applicant.

And

- 1 Union of India represented by
the Chief Postmaster General,
Andhra Pradesh Circle, Hyderabad.
2. Postmaster General, Hyderabad Region,
Hyderabad 500 001.
3. Superintendent of Post Offices,
Wanaparthy Division, Wanaparthy.
4. P.Gopala Krishna Rao. .. Respondents.

Counsel for the applicant: Sri K.S.R.Anjaneyulu.

Counsel for Respondents: Sri N.V.Raghava Reddy for
official Respondents.

Sri V.Venkateswara Rao for
Respondent No.4.

CORAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

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JUDGMENT.

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

Heard Sri Subrahmanyam for Sri K.S.R.Anjaneyulu for the applicant, Sri N.V.Raghava Reddy for the official respondents and Sri V.Venkateswara Rao for Respondent No.4.

~~EDMPT~~ ^{EDMPT} The ~~incumbent~~ ^{incumbent} of Ravipadu Branch Post Office was to be discharged from service on 13-7-1995 on his attaining the age of superannuation. The Employment Exchange was addressed on 18-3-1995 to sponsor the eligible candidates ^{for filling up the post}

As there was no response from the Employment Exchange the first Notification was issued on 25-4-1995 (Annexure VI Page 15 to the O.A.). It is stated that in response to that Notification 7 applications including that of the applicant ~~and the Respondent No.4~~ were received. ~~and also~~ The Respondent No.4

submits that he came to know of it about two days in advance of the last date of the notification. Though he had sent the required certificate along with the application it reached/on the last date of the receipt of the application. As the landholding certificate had to be procured by him from the Revenue Authorities and that was sent to the Department on 24.6.1995 which reached

the Department on 30.6.1995. The delay in submission of ~~submitting the application~~ the same is beyond his control. Respondent No.4 submits that he has fulfilled all the prescribed conditions



even if the issue is decided on the basis of the first notification.

This O.A., is filed to decide the issue on the basis of the first notification and consequently to select the applicant as he is the meritorious candidate for selection.

A reply has been filed by the official respondents in this O.A. The official respondents submit that after carefully examining the issue it was found that the Notification dated 10-7-1995 (Annexure I, Page 6 to the O.A.) was not proper and the same ^{was} is not justified. The M.A., for impleading Respondent No.4 was allowed on 17-2-1998. In the M.A., the Respondent No.4 has also submitted certain contentions for substantiating his case. A reply has also been filed by the official respondents in that connection.

As the official respondents have already stated that they will adhere to the first notification, it has to be seen whether the first notification is to be adhered to or the 2nd notification. Hence the contention of the private respondent No.4 assumes importance in this connection.

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The private Respondent No.4 has made two contentions for
~~xx request for xx~~ adherence of the 2nd notification.

i) The first notification was issued and no publicity was given. Hence the official issued in D.G., P & T. Letter No.43-~~223~~²²³/65-Pen dated ~~1st May 1966~~ (Swamy's Compilation of Service Rules for Extra Departmental Staff 'Method of Recruitment - Page 68) which reads as under:

"Whenever it is proposed to appoint an ED Agent due publicity should be given to this fact. This may be done by displaying a notice giving particulars of the appointment to be made and the allowances and other conditions attached to it at the concerned post office, the police station, the panchayat office and any other public place considered suitable."

The response to the first notification ^{was} ~~is~~ poor. Though seven applications were received only one application was found to be in order. As it was less than three applications, that notification had to be treated as invalid.

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The D.G.P & T. letter dated 19-1-1968 indicates that the Notification should be displayed in the concerned Post Office, Police Station, the Panchayat Office, and any other public place considered suitable. The word any other public place should be taken to mean that the people of that area should ~~not~~ know about the issuance of that notification. It does not mean that it can be put up at ~~any~~ the Village Chavidi and that ~~it~~ will be taken as proper publication of the notification. The way to convey the notification/by means of "Tom Tom", "Dandora" though it is not specifically indicated in the D.G P&T's letter point to be considered in this case whether dated 19-1-1968. The ~~very fact~~ ^{is} ~~that~~ the notification was conveyed to the people of that area or not. We consider that "Dandora" or "Tom Tom" is the proper way to convey the message to the people of that area. Hence ~~when~~ ^{is} when beat of "Tom Tom" was done and ~~that~~ fact was corroborated by the ~~Surpanch~~ ^{Surpanch} of the village it had to be held that proper publicity was given to the issuance of the first notification dated 25-4-1995. Both sides can dispute in regard to the display of the Notification on the Notice Board. Unless there is evidence by one of them to show that it was not displayed on the Notice Board, no decision can be given on this aspect. The ~~very~~ fact that the notification was displayed on the Office Notice Board ~~was~~ ^{not} proved by ~~either~~ ^{either} ~~any~~ the applicant

Hence
by any documentary evidence, we do not think that
~~wide~~ publicity ~~was not~~ given to the Notification
dated 25-4-1995, is inadequate.

The second contention is that since only one application was found to be in order on the basis of the applications received for the first notification, the same has to be set aside as the applications received were less than three. This contention is not tenable since seven applications were received and out of them only eligible applications should be taken into account and the other applications had to be rejected. The very fact that seven applications were received and out of them one application was found to be eligible to be considered indicates that due ~~publicity~~ ^{first} publication was given to the notification dated 25.4.1995. Though the learned counsel for Respondent No.4 submits that the Judgment of this Tribunal in O.A.26/92 decided on 25-8-1993 is not applicable in regard to the public response to the Notification dated 25.4.1995, we do not want to express any opinion in this regard. It clearly states that only ~~if~~ Employment Exchange has sent less than three names then only it will be a fit case ~~for~~ considered for issuing the second notification. We feel that even though seven applications were

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received in response to the first notification and only one application was found in order, it cannot be said that the response is poor. In view of the above, it cannot be said that the first notification has to be set aside for poor response from the candidates from the open market.

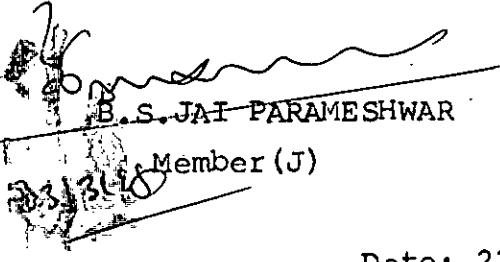
The last submission made by the learned counsel for Respondent No.4 is that even though his landholding certificate was received late by the respondents, it has to be taken note of as while responding to the first notification, he had only limited time for procuring that certificate from the Revenue Authorities and even then he sent it to the respondents before the last date of verification of the applications. It is not for us to decide this issue. It is for the respondents to decide the same in accordance with the rules. Hence this issue is kept open to be decided by the respondents in accordance with rules. If the respondents feel that the submission of the landholding certificate was received before the last date of verification of the applications and it is in order according to the rules, then they can take further action. But that decision is ^echallengable if it is against the rules.



In view of what is stated above, the following direction is given:

The Respondent No.3 should finalise the selection for the post of EBBPM, Ravichedu Village Branch Post Office on the basis of the applications received in response to the first Notification dated 25-4-1995.

With the above direction, the O.A., is disposed of. No order as to costs.


B.S. JAI PARAMESHWAR

Member (J)


R. RANGARAJAN,

Member (A)

Date: 23-3-1998.

Dictated in open Court.


M.D.R.

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Copy to:

1. The Chief Postmaster General, Andhra Pradesh Circle, Hyderabad.
2. Postmaster General, Hyderabad Region, Hyderabad.
3. Superintendent of Post Offices, Wanaparthy Division, Wanaparthy.
4. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT, Hyderabad.
5. One copy to Mr.N.V.Raghava Reddy, Addl.CGSC, CAT, Hyderabad.
6. One copy to Mr.V.Venkateswara Rao, Advocate, CAT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One duplicate copy.

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II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 28/3/88

ORDER/JUDGMENT

M.A/R.A/C.P. NO.

in

D.A. NO. 873/85

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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