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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.925/95.

Dt.of Decision : 24-03-98.

Nallapothula Srinivasulu .. Applicant.

Vs

1. The Union of India Rep. by
Secretary of Min. of Communication,
Dept. of Posts,
New Delhi-1.
2. The Superintendent of Post offices,
Guntakal Division,
Guntakal-801.
3. The Asst. Supdt. of Post Offices,
Guntakal Sub-division,
Guntakal-801.
4. P.Nagaraju .. Respondents,

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

Counsel for the respondents : Mr.K.Ramulu, Addl.CGSC.
for R-1 to R-3.

Mr.V.Venkateswara Rao for R-4.

CORAM:-

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

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

ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

Heard Mr.D.Subramanyam for Mr.K.S.R.Anjaneyulu, learned
counsel for the applicant, Mrs.Shyama for Mr.K.Ramulu, learned
counsel for the respondents No.1 to 3 and Mr.V.Venkateswara Rao,
learned counsel for respondent No.4.

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2. Notification bearing No.B6/BPM dated- Nil was issued for filling up the post of EDDA, Peddavaduguru sub-post office. The applicant and R-4 applied for the selection. It is stated that R-4 was selected as he was found to be ^a meritorious candidate. However, the applicant submitted a representation to R-2 for reconsideration of selection of R-4 as there was shortage of ST in the ED cadre and hence the selection of non ST candidate viz., R-4 ^{was} ~~is~~ irregular. R-2 examined that issue and held that as there was shortage of representation of ST candidates the selection of R-4 was irregular and hence he instructed ~~to~~ R-3 to select and post the applicant in the EDDA post. But R-4 had filed OA on this Bench in OA.183/95 decided on 20-6-95. The applicant herein was R-3 in that OA. The Bench issued the following direction:-

"R-3 in that OA i.e., the applicant herein cannot claim the relief of cancellation of the appointment of the applicant by figuring as respondent in this OA. If he is so advised he is free to move this Tribunal under section 19 of the A.T.Act, if there are grounds for cancellation of the appointment of the applicant as EDDA, Peddavaduguru."

It is also observed in that OA that even the appointing authority has no power to review a selection already made. The aggrieved parties have to approach the judicial forum for redressal of their grievance, if any. In view of that the applicant now has filed this OA challenging the selection of R-4.

3. This OA is filed to set aside the selection and appointment of R-4 herein as contained in Memo No.PF/EDDA/ Asst. Supdt. of Peddavaduguru dated 20-12-94, issued by the P.O.s Guntakal by holding it as illegal, arbitrary and for a consequential direction to R-2 and R-3 to appoint the applicant to the post of EDDA, Peddavaduguru Sub-post office.

4. The respondents have filed a reply. The main submission of the official respondents in this OA is that R-4 is more meritorious and accordingly he was selected. When questioned the reasons for not issuing the notification referred to above reserving the post for ST candidates if there was a shortage of ST candidates in the ED cadre, the learned counsel for the respondents submitted that it is a mistake. But we consider it ^a very costly mistake. The Calcutta Bench of this Tribunal had already held that if the notification does not state that the post is reserved for SC or ST then the meritorious candidates amongst those who responded to that notification where there is no reservation should be selected even though there is shortage of SC/ST in the cadre and the selected ^{merited} candidate does not belong to the ^{the same} category. This we held is not a new decision of the Calcutta Bench of this Tribunal as it was ^{and thus instructions were} earlier instructions ~~are those that~~ ^{was} not read properly and hence the Calcutta Bench had clarified the position. In view of that when the notification at Annexure-I does not indicate the reservation for SC/ST then the respondents cannot select a SC candidate and they have to select only ^{the} most meritorious amongst those who applied in that notification. R-4 was selected accordingly and hence the question of challenging the selection of R-4 does not arise.

5. In view of what is stated above, we are satisfied that the applicant has not made out a case for setting aside the selection of R-4 and hence the application is dismissed. No costs.

6. Before parting with this OA, we want to express our anxiety in the way in which the Postal department is issuing notification for the post of ED staff without checking the representations of SC/ST/OBC in the ^{ED Cadre} ~~department~~. Repeatedly ^{pending} applications are filed in this Tribunal that non representation

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of SC/ST/OBC in the ED cadre. In the present case it is very unfortunate to note that R-4 issued the Annexure-I notification without checking the representation of SC/ST in the cadre. He tried to set right things by appointing the applicant in the place of selected candidate R-4. But that was set aside for the reasons stated in O.A.183/95. Thus, we feel that enough attention is not given in the issue of notification and selection of ED staff by the lower echelons of the postal department. We feel it is necessary for us to bring this to the notice of the Chief Post Master General so that he may initiate necessary remedial action to avoid recurrence of filing such OAs in this Tribunal in future. We would be happy if the CPMG enquires this case and fix responsibility for the error committed in this case in issuing of the Annexure-I notification without proper check so that such recurrence will not occur in future. We will also like the CPMG to inform us within a period of two months from the date of receipt of this judgement in regard to action taken to avoid recurrence of such mistake in future.


(B.S. JAI PARAMESHWAR)
24/3/98
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 24th March, 1998.
(Dictated in the Open Court)

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Copy to:

1. The Secretary, Min.of Communications,
Dept. of Posts, New Delhi.
2. The Superintendent of Post Offices,
Guntakal Division, Guntakal.
3. The Asst.Superintendent of Post Offices,
Guntakal Sub Division, Guntakal.
4. One copy to Mr.K.S.R.Anjaneyulu,Advocate,CAT,Hyderabad.
5. One copy to Mr.K.Ramulu, Addl.CGSC,CAT,Hyderabad.
6. One copy to Mr.V.Venkateswara Rao, Addl.CGSC.CAT,Hyderabad.
7. One copy to D.R(A),CAT,Hyderabad.
8. One duplicate copy.

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II COURT

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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: 24/3/88

ORDER/JUDGMENT

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

in

O.A. NO. 925/85

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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केन्द्रीय प्रशासनिक विविधक
Central Administrative Tribunal
DESPATCH/DESPATCH

- 6 APR 1998

हैदराबाद न्यायपीठ
HYDERABAD BENCH