

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD

O.A.No. 940 OF 1995.

Date: 5-1-1998.

Between:

B. Bheema Rao.

.. Applicant

AND

1. The Superintendent of Post Offices,
Khammam Postal Division, Khammam,
Khammam District.
2. Sri K. Raja Rao, s/o not known,
Selected candidate for Kunchapathi B.O.
as BPM, r/o Kunchapathi, Vemseor Mandal,
Khammam District.

.. Respondents

COUNSEL FOR THE APPLICANT(S): Mr. P. Rathaiah

COUNSEL FOR THE RESPONDENT(S): Mr. N. V. Raghava Reddy

Mr. A. Rajasekhara Reddy for R2

CORAM:

THE HON'BLE SRI R. RANGARAJAN, MEMBER (ADMN)

THE HON'BLE SRI B. S. JAI PARAMESHWAR, MEMBER (JUDL)

O R D E R

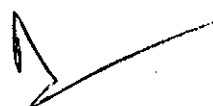
(As per Hon'ble Sri R. Rangarajan, Member (Admn))

None for the Applicant. None for the Official Respondents and
Sri Sastry for Sri A. Raja Sekhara Reddy for Respondent No. 2.

2. As the Employment Exchange failed to sponsor the candidates
for the post of EDBPMs, Kuncha Parthi, an open notification was
issued by R.1 on 30-4-1995. In response to that notification, four
Applications were received including that of the applicant. Respondent
no. 2 was selected.

3. This O.A. is filed for setting aside the selection of Respondent
No. 2 and for a consequential direction to appoint the applicant as
EDBPM, Kuncha Parthi as per DG.P&T letter dated 13-3-1984.

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4. The first contention of the applicant is that he is an SC candidate and hence he should have been preferred for that post as there is short fall in the ED posts for SC/ST. The respondents in their reply submitted that the posts of ED BPMs/ED SPMs are not covered by this Rule of reservation and only for other ED posts the reservation policy ^{would} apply. The respondents further submit that there are 1,109 posts in this Division out of which 523 are ED BPM and one is ED SPM, hence the rest are ~~for the~~ other ED posts numbering 636. In that there is SC Community representing 22% as against prescribed limit of 15%. Hence the applicant is not eligible for consideration against the SC quota. In the DG letter dt 13-3-1984, it was ordered that while making selection to the posts of ED BPMs/ED SPMs in Divisions where SC/ST representation in ED appointment shown as inadequate, the SC/ST may be given preference. The letter is very clear. It does not exclude the posts of ED BPMs/ED SPMs from the reservation policy. However, from the ^{tenor} of the letter it is evident that the total ED posts should be taken into account including that of ED BPMs/ED SPMs and the percentage of reservation should be calculated on that basis. It is not clear from the reply whether there is enough representation to the extent of 50% in the ED posts including that of ED BPMs/ED SPMs.

5. In that view, the contention of the applicant that he being an SC candidate, he should have been posted may be in order.

6. However, the Calcutta Bench of the Central Administrative Tribunal had held in O.A.No.712/1995, dated:15-11-1996 in SHIBNAG DHARA Vs UNION OF INDIA & OTHERS, that if ED posts are reserved for SC/ST then the notification should clearly state that the posts are reserved for SC/ST. If no such instructions are indicated in the notification then no preferences need be given to the SC/ST employees and all candidates applied in respect to the notification should be

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considered in accordance with the Rule without applying the Rule of reservation.

7. The notification issued in this connection is dated:31-3-1995 (Annexure A.1 to the O.A.). From this notification, we see that there are no instructions in regard to the reservation of the post ^{for} ~~to~~ the SC/ST candidates. Hence the applicant cannot demand reservation for the post of ED BPM, Kuncha Parthi, as no such mention has been made in the notification. If the applicant is aggrieved by the notification in not reserving the post for SC candidate, then he should have challenged that notification itself and asked for setting aside the notification and ^{may} call for a direction ~~from~~ ^{to} the respondents to issue a fresh notification. Unfortunately, the applicant did not challenge the notification dated:31-3-1995. Further he had submitted to the notification without any challenge to the notification. Hence, the challenge to the notification at this juncture does not arise. Hence, even though the applicant may have a case for reservation of the post for SC community, the same cannot be given in this O.A. as the applicant had submitted to the notification and submitted his application without challenging the notification. Hence that contention has to be rejected.

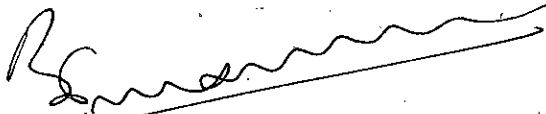
8. When everything is being equal, the meritorious candidate who had obtained maximum marks in the SSC has to be selected. Even presuming that the applicant and respondent no.2 fulfilled all the conditions then the selection has to be made on the basis of merit in the SSC. We see from the reply that the applicant had got less marks in SSC compared to Respondent No.2. Hence he cannot be considered as a meritorious candidate. We also find that the applicant is not having necessary income and property. Even though in this case, this information may not be necessary, we noted it for the sake of clarity in our ^{Order} Judgment. As the applicant is not a meri-

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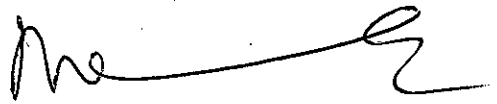
torious candidate, rejection of his candidature giving preference to Respondent No.2 cannot be questioned.

9. In view of what is stated above, we find no merits in this O.A. Hence the O.A. is dismissed. No costs.



(B.S.JAI PARAMESHWAR)

51.98 MEMBER(JUDL)



(R.RANGARAJAN)

MEMBER(ADMN)

Dated this the 5th day of January ,1998

Dictated in Open Court

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DR

DSN

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Copy to:

1. The Superintendent of Post Offices, Khammam Postal Division, Khammam District.
2. One copy to Mr. P. Rathaiah, Advocate, CAT, Hyderabad.
3. One copy to Mr. N. V. Raghava Reddy, Addl. CGSC, CAT, Hyderabad.
4. One copy to D. R(A), CAT, Hyderabad.
5. One duplicate copy.
6. one copy to Mrs. A. Rajasekhar Reddy, Advocate, CAT, Hyd.

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2/11/98
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

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

DATED: 5/1/98

ORDER/JUDGMENT

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

in

B.A.NO. 940/95

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

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