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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A. NO. 115 of 1995

Date of Decision :
3rd November, 1997

Between:

Abidullah Hussaini

.. Applicant

AND

1. Senior Superintendent of
Nizamabad.

2. Postmaster General,
Hyderabad.

.. Respondents

Counsel for the applicant: Sri P. Rathaiah
Counsel for the Respondents: Sri V. Bhimanna

CORAM:

THE HON'BLE SRI R. RANGARAJAN: MEMBER (ADMIN.)

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

ORDER

(Per Hon'ble Sri B.S. Jai Parameshwar: Member (Judl.))

None appeared for the applicant.

The applicant was also absent when the O.A. was taken up for hearing. Heard Sri V. Bhimanna, the learned counsel for the Respondents. We are deciding this O.A on the basis of the material available on record in accordance with the Rule 15(i) of the CAT (Procedure) Rules, 1987.

The applicant in the OA was working as an Extra Departmental Mail Carrier (EDMC) at Pentakalan in Nizamabad

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District from 1972 to 1993. He appeared for the examination for promotion to Group-D cadre, held in the year 1983. He came up successfully in the examination. He was allotted to Nizamabad district vide Memo No.B1/Rectt/5/94 Dt.13.6.94. It is submitted that he had worked earlier in that post on ~~..... basis~~ basis. Presently he has been allotted to Subhash-nagar in Nizamabad.

The applicant submits that his selection to Group-D ~~..... was on the basis of literacy test, that the mode of selection~~ test was changed making seniority as an EDDA as the criteria and that the changed rule can have prospective effect and not retrospectively. In the select list of examination held in 1983 his name was at Sl. No.8. One B. Vittal was promoted as postman, against the said vacancy the applicant was posted.

As a consequence of change in that rules, Respondent-2 scrapped the select list of 1983. The applicant submits that the changed rule could not have any impact on his earlier selection and appointment to Group-D post and that he was regularly appointed to Group-D post with effect from 25.6.1994.

Sri Vittal was promoted as postmen. After working for about 20 days in the promotional post he requested for reversion. On account of his request the allotment to Applicant to Nizamabad was cancelled. He further submits that the Senior Superintendent of Post Offices, Nizamabad issued another order bearing No. B. 1/RECTT/5/94 Dt.20.12.94 (Annexure-IV) scrapping the list itself citing the letter of PMG, Hyderabad bearing No.ST/RECTT/93 dated 7.7.1994.

Hence the applicant has filed this OA to quash the order of Senior Superintendent Dt.20.12.1994 (Annexure-IV) as arbitrary, illegal and pass such orders.

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Further, it is submitted that due to reversion of Sri Vittal he was dislocated from Group-D post and that acceptance of offer of reversion by B. Vittal was irregular.

The Respondents have filed a counter statement --- the applicant was working as EDMC at Pentakalan that the applicant was appointed in Group-D post at Nizamabad in a post vacated by Sri Vittal on 27.6.1994 that the said Vittal after working for about 20 days as postman requested for reversion to his original lower post that his request was acceded to and that the applicant was reverted.

Further the Respondents submit that the applicant had appeared for the Group-D examination held on 20.11.1983 for promotion to Group-D post and was placed at Sl. No. 8 in that merit list that only the candidates at Sl. No. 1 to 7 and above candidate could not be absorbed for want of vacancies/that in the meanwhile the rules regarding the literacy test for promotion to Group-D post was changed that as per instructions contained in DGPD letter No. 47-5/79/SPS/1 dated 23.1.1979 no waiting list was required to be maintained in respect of Group-D post. The recruitment policy in respect of Group-D post was further revised vide letter No. 44-31/87-SPA 1 Dt. 28.8.90 copy of the same is at Annexure R-I that according to the said letter all the vacancies in the Group-D cadre arising after 1.1.1991 should be filled on the basis of the seniority from among the ED Agents, subject to their rendering satisfactory service that in view of the amended rules the applicant cannot claim for a post in Group-D post that the applicant could not be appointed to any Group-D post earlier to 31.12.90 that this was also one of the grounds for reversion

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of the applicant. Thus they submit that the order impugned is perfectly valid and justified.

The cancellation of the allotment of the applicant to Nizamabad was not only due to acceptance of reversion offered by Vittal to the post of EDBPM but also due to the letter dated 20.12.94 (Annexure IV) to the O.A. In annexure IV it is stated that the Senior Superintendent of Nizamabad scrapped the select list prepared in consequence of the examination held in 1983 following the directions of the PMG, Hyderabad Division dated 7.7.1994.

The Respondents submit that the recruitment policy had taken a decision to fill up the vacancies occurring on or after 1.1.1991 on the basis of the seniority among the ED Agents subject to their satisfactory service.

Even though the applicant was in the select list at Sl. No.8, he was not given appointment to Group-D post till 21.6.94. This clearly indicates that there was no Group-D post available upto 31.12.90 when the amended rules came into force. The applicant hence remained unabsorbed when the change of policy of recruitment to Group-D post was vacant till 31.12.90. The applicant was posted to Group-D post only on 21.6.94 when Vittal was promoted.

Hence the Respondents submit that the applicant can have no claim for posting in Group-D post on the basis of his selection in the Selected list prepared in 1983 examination.

The Respondents further in support of their contention relied upon the observations made by this Tribunal in the

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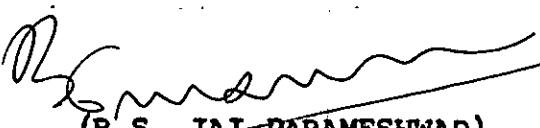
in the case of P. Anumaiah Vs. Superintendent of Post Offices and another (OA No.1014/92 Dt.3.9.93). This Tribunal in Para-7 has observed as follows:-

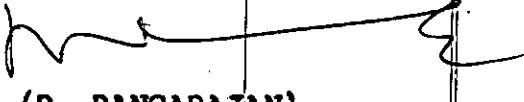
" It is unfortunate, from the point of view of the Applicant that there was no vacancy against which he could be absorbed. Now that there is a change w.e.f. 1.1.91, the same has to be followed for vacancies coming up thereafter. We cannot find any infirmity in the revised policy introduced vide the executive has wide powers to make or revise an administrative policy and so long as it meets with the imperative of acting fairly and not arbitrarily, it is not open to the Tribunal to examine the wisdom of the executive in making or changing the policy. "

Hence the scrapping of the select list by the Superintendent of Post Offices vide his letter Dt.23.12.94 cannot be said to be either illegal or irregular. However the reversion of the applicant was necessitated on account of acceptance of the offer for reversion made by Sri Vittal. The applicant has not chosen to file any rejoinder to the counter. Hence we find no illegality in the cancellation of the Group-D post in allotment of the applicant to Nizamabad on both the grounds.

In the result the O.A. is liable to be dismissed.

Accordingly the OA is dismissed. No order to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

3.11.97

Date: 3rd November, 1997
Dictated in the open court.

KSM


10.12.97

OA.115/95

Copy to :-

1. The Senior Superintendent of Post Offices, Nizamabad.
2. The Postmaster General, Hyderabad.
3. One copy to Mr. P. Rathaiah, Advocate, CAT., Hyd.
4. One copy to Mr. V. Bhimanna, Addl. CGSC., CAT., Hyd.
5. One copy to BSOP M(J), CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

SRI

18/11/97

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TYPED BY :

CHERKED BY :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : M
HYDERABAD

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

AND

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

Dated: 3-11-97

ORDER/JUDGMENT

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

in
D.A.NO. 115 /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.

YUKR

II Court

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
DESPATCH

07 NOV 1997

हैदराबाद व्यापीठ
HYDERABAD BENCH