

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.674/95

DATE OF ORDER : 06-03-1998.

Between :-

S.Bimdu Madhava Rao

... Applicant

And

Union of India rep. by

1. Chief Post Master General,
AP Circle, Hyderabad.
2. Post Master General,
AP Southern Region, Kurnool.
3. Superintendent of Post Offices,
Kurnool Division, Kurnool.
4. T.Veera Swamy

... Respondents

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Counsel for the Applicant : Shri K.S.R.Anjaneyulu

Counsel for the Respondents : Shri N.R.Devaraj, Sr.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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.... 2.

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

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Heard Sri D.Subrahmanyam for Sri K.S.R.Anjaneyulu, counsel for the applicant and Sri N.R.Devaraj, standing counsel for the respondents. Though notice was served on Respondent No.4, he remained absent.

2. Notification for filling up seven posts of Postman was issued vide letter No.B4/RE/PM/Exams./93 dt.9-3-94 (page-2 of the reply). As per that notification it is stated that out of 7 posts five posts were earmarked for Departmental Promotion comprising of 4-OC and SC-1, outsiders: OC-2. The departmental posts are filled up by promoting Group-D employees of the Department whereas outsiders quota is filled up by seniority cum suitability and by selection from amongst the Extra Departmental Staff of the Department. The present OA is in regard to promotion against outsiders quota. During the period when the notification was issued, it is stated that the suitability of the applicants was decided by conducting a test. The senior most employee in the Departmental quota of outsiders, if he had passed the examination and found suitable, he will be promoted against that post and in case of promotion by selection candidates will be selected on the basis of the marks obtained in the selection i.e. that E.O.Staff who obtained maximum marks will be placed first on the select list and others below on the basis of the marks obtained in the selection test. If there are no candidates to be promoted as Postman from the Departmental quota, then that many number which could not be filled up by Departmental

quota is added to the outsiders quota. In this case all the five posts earmarked for Departmental promotion was transferred to outsiders quota as there were no candidates available for promotion against Departmental quota. Hence there were seven posts to be filled by outsiders quota. The outsiders quota will be filled in this selection to the extent of 50% of vacancies on the basis of seniority cum suitability and the 1st 50% ~~mark~~ based on ~~the~~ merit and on the basis of the marks obtained in the selection.

3. By memo No.B4/RE/PM Exams/93 dt.21-10-94, the applicant who was the senior most in the cadre of EDA and based on the marks obtained thereby, judging his suitability, obtained in selection was enlisted as the first candidate in the select list against seniority cum suitability quota and others who were enlisted on the basis of the marks obtained in selection ~~as per their merit~~ are kept below the list as per their merit. The above is evident from the remarks appearing on the last para of that letter. However, it was realised subsequently that the applicant ^{was} not the senior most and one Sri T.Veera Swamy was senior most and hence the place of the applicant was replaced by Sri T.Veera Swamy in the memo No.B4/RE/PM Exam dt.8-5-95 (Annexure-I page-7 to the OA). But by then the applicant had already undergone training for the post of Postman though not posted as Postman.

4. This OA ^{is} filed for setting aside the impugned memo No.B-4/R.E./PM Exam dt.8-5-95 by treating it as arbitrary, illegal and consequently direct the respondents to appoint the applicant in the post of Postman as was done in the case of others who passed along with him with all consequential benefits including seniority.

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5. Two contentions were raised by the counsel for the applicant. They are (i) the applicant is meritorious and even if he had been replaced on the seniority quota by Sri T.Veera Swamy, he should have been posted as a meritorious candidate from amongst the six vacancies earmarked for selection quota promotion in outsiders quota; (ii) initially there were two vacancies against the outsiders quota and that was changed to seven due to addition of quota earmarked for Departmental Promotion. Thus there were seven vacancies/initially even. If there were seven vacancies, this should be divided as 50:50 against departmental quota and against the outsiders quota in which case the departmental quota will be 4 and 3 will be earmarked to the outsiders quota. If three are earmarked for outsiders quota, then two vacancies had to be allocated to departmental candidates to be filled by seniority cum suitability. If two vacancies are earmarked for outsiders quota to be filled on seniority then also the applicant should be accommodated as he is ^{the} second senior most and he had also qualified in the selection test.

6. The first contention of the applicant is that he is a meritorious candidate and hence he should have been accommodated as the first selected candidate on merit in the Annexure-2 letter when he was replaced by Sri T.Veera Swamy. But it is stated for the respondents that the applicant is not a meritorious candidate and all the five candidates from Sl.No.2 to 6 had obtained more marks than the applicant. We have asked for the selection proceedings in this connection. Counsel for the respondents submit that the applicant cannot be accommodated against the merit quota as he had obtained less marks than the other six candidates who were accommodated.

dated against merit quota. But he submitted he has not brought the selection proceedings. In case the applicant has obtained more marks than the last person posted as Postman on the merit quota then the applicant should be posted as Postman even if requires replacing the candidate who was promoted against meritorious quota.

7. Learned counsel for the applicant submits that initially itself three posts should have been earmarked to outsiders quota and not two and hence even in the initial allotment itself the respondents had committed an error. Hence that error has to be corrected. If three posts ^{were} initially itself earmarked for departmental quota then two posts should have come to the selection on seniority cum suitability. The applicant being second person in the seniority he would have got the post of Postman on the outsider promotional quota. Hence because of the error of the respondents, the applicant lost his ~~chance~~ chance.

8. Standing counsel for the respondents submits that the quota earmarked for outsiders is OC-2 only and this was mentioned in initial letter dt.9-3-94. The applicant having failed to challenge that letter, now cannot challenge that allotment at this juncture as he had already underwent the selection process without any murmur.

9. No doubt there was a mistake in allocating the total posts against departmental quota and outsiders quota in the ratio of 50:50, that has to be set right. If three posts are earmarked for outsiders initially itself then two posts would have been given to promotees on seniority: cum suitability basis. If so, the applicant if second senior most and suitable should have been promoted as

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Postman in that quota. This error no doubt has to be set right.

To set it right, the next vacancy of Postman arising in the near future should be given to outsiders quota and earmarked for Departmental promotion on seniority after adjudging suitability. That will meet the ends of justice.

at para 6 and 6

10. With the above directions, the O.A. is disposed of. No costs.

B. S. Jai Parameshwar

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

6.3.98

R. Rangarajan

(R. RANGARAJAN)
Member (A)

Dated: 6th March, 1998.
Dictated in Open Court.

D. R. 16-3-98

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OA.674/95

Copy to :-

1. The Chief Post Master General, A.P.Circle, Hyderabad.
2. The Post Master General, A.P.Southern Region, Kurnool.
3. The Superintendent of Post Offices, Kurnool Division, Kurnool.
4. One copy to Mr. K.S.R.Anjaneyulu, Advocate, CAT., Hyd.
5. One copy to Mr. N.R.Devaraj, Sr.CGSC., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

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25/3/88
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TYPED BY
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APPROVED

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 : 6/3/88

ORDER/JUDGMENT

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

in
O.A. NO. 674/95

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

YLR

