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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

Original Application No.1401/95

Dt. of decision: 30.9.96

Between:

M. Ramana Reddy

.. Applicant

and

1. The Supdt. of Post Offices,
Cuddapah Postal Division,
Cuddapah.

2. M. Chandrasekharaiah
Aged 55 years,
ED/Branch Postmaster,
Kondur, Cuddapah Dt.

.. Respondents

Counsel for the applicant : Sri S.Ramakrishna Rao

Counsel for the respondents: Sri K. Bhaskar Rao

Coram:

Hon'ble Sri H. Rajendra Prasad;

Member (A) Qa
30/9

JUDGEMENT

(Order As Per Hon'ble Sri H.Rajendra Prasad, Member(A))

On demise of the regular EDBPM of Kondur BO

(in Cuddapah Postal Division) on 29th November, 1993,

the present applicant was provisionally appointed on 20th

December, 1993, in the place of the deceased agent. The

vacancy was routinely notified to the Employment Exchange

in January, 1994. As no candidates was sponsored by the

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Exchange, a public notification was issued in February, 1994, inviting applications for the post, in response to which four (five, as stated in the Counter-affidavit) candidates submitted their applications for the said post. The applicant was one among them. The verification of the documents of the applicant was done on 12th March, 1994. Subsequently the Respondent No.2, M.Chandrasekharaiah, was selected and appointed to the post.

2. The grievance of the applicant in the present O.A. is that Respondent No.2, who was already working in another Branch Post Office in the Division, should not have been "transferred" to the post of EDBO, Kondur, since he is not a surplus ED Agent and does not come under the purview of instructions issued by DG Posts vide No.43-27/85-Pen, dt. 6-5-85 relating to absorption of surplus ED officials. His further grievance is that no weightage was at all given to the experience already gained by him in the capacity of provisional EDBPM of the same B.O.

3. Basing his claim on the above grounds the applicant seeks a direction to set aside the appointment of Respondent No.2 as EDBPM of the said B.O.

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4. The respondents in their counter affidavit submit that the applicant did not belong to the B.O. Village, which is also confirmed by the Nativity and Income certificate submitted by the applicant. In these documents the name of the village is shown as Uppera^gpalli and not Kondur. Moreover, the Nativity Certificate produced by the applicant as Annexure-5 to the OA is dated 7-7-1995, whereas the notification for the post was issued in January, 1994, and the selections were made in January, 1995. Explaining the reasons for selecting R-2 for the said post, the respondents submit that ^{as already stated} the applicant, Sri Ramana Reddy, was not from the B.O. Village; he did not possess or show any independent income; and did not also produce his Marks sheet for verification. Sri S. Penchalaiah, the second applicant for the post, too was not from the B.O. Village. Candidate No.4 did not produce any Marks Sheet. The choice, therefore, got confined to G. Venkatanarasaiah, who had secured 262 marks, and M. Chandrasekharaiah (R-2), who had secured 304 marks. The latter, having secured a higher mark, was ~~also~~ selected. It is contended by the respondents that a provisional appointment given to a person as a temporary arrangement does not confer any right of selection on him. Although the applicant admittedly secured more marks, he was found lacking in other eligibility requirements. Finally it is explained that the selection of R-2, contrary to the

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impression carried and created by the applicant, is purely on merit. He was neither a surplus candidate nor was he "transferred" from one office to () other. Instead he was selected on his own merit, in the normal course, as per rules. The respondents therefore urge that there being no merit in the O.A., the same should be dismissed.

5. The facts of the case are fairly uncomplex. The prime requirement of eligibility for the post of Branch Postmaster, according to the respondents, is that the applicant should belong to the village where the Post Office, in which a vacancy arises, is located. The respondents say that the applicant did not belong to the village. It may be added here that this requirement, viz., a candidate having to belong to the B.O. Village, has since been modified and the scope of the eligibility in this regard has been expanded. The current requirement is that a candidate may belong to any of the group of villages under the concerned Employment Exchange, and not necessarily to any particular village. This was the current position and the changed rule even when the selections in the instant case were made. The arguments of the respondents that the applicant was found ineligible on account of his not belonging to the B.O. village is, therefore, unacceptable and is rejected.

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6. The applicant appears to be wholly misadvised in invoking the instructions of D.G. Posts, relating to absorption of surplus ED candidates. The applicant was himself neither a surplus candidate, nor was he entitled to any 'rehabilitation', both of which are governed and regulated by a separate set of ^{rules and instructions} ~~of~~ which are inapplicable in this case. Lastly, his contention that Chandrasekharaiyah, respondent No.2 (selected candidate) was 'transferred' from one other B.O. in the Division to Kondur B.O. is also found to be incorrect. The said Sri Chandrasekharaiyah was working, not as EDBPM, but as EDMC in another B.O. His candidature was merely considered on his own merit, and as per his eligibility, for the post. The selection and appointment of Chandrasekharaiyah are thus seen to be unrelated to his earlier post of EDMC in some other B.O. There is thus no irregularity involved, as regards this aspect, in the selection of Respondent 2.

7. The two considerations or reasons, which, according to the Respondents, resulted in the rejection of the applicant's candidature and selection, - viz., (i) lack of adequate means of livelihood, and (ii) non-production of the original marks-list - need to be examined next.

8. According to the Respondents, the applicant failed to produce a proper certificate showing any property in his own name. It was, therefore, held by them that he had not shown any ^{convincing} ~~admissible~~ adequacy of income which would make him suitable for the post applied for. The applicant contests this position on the ground that a proper certificate issued by M.R.O., Pungalur, was submitted by him which showed clearly that the property was in the name of the applicant. (A copy of the certificate has been annexed

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to the OA as Annexure-VI). If it is the contention of the respondents that the said property is in the joint names of the applicant and his father, and that, therefore, the applicant is not the sole owner, the argument has to be rejected as untenable. Column No.6 of Annexure VI duly shows that the certificate was issued in the name of the applicant. Moreover, Column No.6 of the same document shows the details of dependants, which consist of the father and the wife of the applicant.

On the aspect of joint-property, it has to be noted that the matter has been examined earlier by this Tribunal on a number of cases where similar issue was raised. It is now settled that all the co-parceners in the joint-property owned by a Hindu Undivided Family are equally entitled to a share and such entitlement is sufficient to render them fully eligible for consideration to any suitable appointment.

All this would show that the applicant did not really suppress any information, and the information as was provided by him was not such as to render him ineligible in any manner for the post to which he was seeking appointment.

9. As regards the alleged non-production of SSIC marks-list by the applicant, the following points call for attention :

(1) It is not that the applicant did not at all possess the original marks-list, or was unwilling to produce it if called upon to do so. He merely stated that it had been earlier submitted to another Government office (Samiti Office) in some other connection;

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(ii) His suitability/eligibility had been fully examined, which included the check of marks secured by him at the relevant examination, at the time of his provisional appointment to the same post. That being so, it was wrong to overlook his claim on the narrow technical ground of non-production of the original marks-list, specially when the matter had been duly examined once before to the satisfaction of the concerned authority, and when there was no ground to suspect the genuineness of the copy of the marks-list submitted by him, and which, in any case, could have been rechecked and verified with reference to the original if only an opportunity was provided to him for the purpose.

(iii) No opportunity was offered to him to produce the original after obtaining the same from the said Samiti Office, either prior to, or at the time of the verification of documents. He could have easily complied with any directive in this regard, if made or issued.

In the light of the above propositions, I do not find the objections and arguments of the respondents acceptable, and reject the same.

10. To sum up findings so far, it is held that :

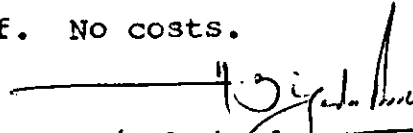
- a) The ground taken by the Respondents that the applicant was ineligible for the post as he did not belong to the B.O. Village is not in accordance with the current instructions of the Department.
- b) Respondent No.2 was not a surplus or displaced ED Agent but a regular candidate like all others. His selection cannot, therefore, be held to be incorrect solely on this ground.


- c) The applicant is himself not a surplus candidate requiring rehabilitation.
- d) The objection of the Respondents regarding the non-possession of income-generating property in his own name is not found acceptable.

11. In the light of the discussions in the preceding paragraphs I draw the conclusion that the claim of the applicant was unfairly overlooked, notwithstanding the fact that he was in no way ineligible for the post and had also secured the highest marks at the matriculation examination among the candidates who were finally considered for the post. Under the circumstances the selection of R-2 as EDBPM, Kondur EDBO has to be set aside and is hereby set aside. Respondent-1 is directed to issue a revised appointment order in favour of the applicant and also to ensure that the applicant is enabled to take charge of the said EDBO within 30 days of the receipt of this order.

12. Since the above direction in favour of the applicant is passed based purely on the merit of this case, it is also necessary that the interests of Respondent-2, Shri M. Chandrasekharaiah, ought to be duly protected inasmuch as the order of his selection and appointment is set aside, not due to any fault on his part, but owing entirely ^{to} irregular selection made by the appointing authority. In this view of the matter it would be necessary also to direct that the candidature of Shri Chandrasekharaiah (R-2) shall be duly considered for any appointment as EDBPM which may next arise in the Division, subject to rules, provided that he applies for the post. For this purpose, it shall be incumbent on R-1 to keep Shri Chandrasekharaiah duly apprised, well in time, of any vacancy that may arise next in the Division. Until such time, he shall be ^{re-}appointed temporarily/provisionally in his earlier appointment viz., as EDMC, if the same has not already been filled up on a regular basis.

13. Thus the OA is disposed of. No costs.


(H. Rajendra Prasad)
Member (Admn.)
30. Sept. 1996


Deputy Registrar (D) 55

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To

1. The Supdt.of Post Offices,
Cuddapah Postal Division, Cuddapah.
2. Mr.Chandrasekharaiah,
ED/Branch Postmaster,
Kondur, Cuddapah Dist.
3. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.K.Bhaskar Rao, Addl.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One copy to Hon'ble Mr.H.Rajendraprasad, Member(Admn) CAT.Hyd.
7. One spare copy

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TYPED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN.

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 30-9-1996

ORDER / JUDGMENT

M.A/R.A./C.A. No.

in

O.A.No. 1401/95

T.A.No. (w.p.)

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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