

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1500/95.

DATE OF ORDER: 22.4.1998

BETWEEN :

J. JOGI REDDY ... APPLICANT
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1. The Superintendent of Post Offices,
Wanaparthi Division,
Wanaparthi, Mahaboobnagar Dist.
 2. Uma Maheswar,
Working as Branch Postmaster,
Medipur Post Office,
Wanaparthi Division,
Mahaboobnagar Dist.
(Set ex parte vide order
dated 9.12.1996).
- ... RESPONDENTS

Counsel for Applicant : Mr.Krishna Devan.
Counsel for Respondents : Mr. W.Satyanarayana
for Mr.N.V.Raghava
Reddy, CGSC.

CORAM :

Honourable Mr.R.Rangarajan, Member(Administrative)
Honourable Mr.B.S.Jai Parameshwar, Member (Judicial)

ORAL ORDER.

(Per Hon.Mr. R. Rangarajan, Member (Admn.))

1. Heard Mr. Krishna Devan for the applicant and
Mr.W.Satyanarayana for Mr.N.V.Raghava Reddy for the
respondent No.1.

2. The respondent authorities approached the
Employment Exchange for filling up the post of EDBPM,
Medipur Branch Posts Office which fell vacant on
14.3.1995 afternoon. The Employment Exchange was
requested on 25.11.1994 to sponsore eligible candidates
for the post. As there was no response, an open
notification was issued on 4.1.1995. Two candidates
responded to that notification; but both of them did not
fulfil the prescribed conditions. Hence the vacancy was

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re-notified on 10/11.2.1995. Five candidates responded to the said notification including the applicant and respondent No.2. Earlier respondent No.2 was working provisionally as EDBPM in that Post Office and ~~so~~ he was selected.

3. This O.A. is filed for setting aside the selection of respondent No.2 and for consequential direction to the respondent No.1 to appoint the applicant as EDBPM, Medipur Branch Post Office.

4. The first contention of the applicant is that the rejection of his candidature on the ground that he was not possessing the required landed property ~~for which~~ with ~~saleable~~ right is invalid as he had submitted an affidavit signed by his father to the effect that he possessed saleable property. Even though the property was in his father's name, he has right on the property as it was inherited by his father from his ancestors. For this the applicant relies on the affidavit dated 8.3.1995 of his father which is annexed as Annexure-5 to the O.A.

5. We have gone through the affidavit (Annexure-5). Nowhere it is stated that Sri Jogi Satyanarayana Reddy is the father of the applicant. Merely filing an affidavit without proper correlation/^{of the}relationship of the signatory of the affidavit cannot be taken as a valid document to come to a conclusion that the applicant possessed saleable property by way of inheritance. Hence we do not accept the said affidavit to be a proper document to come to the conclusion that the applicant possesses ^{the} saleable right over the property inherited by him in due course. The applicant submitted that in a similar case i.e. in O.A.1428/93 decided on 29.11.1995 such an affidavit was accepted. He wanted us to ^{peruse} use

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paragraph 5 of the judgment to come to the conclusion that an affidavit is sufficient to enforce his right. We have gone through the said paragraph. A plain reading of the said paragraph does not indicate that the case decided in that O.A. is similar to the case of the applicant herein. Hence the said judgment does not come to the rescue of the applicant.

6. The second contention of the applicant is that he could not produce the property certificate in time from the revenue authorities as he came to know of the vacancy only on 1.3.1995 when the Tom Tom was beaten in the village. The last date for submission of the application was 10.3.1995 i.e. only 10 days were left after the Tom Tom was beaten. Hence he could not get the certificate from the Revenue authorities, and that is why, he produced the affidavit referred to earlier. He further submitted that the Revenue authorities were pre-occupied due to some local body elections in between 1.3.1995 to 10.3.1995 and that is why the Revenue authorities were not in a position to give him the property certificate. When the applicant ^{was} ~~is~~ an aspirant for the ED post, he should have been cautious enough to keep the necessary certificates in his custody even if no notification had been issued. We do not understand why the applicant had not acted carefully in this connection. Be that as it may, we find that there were 10 days available to the applicant to get the necessary certificate. One cannot say that 10 days' time is very insufficient to get the certificate. The local body elections and other elections are common features in our country and that cannot stand in the way of the Revenue Authorities to give a certificate when urged on the basis of an application submitted before them. Hence the submission of the applicant that he had only short time

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to procure the necessary certificate is not acceptable.

7. The applicant further submits that the notification has not been sent to the Post Office, Village Assistant and Sarpanch etc. as provided for in the rule. We find from the reply that the MRO and MDO, Tandoor Mandal have confirmed the display of the notification at their offices. The VAO and the Sarpanch of Medipur have confirmed of giving wide publicity on 1.3.1995. When a number of people had received the notification, it cannot be said that wide publicity ^{was} ~~is~~ not given as a few more officials ^d ~~have~~ not received the notification. Hence we do not, therefore, feel proper to accept the submission of the applicant that wide publicity of the notification ^{was} ~~has~~ not ~~been~~ given. This submission of the applicant is also not acceptable. If the other officials have not received the notification, it cannot vitiate the proceedings as sufficient number of people had received the notification and acted upon by giving wide publicity of the notification.

8. The applicant submits that the selected candidate, namely, respondent No.2 does not possess proper antecedents and ~~the~~ character certificate and hence the selection of respondent No.2 is done with certain motive. Respondent No.1 ~~had~~ acted in favour of respondent No.2 so as to select respondent No.2 only and rejected the candidature of the applicant. The applicant has stated some details in regard to certain antecedents of the selected candidate - respondent No.2 in para-9 of the rejoinder and in the O.A. also. An ED Agent is selected on the basis of ED Service and Conduct Rules. The ED Service and Conduct Rules do not envisage that the antecedents and character of a candidate should be

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checked even before selection is made. If the selected candidate comes under the adverse comments of the authorities, namely, Police and other officials, then the respondent-authorities have the authority to terminate the service of the selected candidate. At the time of selection it may not be necessary for the respondent No.1 to take note of the same. The applicant relying on para 3 of the Swamy's compilation of Service Rules for Extra-Departmental Staff (Section III Method. of Recruitment at page 60) submits that those formalities were not complied with for selection of respondent No.2, as contained in D.G., P&T letter No.43/36-Pen., dated 17th October, 1966.

9. We have clearly stated that the respondent-authorities have to act in accordance with law. They have full powers to terminate the service of the selected candidate if some deficiency in the character and antecedents of the selected candidate comes to their notice. Hence, even if respondent No.2 is selected and if the antecedents and character of respondent No.2 come under the adverse comments and criticism by the competent authorities, the respondent-authorities are at liberty to terminate the service of the selected candidate. The applicant by stating that respondent No.2 does not possess good character and antecedents claims that the selection of respondent No.2 was illegal. Even to come to the conclusion that respondent No.2 does not possess proper character and antecedents, the applicant should have submitted details and should have produced some material in support of that. Mere pendency of cases in the courts against respondent No.2, cannot be made a point for cancellation of his selection and allowing this application. Production of suitable documents


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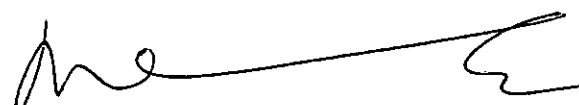
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obtained from competent officials, namely, Police and other officials to substantiate his allegation against respondent No.2 is necessary which are not produced. Hence this contention of the applicant is also rejected.

10. No mala fide intention worth mentioning in appointing respondent No.2 has been brought out in this O.A. Merely submitting that mala fide intentions caused the selection of respondent No.2 is a very vague allegation and such an allegation cannot be countenanced. To prove mala fide intention is very difficult and mere statement here and there cannot prove the allegation. Thus this contention does not have any substance and hence it is rejected.

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


(B.S. JAI PARAMDESHWAR)
MEMBER (JUDICIAL)


(R. RANGARAJAN)
MEMBER (ADMINISTRATIVE)

DATED THE 22nd APRIL, 1998.

Dictated in the Open Court.

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Copy to:

1. The Superintendent of Post Offices, Wanaparthy Division, Wanaparthy, Mahabubnagar District.
2. One copy to Mr. Krishna Devan, 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. Mr. Sudhakar Kulkarni, Advocate, for R-2.

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