

163

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.1038 of 1995.

Date of decision: 20th January, 1998.

Between:

Sri K. Janardhan. .. Applicant.

and

1. Union of India represented by the Director of Postal Services, Hyderabad City Region, Hyderabad 500 001.
2. The Senior Superintendent of Post Offices, Secunderabad Division, Hyderabad 500 016.
3. The Sub Divisional Inspector (Postal), R.R. District. ~~and Respondents.~~

Counsel for the applicant: Sri Y. Appala Raju.

Counsel for the respondents: Sri V. Rajeswara Rao.

CURAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S. Jai Parameshwar, Member (J)

JUDGMENT.

Heard Sri Y. Appalaraju for the applicant and Sri V. Rajeswara Rao for the respondents.

The post of EDBPM, Dhannaram Branch Post Office fell vacant due to the resignation of the ~~regular~~ ^{regular} incumbent. Sri C. Gopal Reddy was appointed as EDBPM on 1-1-1994 on provisional basis. His services ~~terminated on~~ were ~~terminated on~~ ^{on} 21-10-1994 After-noon as his ~~regular~~ ^{regular} performance was not satisfactory. The applicant thereafter was appointed provisionally on 21-10-1994 A.N.

R

D

: 2 :

Sri C.Gopala Reddy approached this Tribunal by filing O.A.1368/94 for reappointment ~~on~~ ^{as} provisional basis. That O.A., was allowed and Sri C. Gopala Reddy was posted as EDBPM of that post office. A Notification was issued on 6-6-1994 for regular appointment of EDBPM of Dhannaram BPO. It is stated that the applicant was selected. The earlier incumbent viz., Sri C.Gopala Reddy refused to hand over charge to the applicant. Hence the S.D.I (P) conducted 'Panchanama' and got the charge handed over to the Mail Overseer to avoid any untoward incident. In the meanwhile a complaint was received ~~from the by the~~ ^{as} from the residents of Dhannaram Village. Hence, it is stated that a re-notification was issued on 10-5-1995 for filling up that post regularly without cancelling the earlier notification dated 6-6-1994. However, it is stated that under the instructions of Senior Superintendent of Post Offices, the post of EDBPM, Dhannaram was once again handed over to the applicant on 3-5-1995 and was allowed to work as provisional EDBPM in that post office.

This O.A., is filed to set aside the re-notification dated 10-5-1995 and for a direction to the respondents to regularise the applicant in the post of EDBPM, Dhannaram BPO with effect from the ~~date of~~ actual date of his joining as EDBPM Dhannaram BO on 22-2-1995 which date is subsequent to his regular selection.

An interim order was passed in this O.A. ^{it was directed that} on 30-8-1995 wherein the selection in pursuance of the Notification dated 10-5-1995 should not be finalised.

TR

1

: 3 :

The applicant is being continued as Provisional EDBPM, Dhannaram BPO as the latter selection for which the second notification was issued on 10-5-1995 was not finalised. A reply has been filed in this O.A.

The main contention of the respondents is that there were number of complaints and representations against the posting of the applicant in that Post Office. Hence a review was done by the Higher officials in regard to the selection for which Notification was issued on 6-6-1994 and on that basis, re-notification dated 10-5-1995 was issued. The respondents admit that the applicant was selected in pursuance of the first notification dated 6-6-1994. The second notification was necessitated due to the complaint from the village~~es~~, It is also/admitted fact that the first notification dated 6-6-1994 was not cancelled before the issue of the second notification.

of this Tribunal
 It was held by the Full Bench in O.A. No. 57/91 dated 20-2-1995 (AMBA DAS Vs. UNION OF INDIA) that the selection made by the Appointing Authority cannot be reviewed by the higher authority. If any of the parties are aggrieved they have to approach the Tribunal for redressal. In this case, the first notification dated 6.6.1994 was ignored after selection of the applicant which cannot be done by the Appointing Authority. /If/pursuance of the the persons ~~are~~ aggrieved by that selection, they have to approach the Tribunal for remedy. Hence, the 2nd notification dated 10-5-1995 is irregular and has to be set aside. No attempt has been made by the Respondent Authorities even to cancel the earlier notification dated 6-6-1994 before issuing the 2nd notification dated 10-5-95. Hence, on

J

1

: 4 :

that score also the issue of 2nd notification is irregular. The reason given by the respondents for issue of the 2nd notification is, that there ~~are~~ ^{were} complaints from the public for that selection. If there ~~are~~ ^{were} complaints, the Authorities have to explain to the public the consequences of the events and no other remedy is left open to them. They cannot issue a second notification. The applicant cannot be allowed to suffer on account of the complaint received by the respondents. If adequate publicity is not given for the first notification, it is the fault of the respondents and not that of the applicant. The fault of the respondents cannot stand in the way of the applicant for being posted ~~as~~ as a regular EDBPM when he has been selected for that post by the Competent Authority. Further, it is noted that ^{pursuance to the first notification} there ~~are~~ ^{were} 8 applicants in ~~the first selection~~ whereas there ~~are~~ ^{were} only 6 applicants in response to the 2nd notification dated 10-5-1995. This itself shows that even the 2nd notification was not given wide publicity. If the public are aware of the 2nd notification dated 10-5-1995 ^{may indicate} ~~possibly~~ there might ~~be~~ ^{have been} more number of applications. Unfortunately, the number of applications ^{in the case of instance} was less than the first notification. This itself, in our opinion, shows that the complaint is ~~of~~ the man-made and cannot be relied upon to deny the appointment to the applicant herein.

In view of the foregoing, we are satisfied that the 2nd notification is not warranted. The applicant who has been selected in pursuance of the first notification ^{appointed} should be ~~fixed up~~ regularly as EDBPM of Dhannaram BPO. Even if he has been given the regular posting from the date of receipt of a copy of this judgment, the applicant will not suffer from any monetary benefit. Hence his request for giving him ante-date regularisation is not

R

1

: 5 :

called for.

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

BS
B.S.JAI PARAMESHWAR,
MEMBER (J)
20.1.98

RR
R.RANGARAJAN,
MEMBER (A)

Date: 20-1-1998.

Dictated in open Court.

Am/Mu
D.R
23-1-98

sss.

..6..

Copy to:

1. The Director of Postal Services, Hyderabad City Region, Hyderabad.
2. The Senior Superintendent of Post Offices, Secunderabad Division, Hyderabad.
3. The Sub Divisional Inspector, (Postal), Kikarabad Sub Division, Vikarabad, R.R.District.
4. One copy to Mr. Y. Appala Raju, Advocate, CAT, Hyderabad.
5. One copy to Mr. V. Rajeswara Rao, Addl. CGSC, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

YLKR

4/2/98

7

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: 20/1/98

ORDER/JUDGMENT

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

in

O.A.NO. 1038/95

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

YLKR

