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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A.NO.237/95

Between:

Date of Order: 29.9.95.

Chandina Chella Rao

...Applicant.

And

1. The Superintendent of Post Offices,
Anakapalli Division, Anakapalli
Visakhapatnam District.
2. The Sub Divisional Inspector(P),
Yelamanchili Sub Division,
Yelamanchili, Visakhapatnam District.
3. Sakireddy Adiraju

...Respondents.

Counsel for the Applicant : Mr.N.Siva Reddy

CORAM:

THE HON'BLE JUSTICE SHRI V.NEELADRI RAO : VICE CHAIRMAN

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

contd...

O.A.NO.237/95.

JUDGMENT

Dt: 27.9.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri N.Siva Reddy, learned counsel for the applicant, ~~AM~~ Shri N.V.Raghava Reddy, learned standing counsel for R-1 and R-2 and Shri G.Dhananjai, learned counsel for R-3.

2. The applicant, R-3 herein, and some others applied to the post of Extra Departmental Branch Post Master, (EDBPM), Donkada Village in pursuance of the notification dated 30.11.1993. The applicant was selected and he was appointed for the said post. He assumed the charge on 22.2.1994.

3. R-1, the appellate authority, issued memo No. B/ED-3/481, dated 23.1.1995 to the applicant requiring him to explain as to why he should not be removed from service with effect from the date of expiry of the period of one month from the date of receipt of the same. It is stated that it was served on the applicant on 25.1.1995. The same is assailed in this OA which was presented on 21.2.1995. An interim order was passed on 23.2.1995 whereby R-1 and R-2 are restrained from taking any steps until further orders for filling up this post of EDBPM, Donkada on regular basis.

4. R-3 herein filed MA 273/95 to get himself impleaded as party to this OA. The same was ordered and accordingly ~~and~~ R-3 was impleaded in this OA.

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5. It is stated for the respondents that as there was irregularity in selecting the applicant instead of R-3 as the latter got more marks than the marks secured by the applicant, and as the appointment certificate, the impugned notice was issued.

6. The Full Bench of this Tribunal held in OA 57/91 that it is not open even to the appellate authority to review the order of appointment after the order of appointment was issued, and hence the order^{of} termination cannot be issued under Rule 6 of E.D. Agents^(Conduct & Service) Rules even if there is any irregularity in appointment. It is not the case of the respondents that there was any fraud or cheating on the part of the applicant in securing the appointment as EDBPM. It is ^{stated} for the applicant that the impugned notice dated 23.1.1995 is liable to be set-aside.

7. It was observed in the judgment in OA 57/91 that if there is any irregularity in the appointment, the remedy of the affected candidate is to move this Tribunal under Section 19 of the Administrative Tribunals Act. Hence if R-3 is aggrieved, he has to file an application under Section 19 of the A.T. Act and if there is any delay ^{going to be} in ^{to file} filing it, he has to file an application praying for condoning the delay and if ^{they are} ~~it is~~ going to be filed, they have to be considered on merits. Hence, it has to be

centd....

1. The Superintendent of Post Offices,
Anakapalli Division, Anakapalli,
Visakhapatnam District.
2. The Sub Divisional Inspector, (P),
Yelamanchili Sub Division,
Yelamanchili, Visakhapatnam District.
3. One copy to Mr. N. Siva Reddy, Advocate,
5-9-22/26, Adarshnagar, Hyderabad.
4. One copy to Mr. N. V. Raghava Reddy, Addl. CGSC, CAT, Hyderabad.
One copy to Library, CAT, Hyderabad.
5. One spare copy.
7. one copy to Mr. G. Dhananjai Advocate, 3-5-100,
Narayana-guda, Hyderabad.

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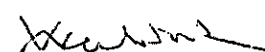
observed that the order in this OA whereby the impugned notice has to be quashed, does not debar R-3 from filing an application under Section 19 of the A.T. Act as referred to.

7. It is stated for R-1 to R-2 that no order of termination was issued in view of the interim order.

8. In the result, this OA is ordered as under:-

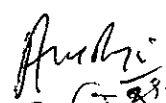
The notice dated 23.1.1995 in NO.D/ED-3/401 is quashed. But this order does not debar R-3 if so advised to file an application under Section 19 of the A.T. Act and if necessary by filing an application praying for condoning the delay for challenging the appointment of the applicant herein as EDBPM. It is needless to say that if they are going to be filed, they will be considered on merits. No costs.//


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 27th September, 1995.
Open court dictation.

vsn


D.R. (J)

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TYPED BY

CHECKED BY

COMPALED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

and

THE HON'BLE MR. R. RANGARAJAN : M(ADMN)

DATED:- 29 - 9 - 1995.

ORDER/JUDGMENT.

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

in

O.A.No.

237/95

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.

pvm.

C.C. today
No spare copy

