

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..
O.A.No. 571 of 1995.

Date: April 3, 1997.

between:

M.V.Appala Naidu.

Applicant.

And

1. The Superintendent of Post Offices,
Parvathipuram - 532 501.
2. The Postmaster General,
(representing Union of India),
Visakhapatnam - 530 002.
3. S.V.Ramana, Instructor, Lyla
Industrial Training Institute,
Pendurti, Visakhapatnam Dt. Respondents.

Counsel for the Applicant: Sri C. Suryanarayana.

Counsel for the Respondents. Sri N.R.Devraj.

CORAM:

Hon'ble Sri R.Ranga Rajan, Member (A)

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

'JUDGMENT

(PER HON'BLE SHRI H. RANGA RAJAN, MEMBER (A) .

..

Heard Sri C.Suryanarayana, learned counsel for the
applicant and Sri N.R.Devraj, learned Standing counsel for
the respondents.

The post of EDBPM., Vootapalli became vacant on
11-4-1994. The applicant in this O.A. was appointed
to
on that post on provisional basis from 23-4-1994

✓
R

✓

which was subsequently extended. A Notification dated 6.6.1994 (Annexure A-5 to the O.A.) was issued for filling up the post of EDBPM, Vootapalli regularly. Against that Notification, six applications were received out of which only two applications were found to be eligible for consideration. Those two applications are that of the applicant as well as the Respondent No.3. Respondent No.3 was selected and posted as EDBPM.

This O.A., is filed challenging the selection and Posting of Respondent No.3 as EDBPM Vootapalli and for a consequential direction to the respondents to replace the Respondent No.3 by the applicant.

The main contentions raised on both sides are enumerated below:

That the applicant had worked as provisional EDBPM and hence his experience as provisional EDBPM should be considered while making regular appointment. To this, applicant relies on the Full Bench decision in O.A.No.29/90 dated 8-11-1991 on the file of Ernakulam Bench.

To this the learned counsel for the respondents submits that the previous experience is not to be the sole decisive factor in making the selection but the other factors have also to be considered. For this he

R

D

: 3 :

relies on the Judgment of this Bench in O.A.76/92
dated 23--9--1994.

The learned counsel for the respondents further submits that the provisional appointment is made immediately after the vacancy arose on urgency basis and that the necessary ingredients for appointment have not fully considered while making the provisional appointment.

The learned counsel for the applicant submits that the position is not so in the present case. The applicant was engaged earlier after the regular incumbent had submitted his resignation after considering all Points. Hence it cannot be said that the provisional appointment of the applicant is sudden.

The second contention of the counsel for the applicant is that Respondent No.3 does not possess necessary property and income. He states that the property is not in the name of the Respondent No.3 and that the Respondent No.3 has no saleable right in that property.

The respondents in their reply have mentioned the quantum of ^dlanded property possessed by Respondent No.3 and also submits that the property is inherited by him though it is in his father's name. However, the respondents admit that the documents are not

R



A

registered in the name of the 3rd respondent.

In this connection, it is to be seen whether the property possessed by the applicant's father would automatically be inherited by the Respondent No.3. That would mean that it is an ancestral property and not the self-acquired property of the father of the 3rd respondent.

The learned counsel for the applicant, however, submits that the property does not solely belong to the father of Respondent No.3 and it is owned by his relatives like his uncles etc. ^{Thus} ~~Thus~~ this point also needs scrutiny by the respondents. This court cannot examine ~~these~~ points related to land dealings. Hence, we are of the opinion that this case should be scrutinised further to ascertain whether the Respondent No.3 has the saleable right of the property and other details regarding his ownership etc. Hence, we feel that this is a fit case to remit back to the respondents to consider the issue in the light of various details which will be furnished by the Respondent No.3 and the applicant.

As ^CExtensive scrutiny of land records and other points are involved in this case. We feel that this Bench cannot venture to enquire into those details. It is for the respondents to consider all aspects of this case in the

: 5 :

proper perspective and decide the correctness of their decision in regard to the appointment of EDBPM, Vootapalli.

Hence, we remit back this matter to the appointing authority to reconsider the issue of appointment of EDBPM, Vootapalli on the basis of the eligible applications received in response to the Notification dated 6-6-1994 and decide this issue in accordance with law.

Though Notice was served on Respondent No.3, he ^{remained} ~~was~~ absent. No counsel on his behalf also was present.

Before deciding this issue, the Appointing Authority should give an opportunity to both the applicant as well as the Respondent No.3 to represent their cases.

Respondent No.3 is presently working as EDBPM. At this juncture, we do not want to disturb him. We make it clear that his appointment (3rd respondent) should be treated as a provisional one till a regular candidate takes over charge from him after reconsideration of the


R

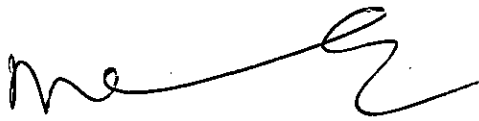
✓

: 6 :

matter by the respondents as mentioned above.

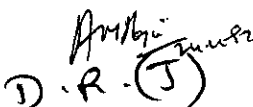
The O.A., is disposed of with the above
directions. No costs.


B.S. JAI PARAMESHWAR
MEMBER (J)
3-4-97


R. RANGARAJAN
MEMBER (A)

Date: 3--4--1997.

Dictated in open court.


D.R. (J)

Sss.

..7..

Copy to :

1. The Superintendent of Post Offices, Parvathipuram.
2. The Postmaster General, Visakhapatnam.
3. ~~One copy to Mr. C. Suryanarayana, Advocate, CAT, Hyderabad.~~
4. ~~One copy to Mr. N. R. Devraj, Sr. CGSC, CAT, Hyderabad.~~
5. One copy to D.R(A), CAT, Hyderabad.
6. One duplicate copy.

YLKR

30/4/97
TYPED BY
COMPARED BY

6
CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.R. G. RAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED:

3/4/97

ORDER/JUDGEMENT

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

in

D.A.No. 571/95

ADMITTED INTERIM DIRECTIONS ISSUED
ALLOWED

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

YLKR

II COURT

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दिल्ली/BENCH

28 APR 1997

Hyd
हैदराबाद बेंच
HYDERABAD BENCH