

(41)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1037/96.

Dt. of Decision : 23-09-98.

V. Satyanarayana Reddy

..Applicant.

Vs

1. The Union of India rep. by the
Chief Post Master General,
AP Circle, Hyderabad.
2. The Superintendent of Post Offices,
Cuddapah District, Cuddapah.

..Respondents.

Counsel for the applicant : Mr.K.S.R.Anjaneyulu

Counsel for the respondents : Mr.N.R.Devaraj, Sr.CGSC.

CORAM:-

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

THE HON'BLE SHRI R.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.))

Heard Mr.K.S.R.Anjaneyulu, learned counsel for the applicant and Mr.N.R.Devaraj, learned counsel for the respondents.

2. The applicant was a candidate from the out siders quota for promotion to the post of Postman cadre for the vacancy to be filled as on 31-8-95. There were 5 vacancies against the out siders quota in the notification on that date as can be seen from the letter No.B2/PM/EX/95 dated 20-02-95 (Annexure-2). Out of 5, three posts are earmarked for promotion quota on the basis of seniority-cum-fittability and two more posts are to be filled on the basis of merits quota as per the recruitment rules for the post of Postman. A list of eligible candidates for consideration for the post of Postman against outsiders quota is enclosed at Page-10 to the

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OA. The applicant stands at Sl.No.19 of that list. The selected candidates were announced by the order No.B2/PM/EX/95 dt.18-9-95 (Annexure-5). In that list there are 5 selected candidates shown in that list. Out of 5 the first three are on the basis of seniority-cum-suitability and the other two are on the basis of merits quota. It is stated that Mr.A.Venkata Subbabaiah and Shaik Allabakash who had qualified in that examination against seniority quota did not accept the post. Mr.Y.Subbanna had accepted the post. Thus, the applicant submits that there are two more vacancies against the outsiders seniority quota yet to be filled on the basis of the notification dated 20-2-95. The applicant further submits that below S.Allabakash^{he} is figuring third in that list. The candidate at Sl.No.17 had not qualified. ~~The applicant~~ The Sl.No.18 and 19 are thus eligible for posting as Postman against outsiders quota ~~as Postman~~. The applicant had filed earlier OA.No. 287/96 for the same relief. That was disposed of by order dated 13-3-96 directing the respondents to dispose of his representation. It is stated that his representation was rejected by the impugned order No.B2/EX/PM/96 dated 3-4-96 (Annexure-I).

3. Aggrieved by the above the applicant had filed this OA under section 19 of the A.T.Act to set aside the impugned order No.B2/EX/PM/96 dated 3-4-96 (Annexure-I) by holding the same as illegal, unlawful and violative of Articles 14 and 16 of the Constitution and for a^{consequential} direction to promote him to the post of Postman as he is the next senior qualified candidate to be promoted in the seniority quota in test held on 26-3-95 as two seniors to him have declined promotion.

4. A reply has been filed in this OA. The learned counsel for the respondents submitted that if any employee refused promotion after having been empanelled there is no rule to fill up those posts by those juniors who qualified in that selection. Those posts are

to be carried forward to fill it up by subsequent selection. We asked the learned counsel for the respondents to show us the rule in this connection. It is stated by the learned counsel for the respondents that there is no rule ^{and} that this is an unwritten rule.

5. In view of the above submission the only point that arises for consideration in this OA is whether a junior ^{if} can ~~be~~ found fit in all respects can be promoted as Postman if his seniors refused the promotion after they are empanelled.

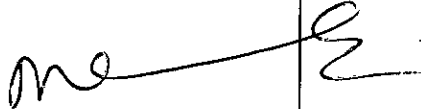
6. In this ~~quaxian~~ connection the above question is answered by the judgement of this Tribunal in OA.717/93 decided on 2-3-94. In that case the applicant who ^{was} ~~are~~ junior requested for promotion as Postman against seniority-cum-fitness quota when his seniors had refused promotion even after ~~the~~ ^{them} empanelling ~~him~~. In that connection the Tribunal had held that in case senior has not joined the post of Postman and if the junior is the qualified candidate coming within the number allotted for promotion as per seniority quota he should be promoted as ^{postman} ~~ED Agents~~. The above ruling of this Tribunal holds good in this case also. Hence, the respondent ~~has~~ to promote the applicant as Postman if the two of the EDAs empanelled in the list dated 18-9-95 ^{against seniority quota} had not joined the post of Postman and if the applicant comes within the two posts earmarked for promotion quota as per seniority of the ED Agent.

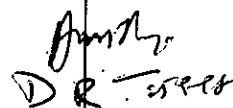
7. The OA is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

23.9.98

Dated : The 23rd Sept. 1998.
(Dictated in the Open Court)


(R. RANGARAJAN)
MEMBER (ADMN.)


D.R. Tress

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(HK)

Copy to:

1. The Chief Postmaster General, A.P.Circle, Hyderabad.
2. The Superintendent of Post Offices,
Cuddapah District, Cuddapah.
3. One copy to Mr.K.S.R.Anjanayulu,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.

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23/10/98

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II COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 23/9/98

ORDER/JUDGMENT

M.A/R.A/C.P.NO.

in

C.A. NO. 1037/96

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS
DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

YLKR

