

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A. 1046/1996

Between :

P.F. Khan

...

Applicant

And

Supdt. of Post Offices,  
Hindupur Division,  
and another

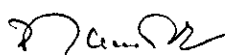
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Respondent

REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS

I, H. Seshagiri Rao, s/o H. Narasimha Murthy, aged about 55 years, do hereby solemnly affirm and sincerely state on oath as follows :

1. I am the responsible officer in the office of the Chief Postmaster-General, Andhra Pradesh Circle, Hyderabad and as such I am fully acquainted with the facts of the case.
2. I have read the copy of the above Original Application and submit that there are no valid or reasonable grounds in the O.A. The various averments made in the O.A. are hereby denied, save those that have been specifically admitted herein under. The applicant is put to strict proof of such averments that are not been traversed herein under.
3. The averments in paragraphs 1 to 5, need not be replied as they are formal and procedural in nature.
4. In respect of the averments in para 6(1) to 6(3), it is submitted that the applicant was residing at Kadiri Brahmanapalli as he was working as E.D.D.A. on provisional

  
ATTESTOR

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Assistant Accounts Officer (Budget)  
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Office of the Chief Postmaster General,  
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A.P. CIRCLE, HYDERABAD-500 001.

  
DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General,  
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basis on the death of Sri P. Biramkhan, the regular incumbent of the post. He has no any other regular means of income for his livelihood as claimed by the applicant.

5. It is submitted that the applicant worked as E.D.D.A. whenever the regular incumbent went on leave on the responsibility of the regular incumbent only and that he has no claim for the post on regular basis. Rules do not provide for regular appointment to those who work in leave vacancies or on provisional basis.

6. It is submitted that the applicant was appointed on provisional basis from 19.5.94 when the regular incumbent expired. The applicant cannot claim for the post on the plea that no regular appointment was made nor the appointment was terminated before the expire of 90 days of provisional appointment from 19.5.94. Though the applicant has put in some service on provisional basis for regular appointment, which has no credence, he cannot claim for the post.

7. As regards the averments in para 6(4), it is submitted that Sri P. Biramkhan, E.D.D.A., K. Brahmanapalli expired on 19.5.94. His wife, Smt. P. Khasim Bee, represented for appointment to the applicant under relaxation of recruitment rules, pleading that he is their adopted son, furnishing a copy of the unregistered will purported to have been executed by her husband on 16.2.94. She further stated that they had no children and that the applicant was adopted by them. In fact, the late E.D.D.A. had two daughters and both of them were married in his life time itself. The case of the applicant for regular appointment under relaxation of recruitment rules was rejected by the Postmaster-General, Kurnool vide letter

  
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No. ST-III/EDRE/3, dated 10.10.95 on the grounds that no proof of registered Will is produced in support of the adoption. This was communicated to the applicant. Subsequently he got a notice issued by a Lawyer claiming for the post submitting a copy of the said un-registered Will. The un-registered Will is not valid and the Department need not take cognizance of it and that the Department is not bound to appoint the applicant in relaxation of recruitment rules. The same was informed to the Advocate of the applicant on 9.8.96. The Sub-Divisional Inspector (Postal), Kadiri, who is the Appointing Authority for the post was asked to fill up the post under the normal recruitment rules. There upon, the Sub-Divisional Inspector (Postal), Kadiri, notified the vacancy on 8.8.96 with 23.8.96 as last date for receipt of applications. In response to the Notification, applications were received from the following :


<u>Sl. No.</u>	<u>N a m e</u>	<u>Communi-ty</u>	<u>Educational Qualification</u>	<u>Marks obtained</u>
1.	B. Gopal Naik	S.T	S.S.C.	225
2.	D. Venkatramana	O.C	S.S.C.	231
3.	P. Fakrullakhan	O.C	9th Class	---

8. In reply to the averments in para 6(v) to 6(X), it is to state that the applicant also submitted an application in response to the Notification. His case for compassionate appointment was rejected by the Postmaster-General, Kurnool as stated above as his adoption through an un-registered Will is not valid.

9. It is submitted that the applicant's version that he was orally advised to make an application and that in view of his experience his case would be fairly considered for

  
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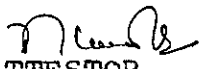
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appointment is totally false and far from truth. It is a fact that the applicant made an application on 16.8.96. The applicant has not produced the original certificates before the Sub-Divisional Inspector (Postal). As per the rules preference was given to Matriculate candidate. The applicant has only passed 9th Class.

10. That the applicant had passed only 9th Class and he does not possess the preferential educational qualifications of 10th Class as required by the recruitment rules. As per the recruitment rules the applicant with 10th Class pass is to be preferred for the post. His claim that he is possessing adequate means of livelihood is also totally false in as much as he does not own any property which yields income for his livelihood. He further pleads that all the above are besides the most important factor of experience. In fact, there is no provision in the recruitment rules to consider the experience in making any appointment to the post.

11. That it is a fact that 3 applications including that of the applicant were received for the post by 23.8.96 as detailed in Item (iv) above. There is no need for the applicants to have experience for selection to the post. The first applicant, i.e. Sri B. Gopal Naik, attended the Interview for verification of originals on 28.8.96 and expressed his unwillingness to take up the post and also did not produce the original documents. The applicant is not eligible for selection in as much as he was not possessing the preferential qualifications i.e. 10th Class. Sri B. Gopal Naik expressed his unwillingness to work as E.D.D.A. Therefore, only one applicant remained in the field. So, he was selected for the post and

  
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appointed to it on the afternoon of 31.8.96. The contention of the applicant that the candidate selected belongs to first Respondent and that all was set to select him is totally false and it has no relevance to the Respondent in as much as he is not the Appointing Authority for the post. In the process of the claim for appointment of the applicant under relaxation of recruitment rules much time was consumed by his legal notices etc. and as such the selection was delayed. In order to avoid further delay, the applications were called for with 23.8.96 as last date. The version of the applicant that no written requisition for Interview was made is totally false. In fact a letter was issued on 24.8.96 to all the 3 applicants calling upon them to produce their original certificates on 28.8.96. The process has been done in the normal course without delay. There is no haste on the part of the Appointing Authority. The applicant himself knows pretty well that Sri B. Gopal Naik, one of the applicants, was not interested to take up the post in as much as he told this to the Sub-Divisional Inspector (Postal) in the presence of the applicant. The applicant having failed to secure appointment under relaxation of recruitment rules also knows pretty well that he will not be selected for the post. The other choice was only Sri D. Venkata Ramana, the third applicant. So, knowingly well he is casting aspiration over the appointment. Therefore, his allegation that the selected candidate is the person of the first Respondent is far from truth and totally false.

12. That the claim that notification itself became bad and illegal is not true. In fact the notification is very much legal and the process was done according to the prescribed

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rules. There is no deviation in the appointment. The applicant has no right for appointment to the post on regular basis in as much as he claimed for the post by producing un-registered Will which is not legally valid claiming that he is the adopted son of the late Sri Biramkhan. The applicant himself is responsible for the delay in finalisation of the selection, on account of which he continued in the post upto 31.8.96. There is no provision in the rules for considering the applicant for the reasons that he worked in the post from 19.5.94. Further, the rules do not provide for selection of persons having previous experience.

13. As regards the grounds, it is submitted that there is no provision to give priority / preference, to those having some working experience in the post. There is no provision to give priority as claimed by the applicant and no such provision in the rules. The case in detail has been explained in the earlier paras and the applicant cannot claim for the post as a matter of right. There was no hasty measure by the Appointing Authority in calling for applications with 23.8.96 as last date and issue of call letters for interview on 24.8.96, verification of documents on 28.8.96. There is no malafide intention as alleged by the applicant.

13. (i) It is submitted that the applicant's claim that he stands to all privileges and justice not to be disturbed from the post held by him is not correct inasmuch as there is no provision in the rules to prefer him for the post for the reason that he had past experience.

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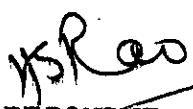
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14. In reply to the averments in para-7, it is submitted that the selection was finalised and Sri D. Venkata Ramana, selected candidate, was appointed on the afternoon of 31.8.96. The applicant though was present on 31.8.96, did not attend the office and un-authorisedly absented from duty by submitting an application for grant of leave on medical grounds to claim for the post through Central Administrative Tribunal. The applicant is not eligible for appointment to the post as explained in the earlier paras.

15. In respect of the averments in para-9, it is submitted that the applicant cannot claim for the post on regular basis in as much as he is not having preferential qualifications and that his past service has no preference in making selection to the post.

16. The averments in para-10 to 13 need no comments.

For the reasons stated above, this Hon'ble Tribunal may be pleased to dismiss the O.A. and pass such further order or orders as deemed fit and proper.

  
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V E R I F I C A T I O N


I, H. Seshagiri Rao, s/o H. Narasimha Murthy, aged about 55 years, do hereby verify that the contents in the above paras are true to my personal knowledge and according to the legal advice of my Counsel and that I have not suppressed any material facts.

Hyderabad, )

Date : 26.11.96 )

Attested 

सहायक लेखा अधिकारी (बजट)  
Assistant Accounts Officer (Budget)  
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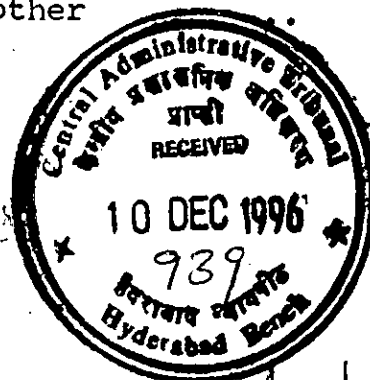
P.F. Khan

Applicant

And

Supdt. of Post Offices,  
Hindupur Division,  
and another

Respondent



Filed on :

9/12/96

Received  
9-12-96  
for S. Ramakrishna  
*[Signature]*

Filed by : K. Bhaskar Rao  
Addl CGSC

May be filed  
*[Signature]*  
So,