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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA Nos. 1159/96 and 142/97

Date of decision: **5.8.97**

Between

B.B.Ch. Moulidhara Rao

.. Applicant (in both the OAs)

And

1. Supdt. of Post Offices
Vizianagaram Division,
Vizianagaram.

2. Post Master General,
Visakhapatnam Region,
Visakhapatnam.

3. Chief Post Master General
AP Circle, Hyderabad.

.. Respondents (in both the
OAs)

4. K. Adinarayana,
Pathabaggam,
Gajapathinagaram Mandal,
Vizianagaram.

.. Respondent-4 in OA 142/97

Shri K. Venkateswara Rao

.. Counsel for the applicant

Shri N.V. Raghava Reddy

.. Counsel for the official
respondents

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HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

J U D G E M E N T

I. OA 142/97

These OAs were heard together since the facts and
circumstances of the cases are inter-related.

2. The applicant's father, Mr. P. Simhachalam, rendered
more than 30 years of service as EDBPM at Pathabaggam EDBO
in Vizianagaram Postal Division. Efforts were initiated in
advance to fill the vacancy of EDBPM ^{that was} due to arise on the
retirement on superannuation of Simhachalam. The incumbent
EDBPM, however, passed away twenty days prior to the

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due date of retirement. In the meanwhile, the Employment Exchange, which had earlier been addressed in the matter, sponsored as many as 20 candidates for the post, of whom 9 candidates submitted their applications. Of these, 3 applications were found incomplete and rejected. Of the remaining candidates, 5 appeared before R-1 and one K. Adinarayana (R-4) was selected for the post.

3. The applicant is aggrieved by the selection of the said respondent on the following grounds:-

- (1) A notice regarding the filling of the vacancy was not displayed on the notice board of the B.O.
- (2) The selection was confined to only those candidates who had been sponsored by the Employment Exchange.
- (3) His candidature, even if not sponsored by the Employment Exchange, should have been considered because he belonged to the village.
- (4) A candidate who did not belong to the village was selected and appointed.
- (5) He had rendered service as a substitute for his father during the latter's life-time on stray occasions in leave vacancies.
- (6) He fulfilled all qualifications required of an EDBPM.

4. Mr. Raghava Reddy, learned counsel for the respondents submitted that the application is mis-conceived and none of the above grounds are acceptable as per rules in force, as explained below:

- (1) No notice regarding an arising vacancy is required essentially to be displayed on the notice-board of the concerned EDBO unless an open notification is issued inviting applications for such post.

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(2) Selection of a suitable candidate from among the ones sponsored by the Employment Exchange, and confining the selection to such candidates, is ^{not only} entirely permissible, ^{but expected and prescribed.} The prime requisite in the selection of ^a BPM is ^{indeed} that the candidate should be sponsored by the concerned Employment Exchange.

(3) Only in cases where the Exchange is unable to sponsor any candidates, or sends less than the required number, can others be considered through means of an open notification to be issued, subsequently, to fill the vacancy.

(4) The stipulation regarding the candidate having to belong to the B.O. village, to be eligible for selection and appointment as EDBPM., has since been relaxed. The current rule is that an intending candidate could belong to any of the villages within the concerned Employment Exchange area.

(5) The fact that he acted as substitute for his father on certain occasions in the past does not by itself confer any right on the applicant for selection to the post.

(6) The possession of adequate property and independent means of livelihood, educational qualifications, and a capacity and willingness to offer ^{or hire} suitable accommodation ^{as criteria} for the post office can have validity and acceptance only in cases where the name of the candidate is under consideration as a result of having been sponsored by the Employment Exchange. The mere possession of these qualifications by a person does not confer a right or constitute a valid ground for selection unless his name has been sponsored by the Employment Exchange.

5. In the light of the position brought out above the claim of the applicant is not based on acceptable reasons.

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The OA is therefore dismissed as lacking in merit.

II. OA 1159/96

6. On the demise of Simhachalam his widow applied for a suitable job for any of her sons on compassionate grounds. It is noted that the lady had not offered her own services in any capacity but merely wanted one of her sons to be considered for the appointment. The case was considered by the Circle Relaxation Committee and rejected. The reason for the decision of the Committee is contained in Annexure-I to OA 1159/96 wherein it has been stated that, as one of the brothers of the applicant was employed elsewhere, the rules do not permit the selection or appointment of another member of the same family.

7. It is, however, forcefully stated on behalf of the applicant that the deceased EDBPM left behind 4 sons and 2 daughters besides the widow. The lady is not desirous of being considered for any post. Of the four sons, it is said that the eldest had long separated from the family several years prior to the death of the father, and has never been of any help to his mother or to others in the household. Of the remaining two brothers, one is stated to be engaged intermittently on some ^{non-descript} work on daily wages. His service is not regular but ^{is only} of casual nature, nor is his income of such level as to enable him to extend any meaningful or sustained assistance to the family. The last brother too is stated to be unemployed. Of the two daughters one is married and the second one is yet to be wed. The family is stated to possess no more than 2 acres of land yielding hardly any worthwhile return. Thus, considered from any point of view, it is emphatically submitted by the counsel for the applicant that the family is not far from or above

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perpetual indigence. The learned counsel also brought to my notice the instructions issued by DG (Posts) in this context. Para 2 (ii) of DG (Posts)'s letter No.17-85/93-ED Trg. dated 2.2.94 reads as under:-

"(ii) The ED posts are isolated and well spread out. it is therefore necessary that a vacancy caused due to the death of an ED Agent is filled up by appointing one of his/her dependents/near relatives on compassionate grounds. If it is not done, it would be quite difficult to give compassionate appointments in hard cases. ~~In this context, a question has arisen whether the educational qualifications prescribed for appointment as ED BPM/EDSPMs i.e. matriculation and equivalent, may be relaxed by the Circle Relaxation Committee to 8th Standard, which was the minimum educational qualification prescribed for the purpose prior to revision with effect from 1.4.93.~~"

Para 2(iv) of the same communication reads as follows:

"(iv) In certain cases where there is already an earning member in the family but Mukhia Sarpanch or an MP/MLA certifies that the employed member is living separately and not rendering any financial assistance to the main family, the requests for compassionate appointments may be entertained and considered on merits. In certain cases, the literate dependents/near relatives are neither employed in Government service nor some where else but are engaged in cultivation etc. and not supporting the family of the deceased EDA, requests for compassionate appointment in such cases can be entertained."

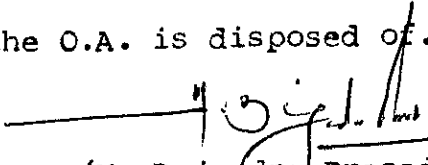
8. It is seen that the MLA of the constituency, in which the applicant's village is situated, has duly given a certificate which is at p.25 of the application (Ann.9).

9. In view of what has been noted above, it would seem to this Tribunal that the case of the applicant deserves reconsideration. It is felt that the summary rejection of his claim might amount to an unintended injustice in the light of the dire circumstances in which the family is reported to be in.

10. It would, therefore, be desirable that the Circle Relaxation Committee gives a second look to this case with a view to affording the applicant and his household such succour as would distinctly seem to be deserved. It is,

of course, obvious, as submitted by Mr. Raghava Reddy, that the applicant, if finally selected, would have no right to claim a place or post of his choice. If his case is nevertheless re-examined for any suitable appointment in the area or an office for which he may be eligible as per rules, the same should be unhesitatingly considered by the Respondents. This may be done within a reasonable time, and any decision arrived thereafter may be suitably intimated to the applicant.

Thus the O.A. is disposed of.


(H. Rajendra Prasad)
Member (Administrative)

5th August, 1997


Deputy Registrar (D.C.)

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