

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 1496/96

Date of Order : 15.9.98

BETWEEN :

Kumba Ram Prasad

.. Applicant.

AND

1. The Superintendent of Post Offices, Machilipatnam Division, Machilipatnam.
2. The Sub Divisional Inspector of Post Offices, Machilipatnam Sub Division, Machilipatnam.
3. B.Venkateswara Rao
4. Md. Hazmtulla

.. Respondents.

Counsel for the Applicant

.. Mr. V. Venkateswara Rao

Counsel for the Respondents

.. Mr. N.R. Devraj

Mr. E.S. Varaprasad.

CORAM :

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

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

O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Mr. V. Venkateswara Rao, learned counsel for the applicant

and Mr. N.R. Devraj, learned standing counsel for the respondents

1 and 2. Neither R-3 nor ^{his} the counsel was present. Notice has

been served to R-4, called absent.

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2. The applicant in this OA is an ST candidate. He had appeared for the selection for the post of EDMC Packer when notification for filling up the post was issued on 9.9.96 calling for applications fixing the last date for receipt of applications as 9.10.96. 16 applications were received in that connection. Applicant and R-3 were considered for selection. R-3 was selected.

3. This OA is filed challenging the selection of R-3 and for a consequential direction to the respondents to fill up the post by the applicant.

4. The main contention of the applicant in this OA is that he is an ST candidate. In the cadre of ED staff the reservation of ST community to the extent of $7\frac{1}{2}\%$ ~~is~~ does not exist in that unit. Hence he should be given preference in appointment against the ST quota instead of filling up the post by an OC candidate. R-3 is an OC candidate and he is an ST candidate. Hence the appointment of R-3 is irregular.

5. In the recent judgement of the Calcutta Bench of this Tribunal reported in 1997 (36) ATC 41. (Shibnath Dhara Vs. Union of India) it was held that if the notification does not clearly stipulate that the post is reserved for SC/ST, then the post should be filled in accordance with the law on the basis of merit provided the selected candidate fulfills all the other conditions. In the absence of any stipulation for filling up the post of ED by a reserved community candidate the question of reservation does not arise.

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6. However the respondents have to follow the reservation rule in toto to fulfil the obligation thrust on the department. Hence the department, in future, if any ED vacancy arises ^{the name} should be filled so as to ensure the quota reserved for SC/ST is fully complied notifying the post for the appropriate reserved community. Only after complying with the quota provided for SC & ST, the department should resort for filling up the post by others.

7. In view of what is stated above the OA is dismissed. However the respondents are directed to fill up the ED post in future only either by SC or ST candidate till the shortage exists against the reserved quota.

8. The OA is ordered accordingly. No costs.

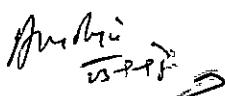

(B.S. JAI PARAMESHWAR)
Member (Judl.)

15.9.98


(R. RANGARAJAN)
Member (Admn.)

Dated : 15th September, 1998

(Dictated in Open Court)


Amriti
15-9-98
O.C.

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Copy to:

1. The Superintendent of Post Offices, Machilipatnam Division, Machilipatnam.
2. The Sub Divisional Inspector of Post Offices, Machilipatnam Sub Division, Machilipatnam.
3. One copy to Mr. V. Venkateswara Rao, 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.
7. One copy to Mr. E. S. V. Rao, Advocate, CAT, Hyderabad.

YLKR

26/10/98
X
II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

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: 15/9/88

ORDER/JUDGMENT

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

in
O.A. NO. 1496/86

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS.~~

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
शेषण / DESPATCH

- 9 OCT 1998
W

हैदराबाद भाष्यकीट
HYDERABAD BENCH