

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

O.A. 854/96 & OA 1016/96

Between:

O.A. 854/96

D. Pullam Raju

.. Applicant

A N D

1. Union of India
Rep. by
Secretary,
Department of Communications,
New Delhi.
2. The Senior Superintendent,
Railway Mail Service,
'Y' Division,
Vijayawada.
3. The Post Master General,
Vijayawada Region,
Vijayawada.
4. Ch.V.S.Suryanarayana
Time Scale Sorting Asstt,
SRO Khammam

.. Respondents

Counsel for the applicant : Mr. R. Brizmohan Singh

Counsel for R-1 to R-3 : Mr. V. Bhimanna

Counsel for R-4 : Mr. TVVS Murthy

O.A. 1016/96

Between:

Ch.V.S. Suryanarayana

.. Applicant

A N D

1. The Senior Superintendent,
RMS 'Y' Division,
Vijayawada.
2. The Post Master General,
Vijayawada Region,
Vijayawada.
3. Sri D. Pullam Raju,
Cashier
SRO RMS 'Y' Division,
Khammam

.. Respondents

.. 2/-

Counsel for the applicant: Mr. TVVS Murthy
Counsel for R-1 & R-2 : Mr. N.R. Devraj, Sr. CGSC
Counsel for R-3 : Mr. R. Brizmohan Singh

Coram:

Hon'ble Mr. Justice D.H. Nasir, Vice-Chairman
Hon'ble Mr. H. Rajendra Prasad, Member (A) ^Q₆

J U D G E M E N T

(Per Hon'ble Shri H. Rajendra Prasad, M(A))

The Applicant in OA 1016/96 was impleaded as Respondent No.4 in OA 854/96 vide orders passed on 25-10-96 in MA 936/96 in the latter case, i.e. OA 854/96. The said applicant, Ch.V.S.Suryanarayana in OA 1016/96, filed his case on 19-8-1996 whereas OA 854/96 was filed slightly earlier on 17-7-1996. The pleadings and contentions of the said applicant in OA 1016/96, Ch.V.S. Suryanarayana, are nearly the same as contained in his reply statement filed in OA 854/96. The basic issue in both OAs is about the selection of a Cashier in Sub Record office, Khammam, in RMS 'Y' Division - a post which is claimed by the applicants in both OAs. These two OAs are, therefore, disposed of by a common order.

2. The applicant in OA 854/96, D.Pullam Raju, was selected for the post of Cashier in Sub-Record Office, Khammam, on the basis of a notification issued by SSRM, RMS, Y Division (Respondent No.2 therein) calling for volunteers to fill the vacancy which had arisen a little while earlier on the completion of tenure of the previous incumbent.

The notification, (Annexure-1) invited volunteers from among the eligible Time Scale SAs/LSG(OP) Officials of SRO Khammam. The selection of the applicant was communicated on 22-5-1996(Annexure-2) He was one of the four applicants who had volunteered for the post and assumed charge as Cashier on 24-5-1996, having been selected for being the seniormost among them by having completed 16 years of service.

It is stated a complaint was later received from a certain source to the effect that the offer for volunteers had been wrongly limited to Khammam unit alone and not from the entire Division as laid down by the Director General, vide Annexure R-2. Thereupon, Respondent No.2 was ordered to de-notify the post by calling for volunteers from the officials throughout the Division, and also to give preference to Time Scale Sorting Assistants (with a minimum of 10 years service) to LSG SAs. In compliance with the said direction Respondent No.2 de-notified the vacancy on 4-7-96 and sought fresh volunteers for the post. Aggrieved by the de-notification, the applicant filed this OA.

3. The contention of the applicant is that the re-notification was issued on extraneous considerations, pressures and interference. He argues that, having once been duly selected for it, he is entitled to continue for the rest of the full term of four years which is the normal tenure fixed for the post. If at all the move was intended to recall him from the post, - as no doubt might have inevitably happen^{ed} if the re-notification had run

its logical course, - he was entitled to at least a proper notice and an opportunity to put forth his case and claim. No such notice was, however, ever issued or received. This omission, complains the applicant, is violative of the principles of natural justice besides adversely affecting his legitimate expectations of continuing in the post for which he had been duly selected for a normal tenure of four years.

4. Based on the above pleadings the applicant prays for the setting aside of the revised impugned notification issued by Respondent No.2 on 4-7-1996.

5. When the OA came up for admission on 17-7-1996, the learned counsel for the Respondents held out an assurance that, if he were given an opportunity to make his submissions a week later, no one would be selected or posted in the place of applicant before that. On 23-7-1996, an interim order was passed directing the Respondents not to move the applicant from the post of Cashier and liberty was also granted to them to apply for any variation of the interim order after filing a reply. Respondent No.4 thereupon filed MA 937/96 and prayed for vacating the interim order passed on 23-7-96. The prayer was, however, not acceded to and the MA was disposed of on 25-10-1996 with no orders thereon for the reason that an early hearing had already been ordered in the case. Since, however, none of the parties thereafter requested for an immediate hearing from 25-10-96 onwards, the case was listed in its normal course on 21-8-98, adjourned at request to 2-9-98 ,

and was finally heard on 2-9-98.

6. The official Respondents agree in their counter-affidavit that the applicant was the seniormost of four volunteers for the post but also state that re-notifying the vacancy became inescapable as the initial offer and consequent selection had been wrongly confined only to Khammam unit and not to eligible officials of the whole of the Division, which was against the DG's orders. It is also stated in the same breath that the initial decision to confine selection to officials of Khammam unit was justified in view of the orders on the need to observe economy on travelling allowance, and also because it was assumed that none would volunteer for the post from any other unit/office in the division as Khammam happened to be a remote place. It is added the complaint against the selection of the applicant had argued that the TS SAs were the only eligible ones for the post whereas he was in LSG(OP); taking cognizance of the merit of the complaint the second Respondent was accordingly directed to re-notify the vacancy and to give preference to Time Scale Sorting Assistants while making selection to the post.

7. We have scanned the supporting documents filed by the Applicants as well as the Respondents in both OAs. While it is quite true that the selection was indeed to be made from among the volunteers throughout the Division, we have not been shown or able to locate any paper which lays down that the selection is to be confined strictly to Time Scale Sorting Assistants or that LSG(OP) officials are ineligible for consideration to the same. This is

Qr

at best an unsupported statement not backed by any document. Respondent No.4 in the OA (Applicant in OA 1016/96) also takes the same stand, viz., being the lone Time-Scale Sorting Assistant volunteer, he alone was eligible for the post as the other three applicants were already in the Lower Selection Grade. In support of this contention he relies on DG (Post) letters dt.14-12-88 and 6-1-89 (Annexures to counter-affidavit filed by him). These communications, however, refer to appointments of Treasurers/Cashiers in Post Office, Postal Store Depots and Mail Motor Service Units. These circulars pointedly omit any reference to RMS (Record) Offices. Under the circumstances the assertion of the said Respondent that the selection of the applicant is an error apparent on the face of the records (since the applicant belonged to LSG and therefore ineligible for appointment) is misconceived and not borne out by any evidence in the form of a rule, ruling or administrative instruction.

8. The same Respondent who, as already noted, has filed the second (1016/96) OA and states therein that the practice of limiting the selection only to Postal Assistants as Cashiers is being followed by the first Respondent, SSRM, RMS Y Division (Respondent No.2 in OA 854/96). This statement cannot obviously be correct as no Postal Assistant can be called or considered for selection as Cashier in an RMS office and no head of an RMS Division can possibly call or select any Assistants from Postal Divisions.

9. The Applicant, in OA 854/96 on being regularly selected, joined the post on 24-5-1996. He has thus been continuing in the post for more than two years and has, in the process, already

completed more than half of the tenure fixed for the post (vide Rule 60 of P&T Manual Vol. IV). Although volunteers were called incorrectly from only one unit and not from the rest of officials from throughout the Division it is not considered expedient at this stage to undo the selection so made, or to order dislodgment of the applicant from the post to which he had been selected, in the middle of his tenure. Even if the limited selection was the result of an administrative error, the applicant, by the sheer fact of the selection in which he had no role to play beyond volunteering for it, has acquired a right to continue in the post for a full tenure, and any rectificatory action of ousting him from it in midstream would be uncalled for. Furthermore, we are unable to find any warrant or authority to accept the statement of the official Respondents that a preference has necessarily to be given to Time Scale Sorting Assistants or that LSG(OP) officials had to be accorded a lower preference, or, much less, that they could not be considered at all, as contended by Respondent No.4 (Applicant in OA 1016/96). There is no valid supporting argument or evidence for such assertions except their own statements, no papers having been produced to back such contentions. The argument advanced by R-4 are misplaced as he relies on rules or instructions which lay down the eligibility and the process of selection of Cashiers/ Treasurers to work in Offices other than RMS units. We cannot fail to notice in this connection, judging by the very same documents filed by respondent No.4 in support of his arguments, that

Q.

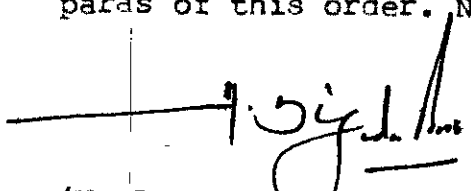
the tenure of Cashiers/Treasurers in Post Offices is quite different from those in RMS units. It is clear that what is needed or required of a candidate for selection in a Post Office/Postal Store Depot/RMS Office is quite distinct and different from officials selected for the same post in RMS Offices. The requirements for the posts in these offices cannot therefore be likened or equated to one another, governed as they are by different tenures and eligibility. There is thus no reason, unless specifically barred by DG's instructions, why LSG (OP) officials should be excluded from consideration for such posts in any RMS office. If such a prohibition exists, we have not been made aware of it and no paper has been filed by either the official respondents or the private Respondent (Applicant in OA 1016/96). So on this score too, the plea of Respondent No.4 are unacceptable.

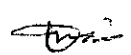
10. In the light of the facts and circumstances of both OAs as revealed by the record, or urged during the hearing, we have to hold that there is no merit in the arguments of the Respondents (including Respondent No.4 in OA 854/96 & Applicant in OA 1016/96). We, therefore, direct that the applicant D. Pullam Raju shall be allowed to function in the present post of Cashier, SRO, Khammam, till the completion of his normal tenure as laid down in Rule 60 of P&T Manual Vol. IV. It has been specifically ruled in the DG's circular that LSG TB OP Officials, if selected as Cashier/Treasurer in POS, etc., shall not be

Q
bi

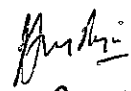
entitled to the special pay of Rs.100. As to whether or not it applies to RMS offices is a matter which has not been raised in these OAs and is to be examined, if necessary, and decided by the authorities in the light of specific rulings, if any, and if necessary, on the subject.

11. In the result, OA 854/96 is allowed by setting aside the re-notification issued by SSRM, RMS 'Y' Division (Respondent No.2) in OA 854/96 and No.1 in OA 1016/96) vide memo No. B-1/18-1/II dt. 4-7-96 (Annexure-3 to OA 854/96). Simultaneously, OA 1016/96 filed by Ch.V.S. Suryanarayana, (Respondent No.4 in OA 854/96) is disallowed for the same reasons as discussed in the preceding paras of this order. No costs.


(H. RAJENDRA PRASAD)
Member (A)


(D.H. Nasir)
Vice-Chairman

MD


15.8.96.
Deputy Registrar