

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1172 OF 1996

Dated, the 28th September, '98.

BETWEEN :

G. Balakotaiah Applicant

A N D

1. The Chief Post Master General,
Andhra Pradesh Circle,
Hyderabad.
 2. Post Master General,
Vijayawada Region,
Vijayawada.
 3. Senior Superintendent of
Post Offices, Prakasam Postal
Division,
Ongole.
 4. Assistant Superintendent of
Post Offices, Kanigiri Sub Division,
Kanigiri, Prakasam District.
 5. K. Jyoti, Wife of J. Rama Rao, aged
25 years, Presently working as
Branch Post Master, Vemavaram
Branch Post Office, Marripadu
Mandal, Prakasam District.
- Respondents.

COUNSELS :

For the Applicant : Mr. K.S.R. Anjaneyulu

For the Respondents : Mr. N.R. Devaraj

CORAM :

THE HON'BLE MR. R. RANGARAJAN, MEMBER (ADMIN)

THE HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER (JUDL)

O R D E R

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

1. Heard Mr. KSR Anjaneyulu, Learned Counsel for the applicant and Mr. N.R. Devaraj, Learned Standing Counsel for R-1 to R-4.

O.A. 1172 of 1996

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2. Though notice has been served personally on the R-5, she has remained absent.

3. This is an application under Section 19 of the Central Administrative Tribunals Act.

4. This application was filed on 20th September, 1996.

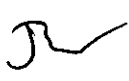
5. Shri Ch. L. Narasaiah, Branch Post Master, BPM, Vemavaram, Branch Office, a/w P.A. Padu in Prakasam Dist., was due to retire from service with effect from 27.3.95 on attaining the age of 65 years. The R-3 issued an open Notification dt. 20.1.95 (30.1.95 ?) inviting applications from the eligible candidates to fill up the said post on regular basis.

6. In response to the said notification 9 candidates offered their candidature. Among them, the applications of 3 candidates were found to be not in order. Among the remaining 6 applications, the applicant and the R-5 were the aspirants for the said post.

7. In the meanwhile, the applicant was appointed to the said post.

8. The R-5 was selected and appointed to the said post. The applicant handed over the charge of the post to R-5 on 7.5.96.

9. Being aggrieved by the selection and appointment of R-5 to the said post, the applicant has filed this O.A. praying to call for the records relating to the matter of selection and appointment of BPM Vemavaram in response to the notification dt. 30.1.95 and to declare the action of the R-4 and R-5 in taking over the charge from him ^{on} 7.5.96 after a period of one year and two months without any notice or order, as arbitrary, illegal



O.A.1172/96

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and unsustainable and for consequential direction to reinstate the applicant as BPM Vemavaram on regular basis.

10. The main contention of the applicant is that he was working as BPM Vemavaram since 27.3.95 that his appointment was a regular one that on 7.5.96, the respondents 1 to 5 had no authority to replace him without serving him a proper notice that his appointment to the said post was on regular basis.

11. The respondents have filed a counter contending that the selection of a regular candidate in pursuance to the notification dt. 30.1.95 could not be materialised before 27.3.95; that therefore, the applicant was appointed to the said post purely on ad hoc basis; that after scrutiny and verification of the eligible candidates, the R-5 was considered more meritorious and had fulfilled all the eligibility conditions; that the R-5 was selected on regular basis; that the applicant himself had handed over the charge of the post to R-5 on 7.5.96; and that the O.A. is not tenable.

12. In order to ascertain whether the selection of the applicant on 27.3.95 was on a regular basis or on a provisional basis and also to ascertain the various contentions raised by the Learned Counsel of the applicant, we felt it proper to secure the selection proceedings. Accordingly, The R-1 to 4 have produced the selection proceedings.

13. On going through selection proceedings, it was disclosed that the R-5 was the meritorious candidate among all the other candidates whose applications were found to be in order.

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O.A.1172/96

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14. As per the tabular statement at pages 85/1 and 85/2 in the selection proceedings, it is disclosed that the applicant had secured 292 marks in the SSC Examination and 37 marks in the Hindi Examination, whereas the R-5 secured 337 marks in the SSC Examination and 52 marks in Hindi Examination. She had produced the nativity certificate, property certificate and also income certificate. It is stated that the R-5 as well as the applicant were having House Building at Vemavaram Village. From the Tabular statement prepared by the respondents, it is clear that the R-5 was the meritorious candidate and had fulfilled all the other conditions.

15. The applicant contends that his appointment on 27.3.95 was on a regular basis. Thus he contends that there was absolutely no necessity for the respondents to select over and again the R-5 during May, 1996. The respondents have emphatically denied the said fact by contending that since the process of selection could not be materialised before 27.3.95, the applicant was appointed to the post purely on provisional basis.

16. At page 85, office note dt.16.3.95 is available. In this office note, it is clearly stated that the verification of the candidatures of 6 eligible candidates have been referred to ASPO, Kanigiri and that finalisation of selection may not materialise before 27.3.95. On the said note, the SSPO had ordered as under :

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- "(a) The regular selection for BPM is likely to take time. Please ask the ASPO to make provisional arrangements to the B.P.M On 27.3.95/AN.
- (b) Please put up the file in the first week of April, '95 for selection of BPM."

The SSPO has ordered on 17.3.95. From this, it is clear that the appointment of the applicant on 27.3.95 as BPM, Vemavaram was purely on provisional basis. Hence, the contention of the applicant that he was selected on a regular basis in response to the notification dt. 30.1.95 cannot be accepted.

17. The regular appointment was made to the said Branch Office only in May, 1996. The Learned Counsel for the applicant vehemently contended that there is a delay of nearly 14 months to finalise the selection and that some higher authorities might have influenced the appointing authority to appoint the R-5 as BPM Vemavaram. Thus he attempts to contend that selection and appointment of R-5 is vitiated. We find no substance in the contention of the learned counsel of the applicant. The then Superintendent of Post Offices was about to retire on 30.6.95. Therefore, as per the letter at page 94 in the selection proceedings the then SSPO had stated in para 3 as follows :

"Among all the applicants the applicant at Sl.No.2 Smt. K.Jyothi has got more percentage of marks than all the remaining applicants. She is therefore selected."

This note was made on 20.5.95 and he submitted the papers for approval clearly indicating that He was due to retire from service w.e.f. 30.6.95. The said letter dt. 24.5.95 at page 94. This letter is addressed to the PMG, Vijayawada-

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O.A.1172/96

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When that is so, it cannot be imagined that the higher authorities or some other persons had influenced the decision of the appointing authority to select and appoint the R-5.

18. Another contention raised by the applicant is that there was absolutely no reason for selecting a regular candidate after a lapse of nearly 14 months. No doubt, there was delay. If there was unavoidable delay one cannot help. If there was deliberate delay we may direct the respondents to be careful in future. According to the provisions under the P&T ED Staff (C&S) Rules 1964 all efforts should be made to make regular appointments to the ED posts. It is deprecated continuance of provisional appointments for a long time.

19. We perused the selection proceedings to ascertain whether any avoidable delay was there or delay caused in selecting and appointing the R-5 was deliberate. On going through the file it is disclosed that the authorities once favoured the selection of one Shri J. Rama Mohana Rao, who was ^a physically handicapped candidate. The said candidate had deformity in upper limb of the right arm. He could not write freely. The Doctor had opined that he cannot write freely and he is not in a position to lift heavy articles. In that connection, correspondence was there with the Medical Department and the respondent authorities. However, on 23.3.96 the SSPO formed an opinion that the said J. Ramamohana Rao, who was a physically handicapped candidate was not suitable for that post and that therefore K.Jyoti, who got more

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O.A.1172/96

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percentage of marks than the other candidates and who fulfilled all the other eligibility conditions, was selected by the then SSPO ^{to be} was/ratified. It is thereafter, the selection and appointment of R-5 was materialised. In this view of the matter we find no avoidable delay or deliberate delay on the part of the respondent authorities in appointing R-5.

20. The respondent authorities could not have selected and appointed the applicant to the post as he was not the meritorious candidate. Admittedly, he had secured 292 marks in SSC Examination. If he was selected then if any candidate ~~were~~ to challenge then ~~his~~ selection could have been set aside. Therefore, in our humble opinion the respondent authorities have taken a just decision in selecting a meritorious candidate among all the ^{had} candidates who/responded to the notification dt. 30.1.95.

21. There was no delay so as to confer any right on the applicant to claim reinstatement to the said post. The respondents have produced the declaration submitted by the applicant dt. 27.3.95 wherein he had, in clear terms, accepted that his appointment was only on provisional basis and he was prepared to hand over the charge of the post of the BPM to the regularly selected candidate.

22. In view of these reasons we find no merits in the O.A. The O.A. is accordingly dismissed leaving the parties to bear their own costs.

The selection proceedings have been perused by us and returned to R-1 to R-4.


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


(R. RANGARAJAN)
MEMBER (R)

Dated, the 28 September, '98.

Copy to

1. The Chief Postmaster General, A.P.Circle, Hyderabad.
2. Postmaster General, Vijayawada Region, Vijayawada.
3. Senior Superintendent of Post Offices, Prakasam Postal Division, Ongole.
4. Asst.Superintendent of Post Offices, Kanigiri Sub Division, Kanigiri, Prakasam District.
5. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT, Hyderabad.
6. One copy to Mr.N.R.Devraj, Sr.CESC, CAT, Hyderabad.
7. One copy to HBSJP, CAT, Hyderabad.
8. One copy to D.R(A), CAT, Hyderabad.
9. One duplicate copy.

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23/10/98
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II COURT

TYPED BY
COMPILED 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: 28/9/98

ORDER/JUDGMENT

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

in
C.A.NO. 1172/86

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED ✓

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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