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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

AT HYDERABAD.

..
O.A.No.246/1996.
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Date of decision: May 8, 1998.
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Between:

P.Munaiah. Applicant.

and

Union of India represented by:

1. Chief Post Master General, Andhra Pradesh Circle, Hyderabad.
2. Director of Postal Services, Kurnool, Office of the Post Master General, Andhra Pradesh Southern Region, Kurnool.
3. Superintendent of Post Offices, Nandyal Division, Nandyal. Respondents.

Counsel for the applicant. Sri K.S.R. Anjaneyulu.

Counsel for the respondents: Sri V.Bhimanna.

CORAM:

Hon'ble Sri R.Rangarajan, Member(A)

Hon'ble Sri B.S.Jai Parameshwar, Member(J)

JUDGMENT.

(per Hon'ble Sri B.S.Jai Parameshwar, Member(J))

Heard Sri D.Subrahmanyam for Sri K.S.R.Anjaneyulu
for the applicant. None for the respondents. We are
deciding this O.A., in accordance with Rule 16(2) of the
Central Administrative Tribunal (Procedure) Rules, 1987.

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The applicant was initially appointed as ED Agent, Govindapalli Sub Post Office. His date of birth is 1.7.1939. He belongs to S.C. Community. By Memo dated 5.12.1994 (Annexure 3 Page 8 to the O.A.) the case of the applicant was considered and was appointed ~~as~~ ⁱⁿ Group "D" Post at Nandyala Head Post Office on 6-12-1994.

Subsequently the respondents by Memo No. PMGK/RE/8-5 dated 5.2.1996 issued a show cause notice to the applicant as to why his appointment ~~shall~~ ^{could} not be cancelled giving him 10 days time from the date of receipt of the show cause notice to make his representation against the proposed cancellation. The applicant submitted his representation dated 13-2-1996. Considering his representation, the respondents passed ^{the} final order on 23-2-1996 setting aside the selection of the applicant as Group "D" at Nandyala Head Post Office.

The applicant has filed this O.A., challenging the Order No. PMGK/RE-8-5 dated 5.2.1996 as arbitrary, unlawful and unconstitutional and prays for setting aside the same.

By an interim Order dated 23-2-1996 the respondents were directed to maintain status-quo as on date i.e., the applicant should be continued in the Group "D" post if he is not retrenched as on date, until further orders. It is stated that by virtue of this interim order the applicant is being continued ~~as~~ in Group "D" post.

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The respondents submitted that the Assistant Director had instructed to fill up the Group "D" Post as per letter dated 5.7.1994 and stated to have enclosed the said letter to the reply as Annexure I. No such letter has been produced along with the reply. However, during the course of arguments, the learned counsel for the applicant produced a copy of the said letter. In that letter the date ~~for age etc.~~ has been directed to be taken as on 1.1.1994.

If that instruction is strictly followed then the selection of the applicant for Group "D" Post cannot be said to be irregular. If the Assistant Director had given such instructions against the rules, then he must be held responsible. The applicant was not responsible for the selection to Group "D" Post as per letter dated 5.7.1994. It is only after two years, the respondents had noticed the mistake and attempted to set aside by the impugned letter dated 5.2.1996.

The applicant has already crossed 58 years and has been left with only about 1 year and one month and is continuing in Group "D" post since the interim order passed by the Tribunal is not vacated and is in force. The selection was made by the Authorities in accordance with the letter dated 5.7.1994. The Assistant Director probably after consultation with his higher-ups issued the letter dated 5.7.1994. We do not want to comment

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why such a letter was issued by him.

The respondents contended that the selection of the applicant to Group "D" Post was erroneous, that the applicant was aged more than 55 years as on 1st July, 1994 and that he was not eligible for selection to the post of Group "D" and that therefore they passed the impugned order. They submit that the said erroneous promotion can be corrected by the Authorities. For this, they relied upon the decision in the case of DILIP KUMAR DE vs. SUPERINTENDENT OF POLICE AND OTHERS (1986(1)SLJ -429). The respondents further submit that the applicant was promoted erroneously and it was rectified after giving him an opportunity to represent his case. Thus they justify the order dated 5.2.1996. Thus they pray for dismissal of the O.A.

We have perused the case relied upon by the respondents. In that case the reversion was after three years of promotion. The promotion was due to some mistake in calculation of qualifying service for promotion. In that case, the Calcutta High Court held that "reversion after 3 years of promotion due to some mistake detected in calculation of qualifying service for promotion without giving an opportunity of showing cause is not valid." The aforesaid decision may not be relevant to the facts and circumstances of the case on hand. In the instant

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case, the selection of the applicant was strictly in accordance with the letter dated 5.7.1994. Considering the age of the applicant as on 1.1.1994 he was selected in accordance with the letter dated 5.7.1994 issued by the Assistant Director.

At this stage, if the applicant is reverted, he loses heavily his retirement benefits and will be affected grossly. Considering the above facts and circumstances, we feel that it will not be proper to revert the applicant at this stage. As already observed he has only about 13 months service. The respondents have also failed to take steps for early disposal of the case when an interim order was issued directing to maintain the statusquo as on date. Hence, the respondents are also partly responsible for continuing the applicant in the Group "D" post ~~XXX~~ for ~~XXX~~ ~~extremem~~ such a long time. Hence, we are of the opinion that the applicant shall be allowed to continue in Group "D" post till his retirement. However, this case cannot be treated as a precedent in future cases.

In view of the above, the O.A., is allowed and the impugned Order No. PMG.K/RE/8-5/94 dated 5.2.1996 is hereby set aside. The applicant

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DA.246/96

Copy to:-

1. The Chief Post Master General, Andhra Pradesh Circle, Hyderabad.
2. The Director of Postal Services, Kurnool, O/o The Post Master General, Andhra Pradesh Southern Region, Kurnool.
3. The Superintendent of Post Offices, Nandyal Division, Nandyal.
4. One copy to Mr. K.S.R.Anjaneyulu, Advocate, CAT., Hyd.
5. One copy to Mr. V.Bhimanna, Addl.CGSC., CAT., Hyd.
6. One copy to BSJP M(J), CAT., Hyd.
7. One duplicate copy.
8. One copy to D.R.(A), CAT., Hyd.

srr

16/5/98

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 B.S. JAI PARAMESHWAR :
M (J)

DATED: 8/5/98

ORDER/JUDGMENT

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

in

O.A.NO. 246/98

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

