

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO. 504/1996

DATE OF ORDER : 29-06-1998.

Between :-

T.V.Nageswar Rao

... Applicant

And

Union of India rep. by :

1. Chief Postmaster General,  
AP Circle, Hyd-1.
2. Sr. Superintendent of Post Offices,  
Srikakulam Postal Division,  
Srikakulam-532 001.
3. Asst. Superintendent of Post  
Offices, Srikakulam West Sub Division,  
Srikakulam-532 001.

... Respondents

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Counsel for the Applicant : Shri KSR Anjaneyulu

Counsel for the Respondents : Shri NR Devaraj, Sr. CGSC

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CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (A)

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

(Order per Hon'ble Shri R. Rangarajan, Member (A)).

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*D*

... 2.

3H

(Order per Hon'ble Shri R.Rangarajan, Member (A) ).

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Heard Sri D.Subrahmanyam for Shri KSR Anjaneyulu, counsel for the applicant and Sri N.R.Devaraj, standing counsel for the respondents.

2. The applicant in this OA was appointed as EDMC on 2-4-93 at Bantala Keduru for the period from 2-4-93 to 30-6-93 (Annexure-3 to the OA). It is clearly stated in the order that the appointment is on provisional basis till 30-6-93 or till regular appointment is made, whichever is earlier. The appointment of the applicant was further extended by letter dt.31-7-93 (Annexure-4 to the OA) from 30-6-93 to 31-10-93. On 7-9-93 the applicant was replaced by a surplus candidate from another post office. However that employee was also transferred to elsewhere. Hence by order dt.11-8-94 (Annexure-5 to the OA) the applicant was again appointed from 14-7-94 to 31-10-94. Again another order dt.20-3-96 was issued appointing him from 1-11-94 to 30-8-95 (Annexure-6 page-11 to the OA). Thereafter no order was given and he was continued. The applicant was issued with a notice for termination by the impugned notice dt.20-3-96 (Annexure-1 page-6 to the OA). The ~~xxxxxx~~ services of the applicant was terminated on the basis of the impugned order with effect from 20-4-96.

3. This OA is filed praying for a direction to the respondents to set aside the impugned order dt.20-3-96 by holding the same as illegal and arbitrary and for a consequential direction to the respondents to continue the applicant as EDMC, Banta Keduru.

4. The main contentions of the applicant are two fold :-

(1) The applicant was given extension from time to time and that is

evident from the office orders enclosed to the OA. When his services were not extended beyond the issuance of order at (Annexure-8) dt.15-4-95 and he was continued up to the date of termination notice dt.20-3-96, he has to be treated as regular employee of the department and hence he cannot be terminated by issuing the mere notice dt.20-3-96; (ii) The applicant was issued the termination notice under Rule-6(a) of P & T Department ED Agents (Conduct & Service) Rules, 1964. Termination notice under Rule-6 will be issued only in the case of regular ED Employees. Having issued notice under Rule-6, the respondents cannot now turn back and say that the applicant is only a provisional employee.

5. The respondents have ~~only~~ stated that the applicant is only a provisional candidate and hence the question of treating him as a regular employee does not arise. It is further stated that the above is evident from the office orders and the applicant cannot demand the status on par with regular employees.

6. There is no doubt that the applicant was appointed on provisional basis from time to time till 30-8-95, but his contention is that after that period no order appointing him provisionally was issued and hence he should be treated as a regular employee.

7. The learned counsel for the respondents submits that there is no rule to issue extension orders now and then, if orders for regular appointment are issued he will be continued only as a provisional candidate, if order for regularisation or retrenchment are issued. Issue of two or three orders appointing him provisionally ~~and later continued without any order.~~ will not give him the right to submit that he is a regular employee.

8. When we questioned the respondents as to how his payment was made when there was no order extending his provisional appointment as non issuance of provisional appointment order may cause problems in the payment to the applicant as the Accounts will insist for a proper order for ~~fixing the pay bill.~~ <sup>payment</sup> The learned counsel for the respondents could not give any satisfactory reply, ~~to the~~ above question.

*He cannot demand the status of a regular employee*

*[Signature]*


9. It is an admitted fact that rule-6 of P & T (ED Staff Conduct & Service) Rules is applicable only to regular ED Employees. A provisional employee can be discharged from service <sup>without notice</sup> if a regular employee is posted ~~without notice~~. Hence issue of notice under Rule-6 in the present case <sup>was</sup> ~~is~~ not necessary. However, <sup>mere</sup> ~~issue~~ of that notice also will not give the applicant the status of a regular employee unless proper order has been issued to regularise his services. It may be presumed that the notice under Rule-6 was given <sup>probably</sup> ~~as a matter of fact~~ to adhere to the principles of natural justice. The respondents could not give any satisfactory reply as to why the notice under rule-6 was issued to the applicant.

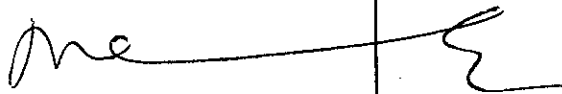
10. Considering the above facts, we feel that we have to give some relief to the applicant. That relief cannot be given for regularising his services as such direction will go against the recruitment rules. <sup>Giving some relief is</sup> ~~The above view of ours is~~ due to the fact that the case was not <sup>dealt</sup> ~~treated~~ properly by the respondents.

11. In view of the reasons stated above, the following direction is given :-

The applicant should be considered first for any ED Provisional appointment if it arises in the area of Srikakulam West Sub Division before considering ~~the~~ other candidates.

12. With the above direction, the OA is disposed of. No costs.

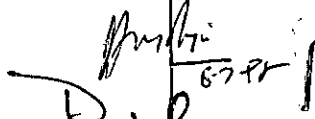
  
(B.S. JAI PARAMESHWAR)  
Member (J)

  
(R. RANGARAJAN)  
Member (A)

29.6.98

Dated: 29th June, 1998.  
Dictated in Open Court.

avl/

  
D. R.

DA. 504/96

Copy to:-

1. The Chief Postmaster General, A.P. Circle, Hyderabad-1.
2. Sr. Superintendent of Post Offices, Srikakulam Postal Division, Srikakulam.
3. The Asst. Superintendent of Post Offices, Srikakulam West Sub Division, Srikakulam.
4. One copy to Mr. KSR. Anjaneyulu, Advocate, CAT., Hyd.
5. One copy to Mr. N.R. Devaraj, Sr. CGSC., CAT., Hyderabad.
6. One copy to D.R. (A), CAT., Hyd.
7. One duplicate copy.

srr

15/7/98  
(2)

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 B.S. JAI PARAMESHWAR :  
M(J)

DATED: 29/6/98

~~ORDER/JUDGMENT~~

~~M.A./R.A/C.P.NB.~~

in  
C.A. NO. 504/96

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

