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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL APPLICATION NO.38 of 1997

DATE OF ORDER: 10th SEPTEMBER, 1998

BETWEEN:

SRI SAILAM

.. APPLICANT

AND

1. Union of India rep. by  
The Chief Post Master General,  
Andhra Pradesh Circle,  
Hyderabad 500 001,
2. The Director of Postal Services,  
Hyderabad City Region, Hyderabad,
3. The Senior Superintendent of Post Offices,  
Secunderabad Division,  
Hyderabad 500 016,
4. The Sub Divisional Inspector (Postal),  
Tandur Sub Division,  
Tandur 501 141,
5. Shri P.Venkatappa .. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.Y.APPALA RAJU

COUNSEL FOR THE RESPONDENTS: Mr.V.RAJESWARA RAO, ADDL.CGSC  
Mr. K. Satyanarayana

CORAM:

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

HON'BLE SHRI B.S.JAI PARAMESHWAR, Member (Judl.)

JUDGEMENT

(ORAL ORDER PER HON'BLE SHRI B.S.JAI PARAMESHWAR,  
MEMBER (JUDL.)

Heard Mr.Y.Appala Raju, learned counsel for the applicant and Mr.W.Satyanarayana for Mr.V.Rajeswara Rao, learned standing counsel for the respondents. Notice though served on R-5, he is absent.

JAI

2. The post of EDBPM, Agnoor fell vacant from 11.9.96. The applicant was appointed to the said post on provisional basis with effect from 19.9.96. A notification dated 11.11.96 was issued calling for applications for filling up the said post fixing the last date as 10.12.96. In response to the said notification, the applicant and other three candidates submitted their candidature. The respondent-authorities after verification of the documents, selected R-5 to that post.

3. In the meanwhile the applicant filed this OA challenging the selection of R-5.

4. On 10.1.97 an interim order was passed in this OA directing that "in the event of R-5 has not been handed over the charge till today, then status quo should be maintained till further orders". It is submitted that though R-5 was selected, he had not taken charge and that by the said interim order, the applicant is now continuing as provisional candidate in that post.

5. The learned counsel for the applicant during the course of his arguments challenging the selection of R-5 submitted that the notification did not mention any thing about reservation of the post for a particular reserved category and that, therefore, selecting R-5 who is less meritorious and who is a SC candidate, is irregular and in support of his contention, he relies on the decision of the Calcutta Bench reported in (1997) 36 ATC 41 (Shibnath Dhara v. Union of India (Calcutta Bench)). He further submitted

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that R-5 is less meritorious than the others. He secured 71% marks in SSC whereas R-5 secured less marks than him.

6. In view of the decision of the Calcutta Bench of this Tribunal cited supra, it is clear that in case no reservation has been indicated in the notification, the respondent-authorities should select the candidate purely on merit provided he fulfils all the other conditions.

7. When the notification is silent as to reservation of the post to a particular reserved category, the respondents were not justified in selecting R-5 who belongs to SC and who is admittedly less meritorious than the applicant.

8. The learned counsel for the respondents also fairly accepted that the selection of R-5 is irregular as no reservation has been stipulated in the notification.

9. In that view of the matter, we feel that the selection of R-5 to the post of EDBPM, Agnoor is irregular. Hence his selection is set-aside.

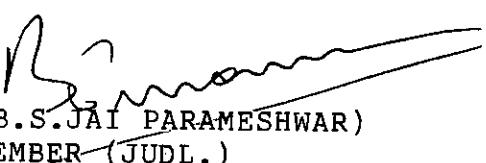
10. The respondents shall complete the selection of a suitable candidate from among the persons who responded to the notification dated 11.11.96. Till such time, the applicant who is continuing in the said post shall be continued as a provisional appointee.

11. Time for compliance is four months from the date of receipt of a copy of this order.

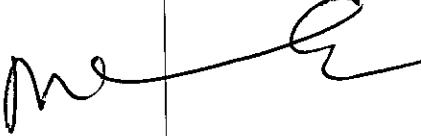
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12. With the above directions, the OA is disposed of.

No order as to costs.

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

10.9.98

  
(R.RANGARAJAN)  
MEMBER (ADMN.)

DATED: 10th September, 1998  
Dictated in the open court

vsn

  
DR  
15.9.98

Copy to:

1. The Chief Postmaster General, Andhra Pradesh Circle, Hyderabad.
2. The Director of Postal Services, Hyderabad City Region, Hyderabad.
3. The Senior Superintendent of Post Offices, Secunderabad Division, Hyderabad.
4. The Sub Divisional Inspector, (Postal), Tandur Sub Division, Tandur.
5. One copy to Mr.Y.Appala Raju, Advocate, CAT, Hyderabad.
6. One copy to Mr.V.Rajeswara Rao, Addl.CGSC, CAT, Hyderabad.
7. One copy to HBSJP, M(J), CAT, Hyderabad.
8. One copy to D.R(A), CAT, Hyderabad.
9. One duplicate copy.

*to one copy to Mr.K.Sudhakar Nandy gru5*

YLKR

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28/9/98

II COURT

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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: 10/9/98

ORDER/JUDGMENT

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

in  
C.A.NO. 38/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

