

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA NO. 394/97

Date of Decision: 2nd July 1997

BETWEEN:

P. SUBBARAYUDU

.. Applicant

AND

1. Chief Post Master General,
Andhra Pradesh Circle,
Hyderabad
2. Post Master General,
Kurnool Region,
Kurnool.
3. The Superintendent of Post Offices,
Cuddapah Postal Division,
Cuddapah.

.. Respondents

Counsel for the applicant: Mr. K.S.R. Anjaneyulu

Counsel for the Respondents: Mr. V. Bhimanna

CORAM:

THE HON'BLE SRI H. RAJENDRA PRASAD: MEMBER (ADMN.) *[Signature]*

ORDER

(Per Hon'ble Sri H. Rajendra Prasad: Member (Admn.))

Heard Sri Subramanyam for Mr. K.S.R. Anjaneyulu on behalf of the applicant and Sri V. Bhimanna for the respondents.

2. The post of Treasurer of Sankarapuram Sub Post Office in Cuddapah Postal Division fell vacant on 13.5.1996. The applicant was selected to the post on 10.5.1996 and took charge of the post on 28.5.96. The appointment of the applicant was tenable for a period of 2 years or upto the date of reversion to his substantive post, whichever would happen to be earlier. The appointment was, however, cancelled on 25.3.1997 reportedly on the orders of higher authorities.

3. The OA was filed on 2.4.1997 with a prayer to set aside the order of 25.3.1997 cancelling his appointment. On 4.4.1997 an interim order was passed suspending the impugned order and the applicant continues to function as treasurer on the strength of the said interim order.

4. The grievance of the applicant and grounds urged by him are as under:-

- 1) The cancellation of his appointment well before the completion of the normal 2 years tenure is arbitrary.
- 2) No grounds have been ascribed in support of the impugned reversion.
- 3) By his selection and appointment he had acquired a vested right to the post and the appointment could not therefore be cancelled without a proper notice and without observing the basic principles of natural justice.

5. The respondents in their counter-affidavit explain that the applicant was the senior of the two TBOP LSG officials

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available for consideration to the post of treasurer when the vacancy arose for the same. The applicant, therefore, was selected for the post on the basis of his seniority. It was subsequently discovered that the appropriate method of selection was to call for volunteers before finalising selection, whereas the selection was confined only to two officials and the senior of the two was selected. Moreover, it was also later realised that the applicant had two punishments imposed on him and that those were current on the date of his selection. It is explained by the respondents that as the selection of the applicant was ab initio against rules and instructions of the Department, the appointment has had to be cancelled.

6. The failure to call for volunteers to fill up the vacant post or the failure to notice the currency of penalties against the applicant cannot certainly be attributed to him. It was a flawed selection basically due to the errors committed by the respondents. To that extent the applicant has had no role at all in the selection. He merely accepted the appointment on its being offered by respondent-3.

7. The basic issue in this case is not the conduct of the applicant in the matter of selection, but the manner in which his appointment was cancelled by the impugned order. Since the applicant was himself not at fault in the matter of selection and appointment, the least that was expected of the authorities was that a proper notice had to be served on him, and that he should have been given an opportunity to respond to the same. This was not done. Instead a precipitate and abrupt step was taken to cancel the appointment already made.

8. The following position is well established by law:-
- 1) By virtue of selection and subsequent offer of appointment and its acceptance, an official acquires a right to the post which cannot be taken away without atleast providing an opportunity to him. The applicant acquires the right on the strength of the selection made and by the fact that a regular appointment order was issued in his favour. The principles of natural justice would come in to play in such situations where a right inhering in a person is sought to be taken away, may be for sound administrative reason. And these principles would be considered as violated if no opportunity is at all provided to the affected person before resorting to summary action to cancel the selection. (1986 (3) (CAT) SLJ 385).
 - 2) The issue of an order ^{resulting in deprivation of} civil rights of an official has to be preceded by an appropriate notice and the due consideration of the official's objections and responses. (OA No.404/92 and 405/92 CAT, Madras Bench.).
 - 3) Even where an inadvertent administrative error is sought to be rectified, such corrective action could be translated ^{into} final action only after giving an appropriate notice to the person affected and after duly providing an opportunity to hear him. (1990 (13) ATC 630). The present case does not fulfil any of these conditions.
9. In view of what has been stated above the impugned order of the respondents cannot be sustained or upheld. The same is therefore hereby quashed.
10. Thus the OA is disposed of.


(H. RAJENDRA PRASAD)
MEMBER (ADMN.)

Dated: 2nd July 1997.

KSM


Deputy Registrar (D) ce

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O.A. 394/97.

To

1. The Chief Post Master General, A.P.Circle,
Hyderabad.
2. The Postmaster General,
Kurnool Region, Kurnool.
3. The Superintendent of Post Offices,
Cuddapah Postal Division, Cuddapah.
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 HHRP.M(.A) CAT.Hyd.
7. One copy to D.R.(A) CAT.Hyd.
8. One spare copy.

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28/12/97
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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE
VICE-CHAIRMAN

and

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 2-7-1997

ORDER/JUDGMENT

M.A./B.A./C.A.No.

in

C.A.No.

394/97

T.A.No.

(w.p.)

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दस्तावेज/DESPATCH

31 JUL 1997

हैदराबाद बेंच
HYDERABAD BENCH