

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
HYDERABAD

G.A.No.526 of 1997.

DATE OF ORDER: 24-8-1999.

BETWEEN:

S.Rajaiah.

...Applicant

a n d

1. Union of India, Rep. by its
Secretary, Department of Posts,
New Delhi.
2. The Director Postal Services,
O/o Post Master General, Hyderabad
Region, Hyderabad-500 001.
3. N.Anjaneya Rao.

...Respondents

COUNSEL FOR THE APPLICANT :: Mrs.S.Padma

COUNSEL FOR THE RESPONDENTS :: Mr.B.Narasimha Sharma (for R1&2)
: Mr.Ch.Jagannadha Rao (for R-3).

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

: O R D E R :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER(A))

Heard Mr.V.Suryanarayana Sastry for Mrs.S.Padma,
learned Counsel for the Applicant, Mr.B.Narasimha Sharma,
learned Standing Counsel for the Official Respondents, and
Mr.Ch.Jagannadha Rao, learned Counsel for the Respondent No.3.

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2. The applicant in this OA applied for the post of EDBPM, Dhulikatta Branch Office a/w Elgaid Sub Office, in response to the notification bearing Memo.No.B2-Dhulikatta-96, dated: 6-6-1996, (Annexure.A1, page.7 to the OA). The applicant was not selected. Respondent No.3 was selected.

3. This OA is filed to set aside the selection of Respondent No.3 on the ground that the reservation rules are not followed while issuing the impugned notification dated:6-6-1996.

4. The main contention of the applicant in this OA is that the cadre of EDBPM consists of 234 Staff of which the SC/ST Staff is only to the extent of 3 and hence the reservation of 15% for SCs and 7½% for STs is not followed, and hence the notification without any reservation for SC/ST is irregular and has to be set aside, and a fresh notification has to be issued indicating reservation for the post from amongst the eligible SC and ST Staff. In that case the selection of ~~Respondent No.3 has to be set aside.~~

5. The Apex Court repeatedly observed that a candidate who responded to a notification or appeared for the examination without any protest cannot challenge the result of that selection /if the case of the applicant is rejected in the selection. He is estopped from challenging the notification or the examination to which he applied without any protest.

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6. The present case is one of such cases. The applicant meekly without any protest applied for the post of EDBPM in response to the notification dated:6-6-1996. If he is aggrieved that the notification dated:6-6-1996 should not be one for open category candidates without reservations, then he should have challenged it even before applying for the same and obtained a Stay Order for the notification dated:6-6-1996. It is evident that he did not even protest against that notification by a representation addressed to the respondent-authorities. Hence, he is estopped from challenging the notification dated:6-6-1996. In that view the selection of Respondent No.3 as per the notification dated:6-6-1996 cannot also be challenged by the applicant herein.

7. The respondents in their reply have not given any details in regard to the availability of SC/ST reserved candidates in the cadre of ED Staff. When the applicant has stated the percentage of reservation in the EDBPM cadre in para.4 of the OA, the respondents should have connected the same with full details. But they failed to do so. But this is not the point for consideration in this OA.

8. In view of the reasons given above, the OA is liable to be dismissed. However, we observe that the respondents should immediately undertake a ^{urgent} statutory action to the ^{check} the availability ^{of} ~~the~~ wisdom of the reserved candidates in the cadre of ED Staff and provide necessary reservation in accordance with the rules while filling up the posts in future. ^{if there are no} ~~adequate number of~~ reserve Community Candidates ^{in the} ~~ED Cadre~~ as per rules.

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COPY TO:-

1. HDHNS
2. HRRN M (A)
3. HBSJP M (J)
4. D.R. (A)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

1st AND II nd COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

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

ORDER DATE. 24/8/99

MA/RA/CP.NO

IN

DA.NO. 526/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.A. CLOSED

R.A. CLOSED

O.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

