

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA NO. 533/97

Date of Decision: 22.7.97

BETWEEN:

G. Prabhakar

.. Applicant

AND

1. The Director of Postal Services,
Hyderabad Region,
Hyderabad
2. Postmaster General,
Hyderabad Region,
Hyderabad
3. The Superintendent of Post Offices,
Warangal Division,
Warangal.
4. Sk. Jani Mia
Sriramgiri

.. Respondents

Counsel for the Applicant: Mr. S. Ramakrishna Rao

Counsel for the Respondents: Mr. K. Bhaskara Rao

CORAM:

The Hon'ble Sri H. Rajendra Prasad; Member (Admn.) *Jay* *8/np*

The Hon'ble Sri B.S. Jai Parameshwar: Member (Judl.) *Jay*
22/7

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ORDER

(Per Hon'ble Sri B.S. Jai Parameshwar: Member (Judl.))

Heard Sri S. Ramakrishna Rao the learned counsel for the applicant and Sri K. Bhaskara Rao the learned standing counsel for the respondents. Notice has been served on respondent-4. He remained absent when this application was taken^{up} for hearing.

The post of EDBPM, Sriramgiri, in Warangal Division fell vacant due to retirement of the incumbent of the said post. An open notification was issued on 11.9.95 to fill up the said post. The applicant, the R-4 and 9 others responded to the said notification. On 26.10.95 the Sub-Divisional Inspector of post offices, Mahaboobabad Division, visited the village Sriramgiri and verified with the particulars furnished by the prospective candidates. After scrutinising the applications received in response to the said notification, the appointing authority selected^{the} Respondent-4^{to the post.} The applicant had submitted representation challenging the selection of Respondent-4 to the Director of Postal services.. It evoked no response.

The applicant filed OA No.862 of 96 challenging the selection of respondent-4. This Tribunal by its order dated 27.8.96 disposed of the said OA with a direction to the Director of postal services, Hyderabad urging to consider the representation of the applicant. The director of postal services mainly considered the representation of the applicant and by his letter No.H/ST/LC-51/96 dated 31.10.96 informed the applicant that the selection of^{the} respondent-4 was in accordance with the rules.

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Being agrieved with the said reply, the applicant has the filed this OA, again challenging the appointment of respondent-4 as EDBPM, Sriramgiri.

The respondents have filed their counter stating that the applicant, the respondent-4 and 9 others had responded to the open notification that after verification in the village as to the certificates furnished by the candidates they found respondent-4 suitable for the job and was selected and appointed in accordance with the rules that during the verification the Sub-Divisional Inspector of post offices found that the applicant had not possessed any immovable property in his name that the certificate produced by the applicant related to the father of the applicant that whereas the Respondent.4 had held property in his name that even though the applicant had secured higher marks in SSC examination than the Respondent.4, the respondent-4 was preferred as he had property in his name that in accordance with the directions given by this Tribunal in OA 862/96 Dt.27.8.96 that the representation of the applicant was considered accordingly, and an endorsement was given to the applicant that therefore there are no grounds to interfere with the selection of Respondent-4.

During the course of arguments, the learned counsel for the respondents produced the selection proceedings. He has also furnished copies of the applications of the applicant and the respondent-4. It is submitted that apart from the property certificate issued by the Mandal Revenue Officer, the respondent-4 had even furnished the xerox copy of Adangal register to substantiate his enjoyment of the landed property.

We feel, in view of the full bench decision of this Tribunal in OA No.57/91 Ambujakshi Vs. Union of India, any authority higher or superior to the appointing authority has not power, under Rule 16 of the EDA staff Service Rules or otherwise to review the Selection process and appointment made by the the appointing authority. Even appointing authority himself has

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no power to review the appointment once it is issued. In that view of the matter selection of Respondent-4 can be challenged only by an aggrieved person before the competent judicial forum.

Besides, ~~upon~~ going through the selection proceedings we find that the applicant himself had no landed property in his name. The property certificate produced by the applicant was in the name of his father. It is submitted that the applicant being the only son had every right to inherit the property held by his father. There is no dispute as to succession but as on ^{the} date of submission of the application for the post the applicant had not possessed any property in his name. He had not given the detailed particulars to the Sub-Divisional Inspector of Post Offices ~~on~~ the fact that he had every enjoyable right over the property held by his father. In fact on the property certificate produced by the applicant the Sub-Divisional Inspector of Post Offices had made a mention to the effect that the applicant had no ~~saleable~~ rights over the property held by his father. Likewise on the property certificate ~~produced~~ produced by respondent-4, the Sub-Divisional Inspector ^{of} Post Offices made a mention that the respondent-4 had the ~~saleable~~ rights over the property held by him and as described in the property certificate. To corroborate this the respondent-4 had also given the extract of Adangal Register.


It is an accepted principle that when everything being equal the marks in SSC are to be taken into consideration. When everything not being equal then the appointing authority has to depend upon other considerations. In this case the learned counsel for the respondents contended that all things between the applicant and respondent-4 were being unequal

into
the appointing authority took ~~the~~ consideration of salable
over the
rights ~~of~~ the property held by Respondent-4. The learned
of
counsel further submitted as regards possessing immovable pro-
the
perty ~~which~~ is a necessary criteria to establish means of
livelihood. The appointing authority preferred the case of
respondent-4. In that view of the matter we find no reasons
to interfere with the selection process of the Appointing
That apart
Authority. / However, the respondent-4 is holding the post for
now
more than a year. There are no grounds to set aside the selection
as contended by the learned counsel for the applicant. We
feel that facts between the applicant and respondent-4 were being
unequal the appointing authority preferred the case of the
respondent-4.

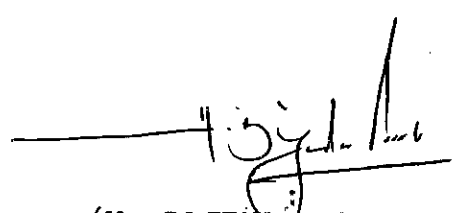
Thus we find no reasons to interfere with the selection
as well as the subsequent letter dated 31.10.96 through which
the respondents complied with the directions given in OA No.862/96.

Hence we are fully convinced with the selection of
Respondent-4 as EDBPM, Srirangiri, is in accordance with the rules.

In that view of the above we find no merits in this OA.
Accordingly, the same is dismissed but without order as to costs.


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

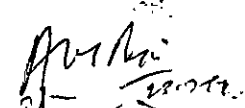
22.7.97


(H. RAJENDRA PRASAD)
MEMBER (ADMN.)

22 Jul 97

Date: 22.7.1997

KSM


Deputy Registrar (D) CO

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O.A.533/97

To

1. The Director of Postal Services,
Hyderabad Region, Hyderabad.
2. The Postmaster General,
Hyderabad Region, Hyderabad.
3. The Superintendent of Post Offices,
Warangal Division, Warangal.
4. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
5. One copy to Mr.K.Bhaskar Rao, Addl.CCSC.CAT.Hyd.
6. One copy to HBSJP.M.(J).. CAT.Hyd.
7. One copy to D.R.(A) CAT.Hyd.
8. One spare copy.

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29/7/97

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IN

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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)

The Hon'ble Mr. B.S. Jaisankaran: M(O).

Dated: 22-7-1997

ORDER/JUDGMENT

M.A./R.A./C.A.No.

in

G.A.No. 533/97.

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

pvm

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
HYDERABAD BENCH
22/7/97
[Signature]