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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..

O.A.No.669 of 1997.

Date of decision: 23--5--1997.

Between:

Smt. B.K.Nagaratnamma.

.. Applicant.

And

The Superintendent of Posts,
Department of Posts,
Guntakal Division, Guntakal-515 801,
Anantapur District.

.. Respondent.

Counsel for the applicant:

Mr. Sri S. Sriram.

Counsel for the respondent:

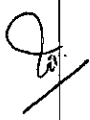
Sri V.Bhimanna.

JUDGMENT.

(by HON'BLE SHRI H.RAJENDRA PRASAD, MEMBER (A) )

..

Heard Sri S. Sriram, learned counsel for the applicant
and Sri V.Bhimanna, learned Additional Standing counsel for
the respondent. Both the counsels submitted their arguments
elaborately.



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The applicant has been functioning as EDBPM on a provisional basis at Yerragunta. The intriguing aspect of the case is that the applicant seems to have been given such an appointment despite the fact that she is not educationally qualified for the post. This is obvious from the statement of the applicant herself that she has appeared for the SSC Examination and is still awaiting the results. This would lead to an inference that the provisional appointment of the applicant itself was not in accordance with law in so far as the educational qualification aspect of the applicant is concerned. Another puzzling aspect of the case is, that whereas the regular BPM passed away on 10-9-1996, one lady by name Smt. S.S. Shailaja worked as a 'substitute' BPM from 11-9-1996 for a period of 13 days. It is not clear how any person can act as a 'substitute' for some one whose death has occurred a day prior to the assumption of charge of the said substitute. The whole process of filling up the vacancy of EDBPM appears to have been full of procedural irregularities and contradictions.

Be that as it may, the fact remains that the applicant has been functioning as EDBPM from 23-9-1996 and, according to her own statement continues to do so.

[Signature]

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It is submitted on her behalf that the results of the Matriculation examination are expected to be declared during the month of June, 1997, whereas the last date for receipt of applications as per Annexure I is 28--5--1997, a date which falls short of the former by just a month approximately. In order to rectify the apparent initial error of having appointed the applicant (despite the fact of her inadequate qualification) and also the fact that the provisional appointment of the so-called substitute (also apparently irregularly appointed) was replaced by another provisional appointment (of the applicant), it would only stand to reason if the applicant herself, who was allowed to work for more than six months be allowed a fair opportunity of consideration of her claim. This may mitigate the rigour of the original error committed by the respondent but it may at least repair to some extent the irregularity that took place in the whole process of manning the vacant post.

Considering the facts and circumstances of the case as revealed in the O.A., it is fair and equitable to direct the respondent not to finalise the selection of any candidate for the post till the end of June, 1997. Till then, the provisional arrangement, which has been allowed to continue for more than six months, shall continue and the applicant need not be dis-lodged from the post of EDBPM. If, in the meanwhile, the results of the Matriculation examination of the applicant are declared, her candidature for the said post



shall be considered along with that of the other candidates who have applied for the said post. It is left open to the respondents to select the most eligible and suitable candidate for the said post in accordance with law.

It has been submitted on behalf of the applicant that she is quite willing to be considered for the post under the normal rules of recruitment without invoking consideration under compassionate appointment. Selection to be made thus shall be entirely on merit among the candidates.

As regards the compassionate appointment, it was submitted by Sri Bhimanna, counsel for the respondents that it is not open to the applicant to claim a particular post and she can only be considered for appointment under compassionate grounds, which is a separate issue altogether. These two issues have been mixed up in this O.A. The element of compassionate appointment cannot be permitted in the present selection.

If the applicant, so advised, may separately pursue the case of compassionate appointment with the Departmental Authorities without, in any way, mixing

[Signature]

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it up with the proposed selection of EDBPM, Yerragunta.

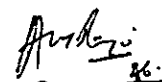
Thus the O.A., is disposed of. No costs.


H. RAJENDRA PRASAD,
MEMBER (A)

Date: 23--5--1997.

Dictated in open Court.

SSS.


Deputy Registrar (A) ^{26.5.97.}

NOTE:

C.C. today.

(B.O.)


(S. SIVA SANKARAM)

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O.A. 669/97.

To

1. The Superintendent of Posts,
Dept.of Posts, Guntakal Division,
Guntakal-801.
Anantapur Dist.
2. One copy to Mr.S.Sriram, Advocate, CAT.Hyd.
3. One copy to Mr.V.Bhimanna, Addl.CGSC. CAT. Hyderabad.
4. One copy to ~~Mr~~ Hon'ble Member(A) CAT.Hyd.
5. One copy to D.R.(A) CAT.Hyd.
6. One spare copy.

pvm.

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19/6/97

T COURT

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: 23-5-1997

~~ORDER~~ JUDGMENT

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

in

O.A.No. 669/97.

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.

Case I to note

*M. S. and it is approved
of fair copy of the order after
despatch.*

pvm

