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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :HYDERABAD BENCH

AT HYDERABAD

O.A.706/97

Dt. of Decision : 2-3-98.

S.Suresh Kumar

.. Applicant.

Vs

1. The Asst. Superintendent of Post Offices,
Hyderabad, West Sub Division, Hyderabad.

2. The Sr. Supdt. of Post Offices,
Hyderabad City Division, Hyderabad.

3. M.Chandra Sekhar

.. Respondents.

Counsel for the applicant : Mr.S.Ramakrishna Rao

Counsel for the respondents : Mr.N.R.Devaraj, Sr.CGSC.

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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

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ORDER

(Oral Order Per Hon'ble Shri R.Rangarajan : Member (Admn.)

Heard Mr.S.Ramakrishna Rao, learned counsel for the applicant and Mr.N.R.Devaraj, learned counsel for the respondents.

^{Notice}
R-3 was served ^{on R-3} notice on 3rd August, 1997. R-3 though received notice long back, was not present nor his counsel was present.

Hence the OA is disposed of as under:-

2. R-1 approached the Hyderabad District Employment Exchange on 1-10-96 to sponsor the candidates for filling up 16 extra departmental posts including the post of E.D.S.V, Narayanaguda Post Office. No reply was received from the employment exchange and hence an open notification was issued on 2-12-96 to fill up the post of EDSV, Narayanaguda Post Office. The said vacancy of Narayanaguda post office arose due to the promotion of regular incumbent of the ED Post Smt.M.Sashirekha as regular Postwoman. It is stated ~~that~~ by the respondents that to the said open notification 10 applications including the application of the applicant herein were received. While the matter stood thus the Hyderabad Employment Exchange vide its letter dated 12-12-96 asked the first respondent to notify vacancies category-wise separately. Accordingly, the Employment Exchange was notified and inturn 20 candidates were sponsored on 28-2-97. The name of the applicant was not sponsored by the Employment Exchange. It is stated that no one had fulfilled the conditions for appointment of EDSV from amongst the 20 candidates sponsored by the employment exchange in response to the letter dated 28-2-97. Hence an open notification was issued on 12-5-97 inviting applications to fill up the post of EDSV, Narayanaguda post office. In response to the said open notification only 3 applications were received within the due date. The applicant herein has not applied in pursuance to the open notification dated 12-5-97 and he approached this Tribunal on 6-6-97 filing this OA. In the meanwhile CPMG, A.P.Circle, Hyderabad

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had communicated to the R-2 to appoint Sri.M.Chandrasekhar as ED Agent on regular basis on sports quota by allotting him to Hyderabad West Sub-Division for posting vide letter No.WLF/OSP/Rectt./97-98 dated 20-5-97. Accordingly, the said Chandrasekhar has been posted to Narayanaguda Post Office by the 1st respondent vide letter No. EDSV/Narayanaguda/97 dated 4-6-97 duly terminating the provisional services of the applicant. R-3 had taken over the charge of the post on 7-6-97 forenoon.

3. This OA is filed to set aside the second notification ~~which was notified~~ dated 12/13-5-97 without cancelling the earlier notification dated 2-12-96 and for a consequential direction to the respondents to select a candidate from among the applications received pursuant to the notification dated 2-12-96 and to appoint the applicant who is eligible for the post with all consequential benefits.

4. From the above narration of the facts, the respondents at the first instance approached the Hyderabad District Employment Exchange for sponsorship of the candidate. When the employment exchange failed to sponsor any candidate, the respondents have taken the correct step of issuing the open notification dated 2-12-96. In response to the first notification there were 10 applications including that of the applicant. Instead of finalising this notification when the Hyderabad employment exchange asked the respondents to renotify to the said employment exchange/~~xxxxxxxxxx~~ the respondents ~~xxxxxxxxxx~~ without any hesitation and without going into the legal implication in the issue of the first notification and even without cancelling the first notification dated 2-12-96 responded to the request made by the Hyderabad Employment Exchange. ^{Dismiss} No rule or even departmental instruction has been produced to show such an action of the respondents is in order. Even the sponsored candidates by the employment exchange on 28-12-97 did not qualify for

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the posting. Hence the respondents issued second open notification dated 12-5-97. At that stage itself the respondents could have corrected their earlier mistake by finalising the selection on the basis of the first notification issued on 2-12-96. Even the second notification dated 12-5-97 did not fructify. In the mean time, the Chief Post Master General had sponsored some candidates who are well ^{add} up in sports, to fill up the post of Narayanaguda by posting the candidates selected against sports quota. At that stage R-2 could have informed the CPMG in regard to the earlier developments and ask for proper guidance before filling up the post. Instead of doing so R-2 without any reason posted the R-3 sponsored by the CPMG against the sports quota. If the sports quota candidate has to be appointed he could have been appointed in some other vacant post. Alternatively, the whole case could have been reviewed and even the first notification and second notification could have been cancelled for appropriate reasons and that was conveyed to the concerned. That was also not done. Without cancelling the earlier notifications, R-3 was posted at the instance of the CPMG, Hyderabad without any rhyme or reason. Hence the irregularity was continued after the issue of the first notification dated 2-12-96. Such irregularities committed cannot be condoned, just because a sports quota candidate has to be accommodated in that post. We do not stand in the way of CPMG or R-2 to appoint R-3 in any other vacant post if he is to be accommodated for bettering the sports activities in the postal department. We do not express any opinion in this connection and the authorities will act as per rules. However we are concerned in regard to the filling up of the vacancies of the EDSV, Narayanaguda without following any rules. In our opinion, the open notification

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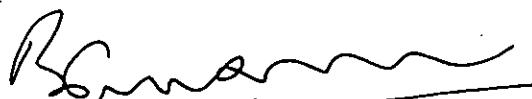
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when not cancelled that notification cannot be treated as lapsed. Hence it has to be held that the first notification dated 2-12-96 is very much in force and the respondents should act in selecting the suitable candidate for the post of EBSV, Narayanaguda as per first notification dated 2-12-96.

5. In view of the above, we direct the R-1 to select the suitable candidate from amongst those who had applied in response to the first notification dated 2-12-96 and fill up the post of EDSV by the regularly selected candidate. Till such time the regularly selected candidate is posted as EDSV, Narayanaguda, the R-3 shall be continued as provisional EDSV of the said post office.

6. With the above direction the CA is disposed of. No costs.

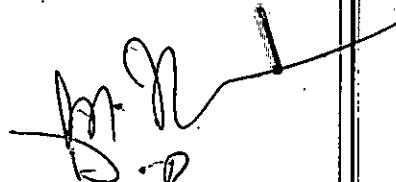


(B.S.JAI PARAMESHWAR)
2/3/98 MEMBER (JUDL.)



(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 2nd March, 1998.
(Dictated in the Open Court)



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Copy to:

1. The Asst.Superintendent of Post Offices, Hyderabad West Sub Division, Hyderabad.
2. The Senior Superintendent of Post Offices, Hyderabad City Division, Hyderabad.
3. One copy to Mr.S.Ramakrishna Rao,Advocate,CAT,Hyderabad.
4. One copy to Mr.Mr.N.R.Devraj,Sr.CGSC,CAT,Hyderabad.
5. One copy to D.R(A),CAT,Hyderabad.
6. One Duplicate copy.

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CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

THE HON'BLE MR. B. S. JAI PARAMESHWAR:
M(J)

DATED: _____

ORDER/JUDGMENT

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

in

C.A.NO.

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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