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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.NO. 762/97

Date of Order : 7.1.99

BETWEEN :

Durga Pochaiah

.. Applicant.

AND

1. Sub-Divisional Inspector (Posts),  
Sirpur Kagaj Nagar Dist, Adilabad.
2. Superintendent of Post Offices,  
Adilabad Division, Adilabad.
3. The Post Master General,  
Hyderabad Region, Hyderabad.
4. K.Bhimaiah

.. Respondents.

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Counsel for the Applicant

.. Mr. S. Ramakrishna Rao

Counsel for the Respondents

.. Mr. V. Rajeswara Rao

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CORAM :

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

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

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O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Mr. S. Ramakrishna Rao, learned counsel for the applicant and Mr. V. Rajeswara Rao, learned standing counsel for the respondents. Notice served on R-4. Called absent.

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2. The applicant in this OA was appointed as a provisional EDMC/PKR, Wankidi SO as the regular incumbent of that post. was pending against him. R-4 placed off duty due to some criminal case. The appointment of the applicant as EDMC/PKR Wankidi on provisional basis was terminated by R-1. However when the applicant appealed against that to R-2, R-2 directed R-1 to take back the applicant on provisional basis. Accordingly, the applicant was taken back on duty by memorandum dated 12.3.96 on provisional basis, with a condition that if it is decided to take back Sri K.Bheemaiah, R-4 herein who was placed off duty, the services of the applicant will be terminated.

3. It is stated that R-1, after the outcome of the judgement against the regular incumbent R-4 under P&T of EDA (Conduct and Service) Rules 1964 and finalised the proceedings by debarring him for appearing for the departmental examination for a period of not exceeding 3 years from 1.4.97 and reinstated him w.e.f. said date. Hence the services of the applicant who was working as EDMC/PKR on provisional basis were terminated by the impugned order dated 31.3.97 (A-1).

4. This OA is filed to set aside the impugned proceedings No. B/PF/EDMC/97 dated 31.3.97 and for a consequential direction to the respondents to reinstate the applicant into service with immediate effect treating the break as continuous service, with all consequential benefits.

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5. It is an admitted fact that the applicant was only a provisional appointee. Hence when the regular incumbent joined the post he has to give place to the regular incumbent. Hence his services were terminated after the regular incumbent i.e. R-4 herein joined the service. Hence the termination order of the applicant cannot be questioned. However, we find that the applicant has been informed by the same impugned order that his name will be noted in the office register for considering his case in future <sup>for appointment</sup> vacancy in the post of EDAs as he had rendered 3 years of service in the department as EDMC. This portion of the letter gives the applicant a right for consideration in accordance with the rules in the post of EDA as he had put in more than 3 years of service on provisional basis. The learned counsel for the applicant submits that the currency of his name in the register will be the above order by registering only for one year and if it has to be kept for more than a year then the approval of the PMG of the region is necessary. Hence he requests for retention of his name also in the register even after one year.

6. The applicant may submit a representation for retaining his name in the register for consideration for the post of EDA even after a lapse of one year from the date of issue of the letter dated 31.3.97 to the PMG of the region. The PMG of the region should consider his case and pass suitable orders taking a sympathetic view.

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7. In the result, the OA is disposed of subject to the above observations made in para-6 above. No costs.

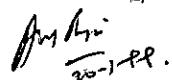
  
( B.S. JAI PARAMESHWAR )  
Member (Judl.)

7.1.99

  
( R. RANGARAJAN )  
Member (Admn.)

Dated : 7th January, 1999

(Dictated in Open Court)

  
Amulya  
wpp.

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9/1/99  
1ST AND 2ND COURT

COPY TO:-

1. HDHN J
2. HHRP M(A)
3. HBSJP M(J)
4. D.R.(A)
5. SPARE

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD.

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

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

THE HON'BLE MR. R. RANGARAJAN :  
MEMBER (A)

THE HON'BLE MR. B. S. JAI PARAMESWAR :  
MEMBER (B)

DATED: 7-1-99

ORDER / JUDGMENT

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

In

D.A. NO. 762/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALL QUED

~~DISPOSED OF WITH DIRECTIONS~~

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

(8 copies)

