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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 829/97

Date of Order : 6.1.99

BETWEEN :

K.Eswara Rao

.. Applicant.

AND

1. The Asst.Superintendent of POs,
Parvathipuram Sub-Division,
Parvathipuram.

2. The Superintendent of POs,
Parvathipuram.

3. The Director-General, Posts,
(reptg. Union of India),
New Delhi.

4. M.Rama Rao .. Respondents.

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Counsel for the A pplicant .. Mr.C.Suryanarayana

Counsel for the Respondents .. Mr.V.Bhimanna

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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

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

Mr.C.Suryanarayana, learned counsel for the applicant and Mr.V.Bhimanna, learned standing counsel for the respondents. Notice has been served on R-4, called absent.

2. The applicant submits that he was engaged as a provisional EDBPM of Pedasakha B.O. as the regular EDBPM of that post office ^{had} tendered his resignation on promotion as Postman and the resignation was accepted by the SPOs, Parvathipuram vide memo dated 29.6.94. The applicant further submits that he had joined as a provisional EDBPM of that post office on 13.6.94 as per the oral orders of the ASPO of that sub division. For this he relies on Annexure-2 document which is a charge report of the applicant. However the respondents in their reply submit that the applicant was provisionally appointed as EDBPM of that post office only from 8.8.64. There is a dispute in regard to his appointment on provisional basis, ^{during} the period from 13.6.94 to 7.8.94.

3. To fill up the vacancy of EDBPM, Parvathipuram Post Office, Employment Exchange was notified on 30.6.94. As there was no response from the employment exchange, general notification was issued on 26.8.94 fixing last date for receipt of applications as 26.9.94. As only one application was received the vacancy was re-notified on 12.10.94. In that notification

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the last date ~~of~~^{for} applications to be received by R-2 is noted as October 1994. It does not indicate the date of receipt of applications in October. In the reply it is stated that the last date ~~of~~^{for} applications to be received by the respondent authorities is 14.11.94. The learned counsel for the applicant submits that it can be/best as 31.10.94 and it cannot be 14.11.94.

4. In response to notification dated 12.10.94 five applications were received and out of the 5 one was^{received} beyond the last date. Amongst the 4 applications received applicant and R-4 were considered along with 2 others. R-4 was found meritorious as having obtained highest marks in S.S.C. compared to the other 3 candidates including the applicant herein. Hence R-4 was selected. R-4 is an S.C. candidate. But the respondents submit that even though he was an SC candidate no consideration was given for his community, but against unreserved post he was selected^{on the basis of the marks obtained by him} in S.S.C.

5. This OA is filed for setting aside the appointment of R-4 and for a consequential direction to regularise the services of the applicant as EDBPM.

6. The first contention of the applicant is that the applicant had applied well in time before 30.10.94 and the others had applied later and hence their cases should not be considered. We have checked the file containing the

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receipt of the applications by all the 4 candidates. All were received the 4 applications after 31.10.94 in the month of November on or earlier to 14.11.94. Hence the contention as above is not found to be correct on the basis of the records. Hence this contention is rejected.

5. The second contention of the applicant is that the applicant joined as a provisional candidate on 30.6.94. He was discharged on 17.6.97 appointing the regular candidate. But by then he had completed more than 3 years of service. Hence he should have been regularised in that post instead of R-4 herein. For this he relies on the letter of the D.G.P&T No. 43-4/77-Pen. dated 18.5.79.

6. When the notification was issued the applicant was not having 3 years of service. Hence the notification was taken to the logical conclusion and R-4 was appointed, though it took quite considerable time before appointing R-4. In view of that it cannot be said that the case of the applicant was prejudiced by appointment of R-4. However as per the D.G.P&T letter dated 18.5.79 a provisional candidate who had put in more than 3 years of service has to be given alternative appointment. For that the applicant can approach the respondent authorities as mentioned on the date of discharge, the applicant had put in more than 3 years of service the OA cannot be allowed. The remedy for the applicant is to approach the respondent authorities for alternate appointment in view of the letter of the D.G.P&T dated 18.5.79

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Further there is a dispute in regard to his provisional appointment from 13.6.94 to 7.8.94. This OA is not filed to adjudicate in that connection. This OA is filed challenging the appointment of R-4 only. Hence it is appropriate if the applicant is permitted to file a representation in this connection in accordance with the rules, and the respondent authorities ^{have} ~~has~~ to reply that representation.

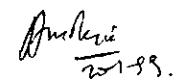
7. In view of what is stated above, the OA is liable only to be dismissed accordingly it is dismissed. But liberty is given to the applicant to approach the respondent authorities to provide him an alternate job in accordance with the D.G.P&T letter dated 18.5.79. That representation should be disposed of in accordance with the rules considering his ~~length~~ of service as a ~~provisional~~ appointee in the department. If the respondents reject his representation a speaking order should be issued to him. The applicant is at liberty to challenge that speaking order if ~~so~~ aggrieved.

8. No costs.


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


(R.RANGARAJAN)
Member (Admn.)

Dated : 6th January, 1999
(Dictated in Open Court)


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20/1/99
1ST AND 2ND COURT

COPY TO:-

1. HON. J
2. HHRP. M(A)
3. HSSP. 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: 6/1/99

ORDER/JUDGMENT

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

In

D.A. NO. 829/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DROPPED/REJECTED

NO ORDER AS TO COSTS

SRR

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