

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 891/97

Date of Order : 27.8.98

BETWEEN :

K.Rama Murthy

.. Applicant.

AND

1. Asst. Superintendent of Post
Offices, West Sub-Division,
Hyderabad.
2. Sr. Superintendent of Post Offices,
Hyderabad City Division,
Hyderabad.
3. Vijaya Bai

.. Respondents.

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Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

.. Mr.V.Bhimanna
for R-1 and 2

.. Mr.K.S.R.Anjaneyulu
for R-3.

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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.)]

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Mr.S.Ramakrishna Rao, learned counsel for the applicant
Mr.V.Bhimanna, learned standing counsel for R-1 and 2 and
Mr.K.S.R.Anjaneyulu, learned counsel for R-3.

2. The facts in this OA are similar to OA.721/97 which was disposed of on 26.3.98. R-3 was ^{the} selected candidate as per the present position of the respondents. The contentions raised in this OA are the same as contentions raised in the other OA referred to above. Hence it is not necessary for us to further elaborate the views expressed in that OA. We are limiting it to the contention now raised by Sri K.S.R.Anjaneyulu, learned counsel for R-3 for disposal of this OA. Hence the judgement in this OA has to be read in continuation of the judgement in OA.721/97.

3. The learned counsel for R-3 submitted that R-3 was selected on the basis of candidates sponsored by the employment exchange and the first notification was also set aside by the department. Before the finalisation of the selection, names had been sponsored by the employment exchange. Hence there is no need to consider the candidates who responded to the notification. Alternatively those responded to the notification may also be considered along with those who had been sponsored by the employment exchange. Consideration of the applications sponsored by the employment exchange along with the applicants who responded to the first notification is fair as the first notification has not reached the final stage and the applicants sponsored

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by the employment exchange cannot loose the opportunity as they had registered their names in the employment exchange. As ~~the R-3~~ R-3 had put in about a year of service as an ED staff ~~and~~ setting aside her selection is not called for.

4. On the otherhand the learned counsel for the applicant submitted that in view of the DGP&T letter dated 1.5.86 the contentions of the R-3 has to be rejected. As per the letter quoted above if the employment exchange had sponsored less than 3 candidates and that necessitated for issuing of an open notification then the letter of DGP&T dated 1.5.86 will apply. In that case the candidates sponsored by the employment exchange which is less than 3 and the candidates who responded to the open notification should be considered together and a suitable candidate has to be selected. It is further added by the learned counsel for the applicant that the employment exchange had sponsored no candidate within the stipulated time. Even the clarification asked for is after the stipulated time. Hence it has to be taken that the employment exchange failed to sponsor the candidates and that necessitated issue of first notification. In that context the letter of DGP&T dated 1.5.86 has no relevance in this case.

5. We have considered the contentions on both sides. The letter of DGP&T dated 1.5.86 is extracted below :-

"In the event of the Employment Exchange failing to sponsor the minimum number of candidates, the vacancy should be notified through public advertisements and while making the final selection, the comparative merit of all the candidates, i.e. those who respond to the notification as also those sponsored by the employment exchange should be taken into consideration".



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6. A reading of the letter clearly indicates that if only less than 3 candidates were sponsored by the employment exchange within the stipulated time of the postal authorities then only the open notification can be resorted to. If that happens ^{then} ~~that~~ the candidates sponsored by the employment exchange which is less than 3 in number should also be considered along with the applicants who responded to the open notification. It is stated in the letter dated 1.5.86 that " It has, therefore, been decided that in future sponsoring of atleast three candidates by the Employment Exchange should be insisted upon. In case of any difficulty in this regard, the matter may be taken up with the Director of Employment Exchanges of the State Government Concerned. Normally, they have instruction to send a panel of candidates not less than thrice the number of posts notified to them. In the event of the Employment Exchange failing to sponsor the minimum number of candidates, the vacancy should be notified through public advertisements and while making the final selection, the comparative merit of all the candidates, i.e., those who respond to the notification as also those sponsored by the employment exchange should be taken into consideration".

The above instructions are clear and may not require any further elaboration. In this case, number of candidates sponsored by the employment exchange within the stipulated time is zero. The candidates were sponsored only after the stipulated time. Hence if the letter of D.G.P & T is read in letter and spirit then it would mean that no candidate sponsored by the employment exchange can be clubbed with those who responded to the first notification for finalising the Selection. Only the candidates

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responded to the open notification should be considered for selection. This is the view we have taken also in the earlier OA referred to.

7. The learned counsel for R-3 submits that the spirit of the rule is that those sponsored by the employment exchange before finalisation of the selection on the basis of the open notification has to be considered because the employment exchange had sent the applications to the department recommending their cases. In our opinion the respondents had acted without any rule while considering the applications of the candidates sponsored by the employment exchange. If the departmental authorities had read the letter of D.G.P&T dated 1.5.86 correctly then that error would not have crept into. Hence the error committed cannot be corrected by this contention. Hence the contention is rejected.

8. In view of the above the OA is allowed with the following direction:-

The selection of R-3 is set aside. The post of EDSV, Kakatiyanagar should be filled by selecting the suitable candidates from amongst those who had applied in response to the notification dated 2.42.96. Till such time, the regular appointment is made, the present incumbent shall continue as a provisional candidate.

9. It is brought to our notice that R-3 had put in a year of service as ED Agent. Hence learned counsel for R-3 submits that she cannot be discharged without giving any relief to her. In view of that her case also should be considered if any notification is issued for filling up E.D.Staff in that location in future in addition to those applications received in response to that notification.

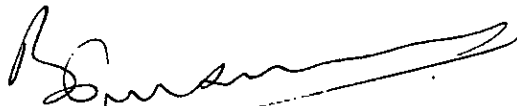
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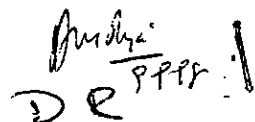
To enable her to apply a copy of the notification should be supplied to her to the address given in this O.A.


(B.S. JAI PARAMESHWAR)
Member (Judl.)
21.8.98


(R. RANGARAJAN)
Member (Admn.)

Dated : 27th August, 1998

(Dictated in open Court)


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Copy to:

1. Asst. Superintendent of Post Offices,
West Sub Division, Hyderabad.
2. 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. V. Shimanna, Addl. CGSC, CAT, Hyderabad.
5. One copy to Mr. K. S. R. Anjaneyulu, Advocate, CAT, Hyderabad.
6. One copy to D. R (A), CAT, Hyderabad.
7. One duplicate copy-

YLKR

28/9/98

II COURT

TYPED BY

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

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

DATED: 27/8/98

ORDER/JUDGMENT

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

in

C.A.NO. 891/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS ✓

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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