

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

R.A. 15/99 IN O.A.544/97

Dated, the 26th March, '99.

BETWEEN :

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|---------------------|--------------------|
| 1. MA Mohiddin | 6. D.Satyanarayana |
| 2. M. Bhaskara Rao | 7. K.Krupa Rao |
| 3. SK Khadar Basha | 8. T. Mohana Rao |
| 4. P. Venkata Kumar | 9. J.Venkat Rao |
| 5. I. Douglas | |

.... Applicants.

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1. The Head Record Officer,
RMS 'Y' Division,
Vijayawada.
2. The Sr.Superintendent, RMS,
'Y' Division, Vijayawada,
3. The Postmaster General,
Vijayawada.
4. The Chief Postmaster General,
AP Circle, Hyderabad.
5. The Director General, Posts
Reptg. Union of India),
New Delhi.

.... Respondents.

COUNSELS :

For the Applicants : Mr. C.Suryanarayana
For the Respondents : Mr. B.Narasimha Sarma

CORAM:

THE HON'BLE MR. R. RANGARAJAN, MEMBER (ADMIN)

THE HON'BLE MR. B. S. JAI PARAMESHWAR, MEMBER (JUDL)

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(PER: HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER(JUDL)

1. Heard Mr. C. Suryanarayana, Learned Counsel for the applicants and Mr. M.C. Jacob, a for Mr. B.N.Sarma, Learned Standing Counsel for the respondents.
2. The applicants have filed this application praying for review of the order dt. 4.1.99 passed in O.A.544/97.
3. On the basis of the examination held during 1990 a select panel of 21 candidates including the applicants was prepared for appointment as regular full time Mailmen in Group 'D' Cadre in the Office of the Sr.Superintendent, RMS 'Y' Division, Vijayawada.
4. In the said panel the position of the applicants herein was at Srl. Nos.8 to 11, 14, 16, 19, 20 and 15 respectively. However, in the order dt. 4.1.99 their positions were not properly indicated in para 3 of the order. The applicants prayed for correction of the said para. Accordingly in line 4 of para 3 Srl. Nos.14, 15, 16, 19 and 20 be deleted and in its place the following numbers be inserted i.e. 8 to 11, 14, 16, 19, 20 and 15.
5. Likewise in para 7(c) the following phrase be inserted
"which gives general instructions on recruitment rules"
in place of the phrase -
"which gives the general recruitment rules".
6. The respondents, changed the policy of recruitment of regular Mailmen w.e.f. 28.8.90. The change was introduced by selection of EDAs to Group 'D' post on the basis of the length of service by seniority.
7. Out of the said panel only 10 candidates were appointed.

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R.A.15/99 IN OA 544/97

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8. Since there was change in the policy, vide letter dt. 28.8.90, the PMG, AP Circle, Hyderabad vide his letter dt. 2.8.96 directed the PMG, Vijayawada to give show cause notices to the affected persons in the panel and after obtaining reply the case may be referred to Circle Office.

9. Further, the respondents submit that the SSRM, RMS 'Y' Division had wrongly calculated the vacancy position; that in fact the actual vacancies at the time examination held in August, 1990 was only 10, but inadvertently notified as 21 and hence the panel of 21 names was prepared. This, they submit was one of the reasons for keeping the panel alive.

10. Considering these arguments, we felt it proper to direct the respondents to verify the factual aspect of the actual vacancy position at the time of the applicants appearing for the Examination and to take a decision. We observed then that the change of policy as indicated in letter dt. 28.8.90 had only prospective effect and that cannot be taken for filling up the vacancies that had arisen earlier to 28.8.90. We, further stated that the vacancies of regular Mailmen in Group 'D' Scale which arose in Vijayawada Division prior to 28.8.90 must be filled in accordance with the rules then existing and in force and not by the changed policy by the letter dated 28.8.90. We, directed the respondents to ascertain whether there were any vacancies earlier to 1.1.91 due to death or voluntary retirement or promotion, etc.

11. The applicants relying upon the decision of the Hon'ble Supreme Court in the case of Prem Prakash V. Union of India and Others (reported in 1985 SCC(L&S) 349) contend that once a person is declared successful according to merit list of selected candidates the appointing authority has the responsibility to appoint him even if the number of vacancies change, if his name is included in the list of

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selected candidates para (15). No doubt, the applicants who were in in the panel have to be appointed provided the clear vacancies were available. The contention of the respondents is that the RMS 'Y' Division had wrongly calculated the vacancy position as 21, instead of 10. In this case, the vacancy position has been reduced.


12. A panel was prepared for 21 when the vacancies were itself were 10. In such a situation the person in the panel cannot claim appointment.

13. It is in this background, we directed the respondents to verify the actual position and also to consider whether there were any vacancy due to death, voluntary retirement and promotion and to consider the cases of the applicants. Though the decision cited by the learned counsel for the applicants cannot squarely apply to the facts of the case, the change has occurred due to wrong calculations of the vacancy position by the respondents. It is, therefore, for the respondents to verify and ascertain as to what was the actual position, when the examination was ^{in Aug 1990} held and to fill up the vacancies as per the rules then in force and not by the changed policy by the letter dt. 28.8.90.

14. In that view of the matter, we do not find any error apparent on record warranting review. Hence, the R.A. is liable to be dismissed, *save corrections to be made as above.*

15. The R.A. is accordingly dismissed. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL)


(R RANGARAJAN)
MEMBER (ADMIN)

Dated, the 26th March, '99

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