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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1200/97

Date of Order: 7.11.97

BETWEEN :

A.Venkatesu

.. Applicant.

AND

1. Union of India, rep. by
The Chief Postmaster General,
A.P.Circle, Hyderabad.
2. The Postmaster General,
Kurnool Region, Kurnool.
3. The Superintendent of Post Offices,
Kurnool Division, Kurnool.
4. Chandra Sekhar Naik

.. Respondents.

Counsel for the Applicant

.. Mr.Y.Appala Raju

Counsel for the Respondents

.. Mr.K.Bhaskara Rao

CORAM:

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

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

O R D E R

X As per Hon'ble Shri B.S.Jai Parameshwar, Member (Judl.) X

Mr.Y. Appala Raju, learned counsel for the applicant and
Mr.K.Bhaskara Rao, learned standing counsel for the respondents.
R-4 served, he has remained absent.

2. The EDBPM, Uppalapalli BO, Tuggali Mandal, Kurnool District
fell vacant on account of the discharge of the regular incumbent
of that post. An open notification was issued on 14.11.96 fixing
13.12.96 as the last date for receipt of applications. In response
to the notification, the applicant submitted his application. In
the meanwhile as per the directions of Director of Postal Services

[Signature]

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the respondents renotified the vacancy vide their letter dated 27.2.97 and a fresh notification was issued fixing the last date as 30.4.97. In response only 2 applications were received. After processing the applications received in response to both the notifications R-4 was selected.

3. Being aggrieved by the selection and appointment of R-4 who had responded to the notification, ^{and} renotification the applicant has filed this OA for the following reliefs :-

(a) To call for the records of selection to the post of EDBPM Upparalapalli EDBP, Tuggalai Mandal, Kurnool Postal Division from the 3rd respondent herein and to declare the selection of the 4th respondent as irregular, arbitrary, unjust, malafide, violative of the rules of selection, hence illegal and unsustainable in law and to set aside the same as null and void.

(b) With a consequential direction to the respondents 1 to 3 to review the selection afresh in the light of various averments made in this OA, keeping all relevant rules of selection in mind and to select a suitable candidate from amongst those who had applied for the post in response to the open notification dated 14.11.96 treating the vacancy as an unreserved one and to pass such other order or orders or directions.

(c) To direct the respondent-3 to continue the applicant on provisional basis till final selection as prayed for in (b) above in completed and

(d) to award costs of this application or such other reliefs as deemed fit and proper in the interests of justice and equity.

4. The respondents 1 to 3 have filed counter stating that after issuing the notification dated 14.11.96 a complaint was received and then the Director of Postal Services instructed the division to ascertain the representations of the ST candidates

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in the division and since the representations of the ST candidates in the division was below the required level, the renotification was issued inviting applications only from the SC and ST candidates.

5. The learned counsel for the applicant has challenged the renotification reserving the post for SC & ST candidates. It is his contention that in case the respondents felt that posts should have been reserved then they ^{should} ~~had~~ have cancel ~~led~~ the earlier notification dated 14.11.96 and without doing so they have denied him an opportunity to appear ~~for~~ that post. In support of his contention he has relied upon the decision of the Calcutta Bench of this Tribunal in OA.712/94 decided on 15.11.96 (Sibanth Bhara Vs. Union of India and others), Wherein it was held that in case the post was reserved for a reserved category then that should have been specifically stated so in the notification. As already observed there was no such reservation was made in the notification dated 14.11.96. As it stands the respondents did not cancel the notification dated 14.11.96. ^{was} ~~also~~ ^{along with} considered the applications received in response to the said notification. Thus the respondents committed an irregularity in keeping alive the notification dated 14.11.96 and selecting R-4 on the basis of the renotification specifically reserving ^{the} post for a reserved category.

6. The learned counsel for the respondents submitted that the department is permitted to cancel the earlier notification and issue a fresh notification reserving the post for reserved candidates. If that course of action ~~is~~ ^{had been} taken then the case of the applicant in this OA ^{would} ~~will~~ be fully defeated. For the mistake committed by the department the applicant should not be penalised. The respondents have got ways and means to fill the positions earmarked for reserved candidates in other post offices also and

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hence the course of action suggested by the respondents may not be a reasonable one.

7. Hence we feel it proper to set aside the selection of R-4 and to direct the respondents to complete the process of selection in accordance with the notification dated 14.11.96. Till a regular candidate is selected and posted the present incumbent of the post shall be continued as a provisional candidate.

8. With these observations the OA is disposed of. No costs.


(B.S. JAI PARAMESHWAR)

Member (Judl.)

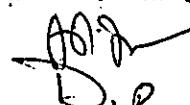
7/11/97

Dated : 7th November, 1997

(Dictated in Open Court)


(R.RANGARAJAN)

Member (Admn.)


D.R.

sd

DA 1200/97

Copy to:-

1. The Chief Postmaster General, A.P. Circle, Hyderabad.
2. The Postmaster General, Kurnool Region, Kurnool.
3. The Superintendent of Post Offices, Kurnool Division, Kurnool.
4. One copy to Mr. Y. Appala Raju, Advocate, CAT., Hyd.
5. One copy to Mr. K. Bhaskara Rao, Addl. CGSC., AT., Hyd.
6. One copy to Mr. BSJP M(J), CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

Dated: 7/11/92

ORDER/JUDGMENT

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

in
D.A.NO. 1200/92

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered Rejected

No order as to costs.

YLR

II Court

Central Administrative Tribunal
HYDERABAD BENCH

20 NOV 1992

Hyderabad, Andhra Pradesh
HYDERABAD BENCH