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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO. 1429/97

DATE OF ORDER : 28-10-1997.

Between:-

V.Ramesh

... Applicant

And

1. The Superintendent of Post Offices, Khammam Division, Khammam.
2. The Sub-Divisional Inspector (Postal), Khammam South Sub-Division, Khammam.
3. The Postmaster-General, Vijaywada Region, Vijaywada-520 002.
4. The Union of India rep. by The Director-General, Department of Posts, Dak Bhawan, New Delhi-110 001.

... Respondents

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Counsel for the Applicant : Shri T.V.V.S.Murthy

Counsel for the Respondents : Shri V.Vinod Kumar, Addl.CGSC

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CORAM:

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A) ).

*[Signature]*

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... 2.

(Order per Hon'ble Shri R.Rangarajan, Member (A) ).

Heard Sri T.V.V.S.Murthy, counsel for the applicant and Sri V.Vinod Kumar, standing counsel for the respondents.

2. The regular incumbent of Jujjalaraoopeta B.O., under Paleru S.O., in Khammam Division was put off duty on 10-12-96 pending enquiry <sup>account</sup> into some alleged saving bank/frauds, in which he was involved. Thereafter one Sri R.Vijaya Kumar was posted as EDBPM on provisional basis from 20-12-96 by the SDI(P),Khammam South Sub-Division. But the services of said Sri R.Vijay Kumar were terminated on 14-10-97 as it is stated that he reportedly failed to submit the property ~~tax~~ certificate despite prior notices ~~were~~ issued by the department to produce the same. After ~~the~~ termination of services of said Sri R.Vijay Kumar, applications were called for for appointment of EDBPM on provisional basis by tomtom on 9-10-97 and the applications were received up to 10-10-97. The applicant and 12 others submitted applications for that post in time in pursuance of tomtom of 9-10-97. The applicant was selected and he has given his joining report replacing the mail-overseer, who was looking after the duties of EDBPM <sup>2(4)</sup> on 18-10-97. It is stated that another notification No. BPM/Juggalaraoopeta/97 dt.23-10-97 (Annexure A3 page 13 to the OA) has been issued by Respondent No.2 calling for applications from candidates belonging to SC/OBC for filling up the post purely on provisional basis. The applicant submits that he ~~is~~ already taken over the post of EDBPM on provisional basis. He cannot be replaced by another provisional candidate in view of the judgement of the reported in 1992(3) SLJ 34 (S<sub>o</sub> (State of Haryana & others Vs. Piara Sin Supreme Court in Piara Sing's case). He further submits that he can

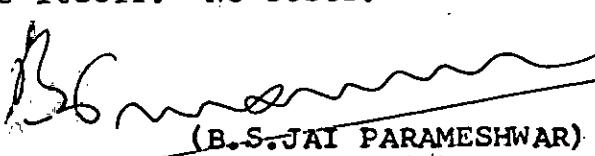
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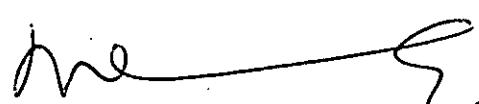
be replaced only by a regular appointee.

3. This OA is filed to set aside the impugned notification dt.23-10-97 by holding it as illegal, arbitrary and discriminatory and for a consequential direction to the respondents to continue the applicant in service on provisional basis till such time the disciplinary proceedings against the permanent incumbent are finalised or till a regular appointment after due selection is made.

4. It is a well known decision of the Supreme Court that a provisional candidate cannot be replaced by another provisional candidate but he can be re-placed by a regular candidate and the above principle has been accepted by the counsel for the respondents also. In view of the above, the applicant, who is working as provisional EDBPM cannot be replaced by another provisional EDBPM. Hence the prayer in this OA is in order. In view of the above, the impugned notification dt.23-10-97 is set aside. The applicant should be continued as a provisional EDBPM in that post till such time the regular incumbent is posted or the earlier permanent incumbent joins the duty.

5. Thus the OA is disposed off accordingly at the admission stage itself. No costs.

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

  
(R. RANGARAJAN)  
Member (A)

28.10.97

Dated: 28th October, 1997.  
Dictated in Open Court.

svl/

D.R.28/10/97

Copy to:

1. The Superintendent of Post Offices, Khammam Division, Khammam.
2. The Sub Divisional Inspector, (Postal), Khammam South Sub Division, Khammam.
3. The Postmaster General, Vijayawada Region, Vijayawada.
4. The Director General, Dept. of Posts, Dak Bhavan, New Delhi.
5. One copy to Mr.T.V.V.S.Murthy, Advocate, CAT, Hyderabad.
6. One copy to Mr.V.Vinod Kumar, Addl.CGSC, CAT, Hyderabad.
7. One copy to D.R(A),CAT, Hyderabad.
8. One duplicate copy.

YLKR

6/11/97  
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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: 28 - 10 - 97

ORDER/JUDGMENT

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

in

D.A.NO. 1429 / 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.

YLR

II Court

