

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

O.A.No. 1551 of 1997.

Date of decision: April 23, 1998.

Between:

M. Satyaseela Reddy. .. Applicant.

and

Union of India represented by:

1. The Chief Post Master General, Andhra Pradesh Postal Circle, Hyderabad.
2. The Post Master General, Hyderabad Region, Hyderabad.
3. The Superintendent of Post Offices, Wanaparthy Postal Division, Wanaparthy, Mahaboobnagar.
4. Sri Venkataiah. .. Respondents.

Counsel for the applicant: Sri K.S.R. Anjaneyulu.

Counsel for the respondents: Sri V.Bhimanna

CORAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

ORDER

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

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Heard Sri K.S.R. Anjaneyulu for the applicant

and Ms. Parvathi for Sri V.Bhimanna for the respondents.

A Notification dated 21.8.1997 (Annexure I Page 7 to the O.A.) was issued for filling up the post of BPM, Rajapet sub Post Office. In Para VII of the said notification, it is stated that preference will be given to ST/SC/OBC candidates. The learned counsel for the applicant submits that the applicant who belongs to O.C. Community was not even considered whereas Respondent No.4 was selected who is a Scheduled Caste candidate ignoring the merit of the applicant herein. The applicant submits that the post is not reserved for any community as per the Notification. But there is a note "that preference will be given to ST/SC/OBC candidates" in the Notification.

This O.A., is filed challenging the selection of the Respondent No.4.

The learned counsel for the applicant submits that the condition that preference will be given to ST/SC/OBC candidates will operate only when all the candidates who applied for the posts in response to the notification whether they belong to ST/SC/OBC or O.C., are equal in all respects. This he submits ~~is~~ <sup>relying on</sup> accordance with the Judgment of the Calcutta Bench of the Central Administrative Tribunal reported in SHIBNATH DHARA VS. UNION OF INDIA (1997 (36)ATC (Cal.) 41. ). Hence the issue involved

It

1

in this O.A., is:

"Whether the condition that "preference will be given to ST/SC/OBC" would mean the candidates belonging to ST/SC/OBC even though they possess less merit than O.Cs., are to be considered and selected and if any of the candidates in the category of ST/SC/OBC are not selected, then only the O.C., candidates will be considered and selected in accordance with the rules?"

The learned counsel for the applicant submits that if the post is reserved for ST/SC/OBCs., then only they can be selected even though the O.C., candidates are more meritorious. If such an interpretation is not taken then it will be violative of Articles 14 and 16 of the Constitution.

As we feel that this is an important issue, it is preferable that the issue may be finally decided by a Full Bench of the Tribunal. Hence, we are referring the issue for final decision of the Full Bench to be constituted by the Hon'ble Chairman, Central Administrative Tribunal.

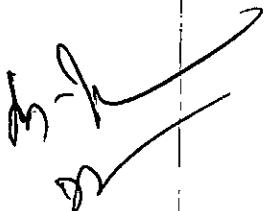
The Registry should arrange to place the  
papers before the Hon'ble Chairman, Principal Bench  
for constituting a Full Bench.

  
B.S.JAI PARAMESHWAR,  
Member (J)  
23.4.98

  
R.RANGARAJAN,  
Member (A)

Date: 23rd April, 1998.

-----  
Dictated in open Court.

  
sss.

Copy to:

1. The Chief Postmaster General, A.P. Postal Circle, Hyderabad.
2. The Post Master General, Hyderabad Region, Hyderabad.
3. The Superintendent of Post Offices, Wanaparthy Postal Division, Wanaparthy, Mahaboobnagar.
4. Sri Venkataiah, R/O Rajapet, A/W Koshapet, Mahaboobnagar District.
5. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT, Hyderabad.
6. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
7. One duplicate copy.

YLKR

II COURT

TYPED BY  
COMPARED BY

CHECKED 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: 23/4/88

**ORDER/JUDGMENT**

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

in

O.A. NO. 1551/92

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

~~DISMISSED~~

DISMISSED AS WITHDRAWN

~~DISMISSED FOR DEFAULT~~

~~ORDERED/REJECTED~~

NO ORDER AS TO COSTS

YLRK

के द्वारा दायर सिविल अधिकारण  
Central Administrative Tribunal  
ईंडियाबाद स्थायी बैठक  
HYDERABAD BENCH

26 MAY 1997

(2) (3)  
OA 155(19)

- 2 -

Date	Office Note	Order
<u>23.12.97</u>		<p>Heard Sri Subrahmanyam for Sri Anjaneyulu, <del>Advocate</del> Counsel for the Respondents not present. But one Mr. Subrahmanyam of the Postal Department says time for producing the records list it on 9.1.98 by which date respondents shall produce the records.</p> <p><i>By HSJP. LRRN H(J) H(S)</i></p> <p><i>SSS</i></p>
<u>9.1.98</u>		<p>At the request for the respondent counsel list on 22.1.98.</p> <p><i>To HSJP H(J)</i> <i>By LRRN H(A)</i></p>
<u>22.1.98</u>		<p>Heard Sri D. Subrahmanyam for Sri L.S.R. Anjaneyulu for the applicant. <del>and</del> <del>the</del> Notice is yet to be served on Respondent No. 4. The applicant is permitted to take personal</p>

2  
CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH : HYDERABAD.

O.A. NO. 1551 of 1997

M. Satya Sela Reddy Applicant(s).

VERSUS

the Chief Post-mastor General, AP, Hyderabad

30th

(Respondents)

Date	Office Note	Order
		<p><u>20/11/97</u></p> <p>Heard Mr. Subramanyam for Mr. K. S. R. Anjanegula for the applicant and Mr. V. Bhimanna for the respondents.</p> <p>Notice before Admition left it on 23-12-97.</p> <p>The records of the selection proceedings may be produced on that date.</p> <p>✓ Jes HBS/TP m(J)</p> <p>✓ H.R.R.W. m(J)</p> <p>13/12 FSSC 20/11/97</p>

5  
OA-1551/97.

DATE : OFFICE NOTE

ORDERS

9.11.98

Heard Mr. K. S. R. Durwaneyulu  
Learned Counsel for the applicant  
and of Mr. V. Bheemanna Addl. C. C. M.  
for the Respondent no. 153 and Mr. S. Balaji  
Krishna Dev. Counsel for the Respondent no. 154.  
Arguments Concluded.

O.A is reserved for orders.

8/11/98  
H.K.M.A.J.  
m/s

From  
H.D.H.W.S.  
HVC

To  
H.K.M.A.J.  
H. Chairman.

12/11/98

12/11/98  
H.K.M.A.J.  
m/s

From  
H.D.H.W.S.  
HVC

To  
H.K.M.A.J.  
H. Chairman.

av1/

OA 1551/97

DATE : OFFICE NOTE

ORDERS

notice to sue and submit  
proof of service in the Registry.  
List it on 12.2.98.

Personal  
Notice is Reu  
12.2.98  
C.R.  
23.1.1998

JL  
HBSJP  
M(S)

D  
HRRN  
M(A)

20.3.98

List it on 23.3.98

R  
HBSJP  
M(J)

D  
HRRN  
M(A)

23.3.98

Admit. List it for orders on

23.4.98.

R  
HBSJP  
M(S)

HRRN  
M(A)

23.4.98

The issue involved in the  
G.P. is referred to a Full  
Bench. Under separate  
order.

R  
HBSJP  
M(J)

D  
HRRN  
M(A)

265

av1/

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

ORIGINAL APPLICATION NO. 1551/97.

M. S. S. Reddy

(Applicants(s)).

Union of India, Regd. By.

Chief Post Master Genl, AP

Hyderabad & 3 others

(Respondents(s)).

The application has been submitted to the Tribunal by

Sri. K S R Angareyulu Advocate/Party

in person Under section 19 of the Administrative Tribunal Act.

AMR 985 and the same has been scrutinised with reference to the points mentioned in the check list in light of the provisions in the Administrative Tribunal (Procedure) Rules 1987.

The Application is in order and may be listed for Adminission

XX.07

Scrubting Asst.

10/11/97

Amr  
Deputy Registrar (Judl).

10. Is the application accompanied with a stamp of Rs. 50/-? *✓*

11. Have legible copies of the annexure duly attested been filed? *✓*

12. Has the applicant exhausted all available remedies? *✓*

13. Has the Index of documents been filed and pagination done properly? *✓*

14. Has the declaration as required by item No. 7 of form, I been made? *✓*

15. Have required number of envelops (file six) bearing full addresses of the respondents been filed? *✓*

16. (a) Whether the relief sought form arise out of single cause of action. *✓*

(b) Whether any interim relief is prayed for, *✓*

17. In case an application for condonation of delay is filed, it supported by an affidavit of the applicant. *✓*

18. Whether it is cause been heard by a single bench. *No*

19. Any other points. *✓*

20. Result of the scrutiny with initial of the scrutiny clerk. *Day 4  
number 1*

*Reddy*  
Scrutiny Assistant. *10/11/97*

Section Officer.

Deputy Registrar.

Registrar.

✓ CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

Dairy No. 3635

Report in the Scrutiny of Application.

Presented by K S Argunayulu Date of presentation.

Applicant(s) MSC Reldy 643

Respondent(s) CMA, Al, Bd & others

Nature of grievance Appointment

No. of Applicants 1 No. of Respondents 4

CLASSIFICATION.

Subject Appointment No. 10 Department Post (No) 11

1. Is the application in the proper form, (three complete sets in paper books form in the two complitions). Y
2. Whether name description and address of all the parties been furnished in the cause title. Y
3. (a) Has the application been fully signed and verified. Y  
(b) Has the copies been duly signed. Y  
(c) Have sufficient number of copies of the application been filed. Y
4. Whether all the necessary parties are impleaded. Y
5. Whether English translation of documents in a Language, other than English or Hindi been filed. Y
6. Is the application on time, (see section 21) Y
7. Has the Vakalatnama/Memo of appearance/Authorisation been filed. Y
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 8 Etc.,) Y
9. Is the application accompanied, duly attested & legible copy been filed. Y

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

INDEX

O.A.NO. 1551 OF 1997.

CAUSE TITLE M. S. S. Reddy

VERSOS.

The CPMU, AP, and 30t

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4.	Objection sheet	—
5.	Spars copies. 4. (Four).	
6.	Covers. 4.	

7. Reply statement filed before  
N. Bhowmik <sup>Addl. Commr.</sup> on 24/2/98.

8. Reply statement filed by M. S. Rama  
Kishore Rao on 29/2/98 or by

Regd. No. set aside the selection of by and  
 direct the Respondent 3 to review the  
 comparative merits without applying  
 the rule of reservations and select  
 the ~~application~~ <sup>APPLICATION UNDER CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.</sup> <sup>9</sup>  
 O.A.No: 1551 of 1997. <sup>12</sup>

Bench Between:

M. Satya Seela Reddy .. Applicant.

and

The Union of India represented by:

C.P.M.G. & 3 others.

(10) Appointment

Postal

~~पोस्टल~~ <sup>POSTAL</sup> Respondents. (11)

I N D E X

S. No. Details of the Documents	Annexure No.	Page Nos. From To
01. Application	--	01 to 06
02. Notification dated 21.08.1997	01	07 to 10
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*Subs.al Beeeef Coop*  
 COUNSEL FOR THE APPLICANT.

Recd  
 6/11/97  
 P. N. R. Devi  
 6/11/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: :HYDERABAD BENCH

AT HYDERABAD.

O.A.No: 1551 of 1997.

Between:

M. Satya Seela Reddy

.. Applicant.

and

Union of India represented by:

C.P.M.G. & 3 others.

.. Respondents.

CHRONOLOGY OF EVENTS

S1. No.	Date	Event
01.	June 97	Applicant provisio ally appointed as BPM.
02.	21.08.1997	Notification issued.
03.	25.09.1997	Applicant called for verification of Certificates.
04.	30.09.1997	Applicants Certificates were verified.
05.	October, 1997	Selection finalised selecting Respondent No: 4.

*Subodh Seela Reddy*  
COUNSEL FOR THE APPLICANT.

(11/14)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS

ACT, 1985.

O.A.No: 1551 of 1997

Between:

M. Satyaseela Reddy son of Ranga Reddy, aged 36 years, Resident of Rajapet, A/W Kothakota, Mahaboobnagar District.

.. Applicant.

and

Union of India represented by:

1. Chief Post Master General, Andhra Pradesh Postal Circle, Hyderabad.

2. The Post Master General, Hyderabad region, Hyderabad.

3. The Superintendent of Post Offices, Wanaparthy Postal Division, Wanaparthy Mahaboobnagar.

4. Sri Venkataiah son of Tirumalaiah, aged not known, Resident of Rajapet. A/W Kothapet ~~Atm~~ Mahaboobnagar Dist. .. Respondents.

Address for service : K.S.R. ANJANEYULU & D. SUBRAHMANYAM Advocates, 1-1-365/A, Jawaharnagar, Bakaram, HYDERABAD 500 020.

Details of the application:

1. Particulars of the order against which this application is filed:

This application is filed against irregular selection to the post of Branch Post Master, Rajapet BO A/W Kothakota Sub Post Office in Wanaparthy Postal Division by the Superintendent of Post Offices, Wanaparthy Postal Division (Respondent No: 3) as per Notification issued in Memo No: B2/BPM/Rajapet/KHT dated 21.08.1997 (Annexure 1 Page 7).

..2

*D. S. Reddy*

*M. S. Reddy*

**2. Jurisdiction:**

The applicant declares that the subject matter of the application is within the jurisdiction of this Honourable Tribunal as per Section 14(1) of the Administrative Tribunals Act, 1985.

**3. Limitation:**

The applicant further declares that the application is within the period of limitation as per Section 21 of the Administrative Tribunals Act, 1985. The Notification is dated 21.08.1997 (Annexure 1 Page 7).

**4. Facts of the Case:**

4.1. The applicant submits that he is native of Rajapet Village (Annexure 2 Page 11), Mahaboobnagar District. He passed S.S.C. in April, 1981, scoring 312 Marks out of 500. (Annexure 3 Page 12). He studied upto Intermediate (Annexure 4 Page 13). The applicant registered his name in Employment Exchange, Mahaboobnagar District (Annexure 5 Page 15). The applicant has his own house in the village (Annexure 6 Page 17). The applicant owns dry land to the extent of 3 Acres 14 Cents in Survey No: 465 G and is issued with Pattedar Pass book No: 181403 by the Sub Collector, Gadwal (Annexure 7 Page 18). The applicant has an income of Rs. 16,000/- out of the lands as per the Certificate of the M.R.O. Wanaparthy (Annexure 8 Page 20).

4.2. The post of BPM Rajapet became vacant and the applicant was appointed as BPM on provisional basis w.e.f. The Superintendent of Post Offices subsequently issued Notification (Annexure 1 Page 7) for filling up the post on regular basis.

M.S. Rajapet

4.3. The applicant submitted application for the post of the Branch Post Master, Rajapet village in the prescribed form enclosing all the certificates required to be enclosed, on 17.9.1997. The application was received by the Superintendent of Post Offices (Respondent No: 3) in time.

4.4. The Sub Divisional Inspector Wanaparthy Sub Division Wanaparthy in his letter PF/Rajapeta/97 dated 25.9.1997 (Annexure 9) asked the applicant to be present at Gram Panchayat Office, Rajapet village on 30.9.1997 at 11.30 hours for verification of original certificates. The applicant presented himself for the verification of certificates and the S.D.I.P. was completely satisfied. The applicant has also seen that all the other candidates have got less marks than him and hence the applicant legitimately expected that he would be selected as the B.P.M., if rules and procedure were to be followed scrupulously.

4.5. While so the Respondent No: 3 selected Respondent No: 4 to the post of the Branch Post Master ignoring the merit of the applicant. The respondent No: 4 is neither having more marks than the applicant nor any experience. It is understood that he belongs to reserved community. The selection of the Respondent No: 4 is in gross violation of departmental rulings and judicial pronouncements.

4.6. The applicant humbly submits that the post is not reserved for any community as per the Notification. However, there is a note that preference will be given to ST/SC/OBC candidates.

4.7. The instructions that preference is to be given to the candidates of reserved communities have been declared

*Deb Maitra*

*M-S Rallay*

(14) 7

ulteravires offending Articles 14 and 16 by the Honourable Central Administrative Tribunal, Calcutta Bench in the case of Shubnath Dhara Vs. Union of India reported at (1997) 36 ATC (Cal) 41 (Copy at Annexure 9 Page 2). In the instant case also the post is unreserved one and the facts of this are similar to the case dealt with the Calcutta Bench. The applicant scored 312 marks whereas the Respondent No: 4 scored less marks and hence less merited. The Selection of Respondent No: 4 in preference to the applicant is hence illegal, unjust and untenable and hence this application.

5. Grounds for relief with legal provisions:

1. The instructions contained in DGP & T Letter 43-246/77 Pen dated 8.3.1978, clarifying that candidates belonging to the SC/ST with the minimum educational qualifications should be given preference over the candidate belonging to other communities has been struck down by the Central Administrative Tribunal, Calcutta Bench in the case of Shubnath Dhara Vs. Union of India reported in 1977 (36) ATC 41 - Annexure 10, as ultravires and accordingly the action of the respondents in selecting Respondent No: 4 in preference to the applicant is arbitrary and discriminatory offending articles 14 and 16 of the Constitution of India.
2. The action of the respondents in ignoring the merit of the applicant when the post is not reserved, is arbitrary unjust and untenable offending Articles 14 and 16 of the Constitution of India.
3. In the absence any specific order of reservations a ~~xx~~

*28/1/98*

*H.S. Rathy*

reserved category candidate cannot get preferential treatment over general category candidate (1997) 35 ATC (All) 474 (Annexure 11) *page 26*

**6. Details of the remedies exhausted:**

The applicant declares that there is no other alternative, effective and efficacious remedy available to the applicant than to approach this Honourable Tribunal for redressal of his grievance as the selection and appointment of Respondent No: 4 is *per se* illegal.

**7. Matters not filed previously or pending in any court or Tribunal:**

The applicant further declares that no case relating to the matter is filed or pending in any court or Tribunal.

**8. Relief(s) Prayed for:**

In view of the facts mentioned at para 4 above the applicant herein humbly prays that this Honourable Tribunal be pleased to call for the file relating to the selection of Branch Post Master, Rajapet B.O. A/W Kothakota S.O. in accordance with notification issued in Respondent No: 3 Memo B2/BPM/Rajapet/KHT dated 21.08.1997 and declare the action of the Respondents in selecting Respondent No: 4 as BPM <sup>NO 3</sup> ignoring the superior merit of the applicant, as arbitrary and illegal and set aside the same and the respondents may be directed to review the comparative merits without applying the rule of reservations and select the applicant as BPM in view of his superior merits and pass such other order or orders

*DPM/MS*

*H. S. Reilly*

as are deemed fit and proper in the facts and circumstances of the case.

9. Interim orders if any prayed for:

Pending final decision in the O.A., the applicant humbly prays that the Honourable Tribunal may order status quo be maintained as it is fully covered by the Judgement of this Tribunal (Annexure 10 & 11).

10. Not applicable.

11. Particulars of the Court Fee of Rs. 50/- paid for:

a. No. & Date of the Postal Order : 812217271

b. Post office of issue 3-11-97

c. Payable at : G.P.O. Hyderabad.

50/-  
Rajapet Post Office  
(Hyderabad)

12. Enclosures:

Rey  
W.P.O. B.O. B.D. Remained

Vakalat, Postal order and material papers as per index.

VERIFICATION

I, M. Satya Seela Reddy son of Ranga Reddy, aged 36 years, Resident of Rajapet, Mahaboobnagar District, applicant herein do hereby verify that the contents of paras 1 to 11 are true to the best of my knowledge and belief and that contents of Paras 5 & 8 are believed to be true as per legal advise and that I have not suppressed any material facts in the case.

  
COUNSEL FOR THE APPLICANT.

  
SIGNATURE OF THE APPLICANT.

Department of Post, India  
The Supdt Of Post Offices Wanaparthy division  
Wanaparthy-509103

No. B2/BPM/Rajapet/KHT dated at Wanaparthy the 21.8.97

Notified that NOTIFICATION

1. Application in the enclosed form are invited from eligible candidate for selection to the post of Extra departmental

Branch postmaster at RATAPET EDBO  
a/w Kothakota Sub post office. The post carries allowances

Rs. 275+25+75+1R+DA per month.

2. The last date of receipt applications in the office of undersigned is 23.09.1997

3. Following are <sup>the</sup> conditions attached to the post:

AGE

I. The applicants should have completed 18 years of age on date of issue of this notification. The maximum age upto which person appointed to the post can be retained in service will be 65 years.

II. Educational qualification : S.S.C passed.

III. Income and ownership property : The person applying for the post must have adequate means of livelihood. He/She must have adequate source of income and must be able to offer a place for locate the So for installation of even public call office (PCO).

IV. Residence: The persons to be appointed to the post must be permanent resident of the village where the post office ~~is situated~~ or the candidate selected should shift his residence in 30 village.

V. The person selected for appointment to the post will have to furnish the prescribed security.

VI. No person holding ~~any~~ elective office will be considered appointment to the post. Proof regarding age, educational qualification, ownership of property and income from other source should accompany with the applications (in case of SC/ST/OBC candidates certificate from the MRO to the effect also be enclosed).

VII. Preference will be given to ST/SC/OBC Candidates.

Supdt. of post offices  
Wanaparthy division  
Wanaparthy-509103.

Contd. page. 2.

T.C

Preference will be given to ST/SC/OBC Candidates.

Proof regarding age, educational qualification, ownership of property and income from other source should accompany with the applications (in case of SC/ST/OBC candidates certificate from the MRO to the effect also be enclosed).

The following documents should be submitted along with the application (See instruction in the application).

Certificate regarding date of birth.

Certificate regarding educational qualifications.

Caste certificate from the prescribed authority (in case the applicant belongs to SC/ST/OBC).

Income and property certificate.

Certificate regarding residence.

Employment certificate and letter of permission from the employer to apply for the post, (in case the applicant is part-time/Full-time employee of the state of Central Government Department/organisation of Panchayat Department).

VII. In case the applicant is Ex-Serviceman/Ex-Army Postal personal proof of army service and discharge certificate should be produced.

#### 4. IMPORTANT INSTRUCTION TO THE APPLICANTS:

I. Application should be submitted by registered post only in the proforma enclosed to this notice and should be submitted in the applicant own hand writing with full and clear information otherwise the application will not be considered.

II. The certificates and other enclosures submitted along with the applications should be noted in the application by the applicant himself in the space provided in the application under his/her signature. This should be done without fail.

III. The application should bear the date of submission without fail.

IV. All the required documents/certificates should be submitted along with the application. No documents will be accepted later or in place of applications not accompanied with all the necessary certificates or with incomplete information will not be taken up for consideration and no further correspondence will be entertained.

V. Applications received after the ~~fixed~~ <sup>notified</sup> ~~date~~ <sup>date</sup> ~~of~~ <sup>on</sup> ~~application~~ <sup>290/2/23</sup> will not be considered.

23.9.1997 will not be considered.

Supdt. of Post offices  
Janaparthy division  
Janaparthy-509103.

19/22

Copy of this notification is issued to:-

Regd/AD: 1. EDSPM / EDBPM Rajpét. Bo. 9w. Kothakota. So.

Regd/AD: 2. Postmaster/Sub Postmaster . . . . .  
He should exhibit this notification as well as  
proforma of application, prominently on the notice  
board of their office.

Regd/AD: 3. The SDI(P) . . . . . He will  
please ensure that the notification / application  
form is exhibited on the notice board of concer-  
ned offices.

Regd/AD: 4. The Mailoverseer . . . . . He  
should ensure that wide publicity is given to  
this notification in the BO village and its ham-  
lets if any by making Tom-Tom.

Regd/AD: 5. The Sarpanch, G.P. . . . .

Regd/AD: 6. The Mandal Revenue Officer . . . . .

Regd/AD: 7. The Mandal Development Officer . . . . .

Regd/AD: 8. The V.A.O . . . . .

Regd/AD: 9. The HeadMaster P.S / H.P.S / High school . . . . .

Regd/AD: 10. The Station-House Officer . . . . .

Regd/AD: 11. The Employment Officer . . . . .

The above entitled authorities ( 5 to 11 )  
are requested to exhibit this notice, and also the proforma of  
application enclosed to be notice on the notice boards of  
their offices and in the Grampanchayat etc., for the general  
information of the public. Wide publicity may be given regard-  
ing availability of the vacancy notified in this notice.

Subt. of Post Offices  
Non-Parthy Division  
Non-Parthy - 509103

Copy of this notification  
is issued to the concerned  
officers and officials  
of the concerned office.

10

APPLICATION FOR THE POST OF B.P.M.

IN

40

1. Name of the candidate.
2. Father's name.
3. Present address.
4. Permanent address (one to judge).
5. Age & date of birth (Attested copy, copy should be enclosed).
6. Whether belong to SC/ST, if so, Sub castes with proof thereof in the prescribed proforma from Mandal Revenue Officer.
7. Whether native/resident of BO village (documentary proof to that effect from the MRO concerned).
8. Educational qualifications (attested copies should be enclosed).
9. Present occupation and annual income from occupation and other source of independent income (documentary proof to that effect from the MRO concerned).
10. Particulars of properties held with sealable rights in the name of the applicant. Value & annual income derived from it please be furnished with certificate to that effect obtained from the MRO should be enclosed.
11. Whether having suitable pucca house to locate the BO in the village (documentary proof should be enclosed).
12. Whether registered in employment exchange. If so particulars with regard enclosed.
13. Station.
14. Whether native or resident of BO (documentary proof to

SIGNATURE OF THE APPLICANT

~~Established, November 20, 1945, by an order of~~  
~~the Secretary of State, and is incorporated~~  
~~in the Commonwealth of Massachusetts, and is~~  
~~hereinafter referred to as the Commonwealth~~







24/27

9. మాటల వారిపు నుండి కొర్పు తెల్పాడ వేట  
(పాపురు అంగార) (సారు)

Date of admission to 1st year Intermediate course  
(the year to be entered in words).

11. 5. 5)

10. అపాపాటిము కొర్పు వెంట వెంట న అంగార  
న పాపురు తెండు? (మరప వాపురు? గోట  
పాపురు?)

Class and year in which the pupil was first admitted into the Intermediate course (1st year or 2nd year).

11. 5. 5 in First year

11. గాయమాటిము కొర్పు 2వ పాపురు ఏకో అంగార  
అంగార అంగార? (మాటల గాయమాట ఏకో వ్యాపార  
గాయమాట ఏకో వ్యాపార వ్యాపార)

Whether qualified to study 11 year class or Intermediate course? (in case of students leaving after completing 1st year class)

12. పెద్దిపు కొర్పు తాటాపా ఏగుసెన ద్రుష్టి గాయము  
అంగార అంగార అంగార?

Whether the pupil has been declared eligible by the Board of Intermediate Education for University course of study.

Appeared in Second year  
A.P. No 310.555 March 13

13. (a) వెంట వాపా వ్యాపార గ్రహించాడు?

Whether the pupil was in receipt of any scholarship? (Nature of the scholarship to be specified).

(b) వెంట వాపా వ్యాపార?

Whether the pupil was in receipt of any concession (nature of the scholarship to be specified).

14. వెంట వాపా

Personal marks of identification.

A mole on the fore head

A mole on the big Scar on the head

15. వెంట వాపా వెంట వాపా

Date on which the pupil has finally left the college.

3. 3. 5)

16. వెంట వాపా

Date of Transfer Certificate.

5. 3

17. వెంట వాపా

Conduct.

M. N. 16

Signature of the Head of the Institution

2335/64

201/20

423/54

T. C.  
Dr. M. A. S. Reddy  
Counselor for the  
Applicant

## Annexure - 5

15

REGN NO 11/1997/10271		REGN DT 1997/07/29	LAST APP DT 1997/07/29	NEXT RENEWAL JUL 2000
NAME : M SATHYA SHEELA REDDY ID-MARKS MOLE ON FORE HEAD F.H NAME RANGA REDDY ADDRESS RAJAPET POULS REL. NAME PERUTHY DT. OF BIRTH	SEX MALE PRT MARRITAL MARRIED CASTE OC DOB 1962/05/31 RELIGION HINDU PH	Exm SB1 SB2 SB3 SB4 SB5 10 11 088 147 529	AGR & CL YCF NO 1 STR F 1981 TEL P 1993 TEL	
X0110 - X0120 1997/07/29 1997/07/29				
Dr. & Md of Res: L57 Pl. of Res UR: RURAL Res Mop: 165 H. in CM: 165 E. Status: UN-EMPLOYED IC Marriage: No O.B.C.: No Ex. Serv. Rank: 0 Character: Serve (Mths): Force:	Ex Cen: No Zone: Mobility: ANY WHERE IN INDIA RBL: No Land Owner: Repat City: Drv. Lic. Iss. Dt: Drv. Lic. Exp. Dt: Languages Known: TEL 5 HIN 5 ENG 5 Ex-HI: No FT Appr: No	NC0 NAC Work Experience (In Mths) Estab-wise 1 2 3 4 5 6 7 8 9	Candt. Willingness for: Self-Employment: No Apprentice-ship: No Guru: No	

1250

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ప్రాణికాల  
మాటల్ ప్రాణికాల

సుమిత్ర కొర్కెల్లో ప్రమాదములనియి తెలుపులడినవి. నాయిని నీటు నుండి నుండి నాయిని విచారించి తెలుపులయ్యాను. విచారించి తెలుపులు ఉపరి పరిచివర్ణించాడు.

ప్రాణ సంస్కర్య కావులు

★ రాజులయ్యు స్తు కంగాని ప్రాంత శాఖలను పొందు. గంపులి, మి డెగ్గుతను, రిప్ప్రెసన్ సినియర్లను అనుమతి.

ప్రయోగములల్లు ఏ వాసన ప్రయోగములల్లు ఏ వాసన  
అశ్విన్ తయార చీడు శందిన అనువు అన్నత తేక పది అనుభవం. కమ్మగొ శందంట ప్రయోగమరంగా అమ్మణి మీరు శామిం-  
చుక్కుపు కుటుంబములల్లు ఏ వాసన ప్రయోగములల్లు ఏ వాసన  
అశ్విన్, ఈప్రార్థిక కార్యాలయ ఆధికారిని సంప్రమించండి.

ప్రార్థ విషయమూలాలు మాయు ఉన్నట్టయితే, దానిని కార్యాలయమనికి వెంపున వీటియినన మి టోట్టిల కూడా నీ ప్రార్థములు వీటిని గెంచి రెపును

★  
ఒడ్డుక పెట్టిపోగా గాని ప్పుటుంగా పట్టికని కట్టుటు చేసిను సంప్రదాయంలో గల నిలిలని వ్యాపిసాగిన వారికి వాటికి కుకోండి. నియమిత నెల తరువాత 6 మాసముల లోపు కుక రమేషువరు చేయబడును.

★  
ప్రస్తుత కావ్యము జంక జంతురాము అవసరము లేద్దాయితే ఈ కావ్యము కార్యాలయానికి తిరిగి పంచేయంది.

ప్రాణికాలము వివరములన్నియమ ద్వారాకంఠమునని.

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see *Boeck*  
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## Annexure to page

ప్రాణికి ప్రాణికి ప్రాణికి ప్రాణికి

17 date 15-9-

4-123

110X70  
నువ్వులు  
గ్రామ వంచయిత లాస పిట్ట.

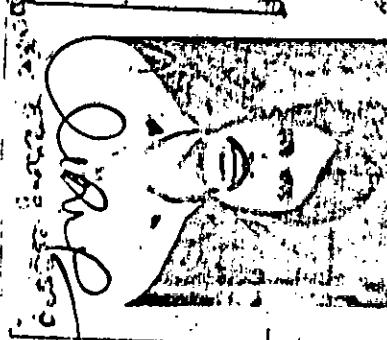
~~1c  
Attache fees  
counsel for the  
Applicant~~

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18 (28)

ಕರ್ನಾಟಕ ಸರ್ಕಾರ  
ಪ್ರಾಂತೀಯ ವಿಧಾನ ಸಭೆ

ಬೆಂಗಳೂರು



ಬೆಂಗಳೂರು ವಿಧಾನ ಸಭೆ  
(ಕರ್ನಾಟಕ, ಭಾರತ)

1. ಮಾರ್ಚ್ ತಿಕ್ಕ ೧೦/೩/೩೪ ನೇರು  
ಬೆಂಗಳೂರು ವಿಧಾನ ಸಭೆ

2. ಮಾರ್ಚ್ ತಿಕ್ಕ ೧೦/೩/೩೪ ನೇರು  
ಬೆಂಗಳೂರು ವಿಧಾನ ಸಭೆ

3. ಮಾರ್ಚ್ ತಿಕ್ಕ ೧೦/೩/೩೪

4. ಮಾರ್ಚ್ ತಿಕ್ಕ ೧೦/೩/೩೪

5. ಮಾರ್ಚ್ ತಿಕ್ಕ ೧೦/೩/೩೪

6. ಮಾರ್ಚ್ ತಿಕ್ಕ ೧೦/೩/೩೪

7. ಮಾರ್ಚ್ ತಿಕ್ಕ ೧೦/೩/೩೪

ಬೆಂಗಳೂರು  
ವಿಧಾನ ಸಭೆ

ಬೆಂಗಳೂರು  
ವಿಧಾನ ಸಭೆ

ಬೆಂಗಳೂರು ವಿಧಾನ  
ಸಭೆ ನಿರ್ವಹಣೆ

Sub-Collector  
GADWAL

دیوبندی مکتبہ میں: محدث افغانستانی

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ପାତ୍ରବିଦ୍ୟା

SG

## Annexure-8

F{3992 (97)

ఎ.సు.య్య.య్య.సి. 75 ఎస్.చుమ్మా.య్య. రా. (A 35-6484) సిద్ధార్థ ప్రాంగంగా 4 కి.మీ. నుంచి ప్రారంభించి య్య.ఎస్.ఎస్.పా. 8/5584/32 ను 1-7-82  
(పరిశుద్ధికారి/సంగతయను నిపుణు) (ప్రాంగంగా ద్వారి సుప్రాపు వేసువాలు)

೪೫/೧೦೮೫/೨೫ ನೇರು ಹೇಗೆ ವಿಜಯ ನೇರು ಹೇಗೆ

W. G. S. 1907.

ଶ୍ରୀ ଶର୍ମା

## శాస్త్ర వ్యాపక పని కు

- 1 శూమిలు
- 2 శనిశూమిలు
- 3 శ్రీపార్శ్వము
- 4 ప్రశ్నలు/ప్రశ్నలకు
- 5 శార్యు/శర్తు ఉద్దీశ్యం ఉప్పు తో అధిరిద కలిపి
- 6 ఇంచర వనరులు ఏమయిష ఉప్పు తో
- 7

16,000

ప్రాథమిక డాయ 16,000/-

పుస్తకాల

ముఖ్యమైన విషయాల ప్రాచీన విషయాల ప్రాచీన

208

(పండిత ప్రభుత్వానికి పంచకుసి అధాయము పరిగ్రహం చేసుకోవాలి)

మహారాజు ప్రాణమున్నా అధికారి  
ప్రాపణమై.

T.C  
of Acceptable  
Council for the  
Appeal

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Annexure -9  
Department of Post : India  
% The Sub- Divisional Inspector, Wanaparthy  
Sub Division Wanaparthy-509103.

To

Sri. m. Satya Sheela Reddy S/o m. Rangaraoddy  
Door No 2-10 Rajapet a/w Kothakota  
No.PF/Rajapeta/97 Dated at Wanaparthy the 25-9-97

Sub:- Selection of Branch Postmaster  
post Rajapeta BO a/w Kothakota  
SO - Reg.

000

Please refer your application dtd 17.9.97  
and be present at grampanchayat office at Rajapeta  
village on 30.9.97 at 11.30 hours for verification  
of original certificates without fail.

  
Sub-Divisional Inspector  
Wanaparthy division  
Wanaparthy-509103.

Copy to: SPOs, Wanaparthy  
for information.

1c  
Accepted  
Council for the  
applicants

3. The petitioner claims that he not only satisfied all the prescribed conditions of eligibility but also that he secured the highest marks in the interview on the basis of his performance in the Madhyamik Examination and that in the said examination he secured 60.44% marks which was the highest amongst all the contending candidates, whereas Respondent 4 got only 52% marks in the said examination.

4. Despite this, Respondent 2 has selected Respondent 4, who it is alleged has been given the job as an SC candidate by treating the post as a reserved one. The petitioner made a representation to Respondent 2 protesting against such reservation policy by inter alia stating that a single post of EDBPM could not be treated as a reserved one. Since the representation has not borne any tangible result, he has come up before this Tribunal with the prayer to set aside the appointment of Respondent 4 in the post of EDBPM, Kantapukur and to direct the official respondents to reconsider the entire selection afresh and to give the petitioner appointment to the said post.

5. The official respondents have contested the case by filing a written reply. They concede that the petitioner secured 59.67% marks (and not 60.44% marks as claimed by him) in the Madhyamik Examination whereas Respondent 4 secured only 50.78% marks (rather than 52% marks as stated by the petitioner in his petition). Therefore, it is conceded that the petitioner secured much higher marks than the selected candidate. But the petitioner's claim was ignored, according to the respondents, on ground that the selection had to be made from only amongst the 5 SC candidates available as per rules.

6. The respondents submit that according to the instructions of the department if a member of SC or ST is available and he possesses the minimum prescribed qualification, then such a candidate has to be selected even if non-reserved candidates otherwise eligible have got higher qualification. Therefore, the respondents have urged for rejection of the petition.

7. Private Respondent 4 has not entered any appearance in this case. The learned counsel for the petitioner has shown us the evidence that Respondent 4 had been duly sent notice through registered post and that the same was returned with the postal remarks 'refused'. As such we have to decide this case ex parte vis-à-vis Respondent 4.

8. We have heard the learned counsel for the parties and have gone through the documents produced. In view of urgency of the matter, we propose to dispose of the case at the admission stage itself.

9. Clearly the petitioner's case is that the official respondents have illegally applied the reservation policy about the vacancy. The official respondents have been fair to concede through their affidavit in counter that the post is not a reserved one. They have also admitted that while notifying to the Employment Exchange, no indication had been given that the post would be reserved for SC/ST candidates nor was it outlined that any preference to such SC/ST candidates would be given. Therefore, it is undisputed that the post in question is an unreserved one. In the requisition to the Employment Exchange, the respondents had, however, stated that the selection would be made as per rules. The Respondents now contend that in appointing private Respondent 4 against the post, the department has actually gone by the rules. Although the particular rule has not been cited through the affidavit in reply, Mr B.K. Chatterjee, the learned counsel for the official respondents at the stage of hearing quoted the relevant instruction as that of DG & PT letter No. 43-246/77-Pen, dated 8-3-1978 (Instruction No. 7 which is fully quoted in Swamy's

Compilation of Service Rules for EI follows:

"(7) ~~Given~~ preference to SC Letter No. 43-14/72-Pen., dated should be given to Scheduled P&T and other Government Posts prescribed in Para 3 of this Office that matriculates should be given standard for appointment as ED should be given preference over etc.

2. It is observed that, in several Scheduled Castes/Scheduled Tribes are interpreted in different ways.

3. It is hereby clarified that Castes/Scheduled Tribes with the in this Office Letter No. 5-9/72-1 EDBPMs, VI standard for ED in regional language and simple knowledge of English for ED N candidates belonging to other categories better qualified, provided that Castes/Scheduled Tribes are otherwise

10. The background behind the nature of ED posts. No rigorous recruitment for transferable posts for which only local appointment on part-time basis. Such is his circular letter No. 43-117/80-Pen

"(8) ~~Enforcement of percentage~~ has been observed that filling up particularly when ED Agents a part-time work having other av PO to another, will be impractical government policies of giving preference to ensure at least the minimum fixed and 'D' cadres for these communities the orders referred to in Para 7 will

The representation of SC and ST should at least be kept to the posts in the departmental personal notice of all Divisional position on divisional basis."

11. We have no quarrel with the aforesaid instructions of DG & PT representation of SC/ST candidates. If a SC/ST candidate is available, he has to be appointed. There should be no problem with such 'preference' should strictly operate

rs Annexures A-1 to A-4 directing the quarter with effect from 1-9-1987 to be recovered from dearness relief or the recovery of damage/penal rent in was illegal.

been contended that the applicant cover the quarter in spite of orders of so damage/penal rent was assessed by right to be recovered from the amount

the applicant and the learned Senior on record. During his argument the his case as regards the recovery of pension payable to the applicant. His pension payable to the applicant and of the CCS (Pension) Rules and no recovery from even dearness in support of his argument referred to *Dasgupta v. Union of India*<sup>1</sup>. In this case of *R.D. Sharma v. Union of India*<sup>2</sup>, the other cases including the case of <sup>3</sup>. These cases no doubt support the contention as it was held that the action of dues on account of unauthorised vision of the petitioner was illegal and counsel for the respondents has, *Phani Bhushan Dasgupta case*<sup>1</sup> taken into consideration and so this may help to the applicant.

clause (o) of sub-rule (1) of Rule 3 of includes gratuity except when the term but does not include dearness relief is contained in clause (o) by notification Gazette of India dated 9-2-1991, and in clause (cc) of sub-rule (1) of (6) of Rule 72 of the CCS (Pension) which dues can be recovered from the petitioner. This amendment has also been

*Dasgupta case*<sup>1</sup> will indicate that in the CCS (Pension) Rules in the Hon'ble Members who heard this in the decision in *R.D. Sharma case*<sup>2</sup> such cases could not be made from as decided much before the above- cases were made. It appears that as the

amended provisions of the CCS (Pension) Rules were not placed before the Hon'ble Members, the decision in *Phani Bhushan Dasgupta case*<sup>1</sup> was rendered.

8. After considering the provisions of CCS (Pension) Rules, which at present exist, it cannot be accepted that dearness relief on pension is to be included as a part of pension itself, nor it can be said that before any recovery can be ordered from such dearness relief, procedure as prescribed under Rule 9 has to be followed. In view of these facts I do not find any illegality in the impugned letters. No other point has been argued by the learned counsel for the applicant. Under the circumstances this OA is dismissed. No order as to costs.

(1997) 36 Administrative Tribunals Cases 41

Central Administrative Tribunal, Calcutta.

(BEFORE A.K. CHATTERJEE, J., VICE-CHAIRMAN AND M.S. MUKHERJEE, ADMINISTRATIVE MEMBER)

SHIBNATH DHARA

Applicant;

Versus

UNION OF INDIA AND OTHERS

Respondents.

O.A. No. 712 of 1995, decided on November 15, 1996

— Recruitment process — Selection — Selection of EDBPM — Post notified as unreserved — Departmental instructions provided preference to eligible SC/ST candidate over non-SC/ST candidate having higher merit — Declaring this part of instructions arbitrary and ultra vires the provisions of Arts. 14 and 16 of the Constitution of India, held, preference for SC/ST candidates shall operate only when all eligible candidates including non-SC/ST candidates are all of equal merits — D.G, P&T letter No. 43-246/77-Pen, dated 8-3-1978

(Paras 12 and 13)

O-M/A-06879

Application allowed

Advocates who appeared in this case :

P.B. Mishra and A. Chakrabarty, Counsel, for the Petitioner;

B.K. Chatterjee, Counsel, for the Respondents.

The Order of the Bench was pronounced by

M.S. MUKHERJEE, ADMINISTRATIVE MEMBER.— This is a petition under Section 19 of the Administrative Tribunals Act, 1985 in which the petitioner is aggrieved that despite his being the most qualified candidate for the post of Extra-Departmental Branch Post-master (EDBPM for short) for the Kantapukur PO in the district of Howrah, the Senior Superintendent of Post Offices, Howrah Division (Respondent 2) has selected one Smt Kakali Mondal (Respondent 4), an SC candidate for the post by illegally applying the reservation policy.

2. The facts which are not disputed are as follows. The post of EDBPM, Kantapukur PO fell vacant w.e.f. 1-11-1994 and the Employment Exchange, Uluberia was requested on 31-10-1994 to sponsor suitable candidates for the post. The official respondents concede that in the requisition letter to the Employment Exchange, there was no indication that the post had been specifically reserved for any community. The Employment Exchange sponsored 12 candidates including 5 SC candidates and all the 12 candidates including the petitioner and Respondent 4 were called by the official respondents on 28-3-1995 for verification of their biodata along with original documents.

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candidates whether SC/ST or non-SC/ST. If SC/ST candidate and a non-SC/ST candidate have each equal qualification, then only SC/ST candidate may be selected by operation of the scheme of 'preference'. But if the SC/ST candidate is less qualified than the other non-SC/ST candidate, then in the name of 'preference' such SC/ST candidate cannot be selected by ignoring higher merits of other candidates. This would otherwise imply wrongly applying the scheme of 'preference'. Any such selection by ignoring higher merits of others can be done only through alternative scheme of reservation of quota prescribed for SC/ST candidates.

12. In the instant case, since the post is admittedly a unreserved one, the official respondents' action in selecting private Respondent 4 by ignoring more qualified non-SC/ST candidates is clearly not justified. The learned counsel for the official respondents has very articulately endeavoured to draw our attention to that part of the text of DG & PT instructions dated 8-3-1978 which prescribes that SC/ST candidate should be given preference over other candidates even if others are educationally better qualified provided the SC/ST candidates are otherwise eligible for the post. But this part of the instructions is clearly arbitrary and ultra vires the provisions of Articles 14 and 16 of the Constitution of India. As the post is not reserved for SC/ST candidate, the department's adherence to DG & PT's aforesaid instructions dated 8-3-1978 would in fact imply that wherever SC/ST candidate with minimum qualification is available, the post would be treated by the department as reserved for such SC/ST candidates and thus 100% reservation will follow. In such cases, the chance of a non-SC/ST candidate becomes totally illusory even if the post has been formally notified as a non-reserved one. This is clearly arbitrary and discriminatory.

13. Under the circumstances, we have no hesitation to strike down as ultra vires the Constitution the aforesaid provisions of DG & PT instruction dated 8-3-1978, particularly Para 3 of the said letter as already extracted in Para 9 *supra* in this judgment. It is, however, open to the department to issue any fresh instruction clarifying that the scheme of preference for SC/ST candidates shall operate only when all eligible candidates including SC/ST candidates are all of equal merits.

14. We accordingly quash also the appointment of Respondent 4 as EDBPM, Kantapukur PO forthwith. Since, however, from the reply of the official respondents the facts are not very clear whether the petitioner had secured the highest percentage of marks in the prescribed academic examination, we direct that the official respondents shall, within two months from the date of communication of this order, review the selection process from amongst all the candidates who appeared in the interview earlier and the candidate who secured the highest percentage of marks in the prescribed academic examination shall be given appointment to the post EDBPM, provided he fulfils other conditions of eligibility.

15. The petition is, therefore, allowed in part and is disposed of in the above lines. There will be no order as to costs.

(1997) 36 Admini.

Central Administ.

(BEN) N.K. VERMA,  
JASBIR S. DHAI

CHHOTU RAM

UNION OF INDIA AND OTHERS

O.A. No. 922/HR of 199

Promotion — Selection — Senior Promotion orders issued on 27-5-1994 w/ clearance of disciplinary/vigilance case if issued on 8-6-1994 under Rule 14 of the order issued, no disciplinary proceeding per letter dated 7-3-1994 — Held, since 1-27-5-1994 withholding of promotion on t/ case of recommendation by the DPC b/ element of acceptance of recommendation

Shiv Lal Sagar v. Union of India, O.A. No. 15 K.V. Jankiraman, (1991) 4 SCC 109 1993

Authority v. H.C. Khurana, (1993) 23 ATC Tagin Litin v. State of Arunachal Pradesh, (1 Kewal Kumar, (1993) 24 ATC 770, referred

Application allowed

Advocates who appeared in this case

Madan Mohan, Counsel for the Applicant

J.S. Sidhu, Counsel for the Respondents

The Order of the Bench w/ pronoun

N.K. VERMA, ADMINISTRATIVE  
Shri Chhotu Ram, Junior Telecom Of  
Karnal has prayed for directions to  
Annexure A-1 dated 27-5-1994 b/ w/  
TES, Group 'B' from the junior  
consequential benefits. The facts of the  
Annexure A-1 dated 27-5-1994 w/  
Engineering Service, Group 'B' from  
This order was issued to all Chief Gen  
to decide the station of posting of offic  
date of receipt of the order. It was  
disciplinary/vigilance case is pending  
list enclosed with the orders or whe  
punishment is being undergone, that fac  
Telecommunications Commission imm  
be promoted or relieved without specif  
receipt of these orders, a charge-sheet  
was issued against the applicant on  
misconduct or misbehaviour and he w/  
terms of the order date 27-5-1994. H  
Director-General, Department of Telec

of only satisfied all the prescribed conditions of the highest marks in the interview on the basis of examination and that in the said examination he was highest amongst all the contending candidates, marks in the said examination.

selected Respondent 4, who it is alleged has done by treating the post as a reserved one. The respondent 2 protesting against such reservation of the post of EDBPM could not be treated as he has not borne any tangible result, he has come to set aside the appointment of Respondent 4 and to direct the official respondents to and to give the petitioner appointment to the

contested the case by filing a written reply, secured 59.67% marks (and not 60.44% marks as claimed) whereas Respondent 4 secured only 55% as stated by the petitioner in his petition. Petitioner secured much higher marks than the other's claim was ignored, according to the petition had to be made from only amongst the 5

ording to the instructions of the department if and he possesses the minimum prescribed has to be selected even if non-reserved got higher qualification. Therefore, the petition.

tered any appearance in this case. The learned is the evidence that Respondent 4 had been post and that the same was returned with the have to decide this case ex parte vis-à-vis

sel for the parties and have gone through the of the matter, we propose to dispose of the

that the official respondents have illegally vacancy. The official respondents have been counter that the post is not a reserved one. Notifying to the Employment Exchange, no would be reserved for SC/ST candidates nor such SC/ST candidates would be given post in question is an unreserved one. In the e, the respondents had, however, stated that. The Respondents now contend that in t the post, the department has actually gone e has not been cited through the affidavit in counsel for the official respondents at the traction as that of DG & PT letter No. 43-1 No. 7 which is fully quoted in Swamy's

Compilation of Service Rules for ED Staff in the Postal Department. This reads as follows:

"(7) *Giving preference to SC and ST candidates.*— According to Para 5 of Letter No. 43-14/72-Pen., dated 2-3-1972, wherever possible, first preference should be given to Scheduled Caste/Scheduled Tribe candidates, apart from P&T and other Government Pensioners, for appointment as ED Agents. It is also prescribed in Para 3 of this Office Letter No. 5-9/72-ED Cell, dated 18-8-1973, that matriculates should be given preference over those who have passed VIII standard for appointment as EDBPM, and those who have passed VIII standard should be given preference over those who have passed VI standard for EDDAs, etc.

2. It is observed that, in several circles, the orders for giving preference to Scheduled Castes/Scheduled Tribes, in the appointment of ED Agents are being interpreted in different ways.

3. It is hereby clarified that candidates belonging to the Scheduled Castes/Scheduled Tribes with the minimum education qualifications prescribed in this Office Letter No. 5-9/72-ED Cell, dated 18-8-1973, viz., VIII standard for EDBPMs, VI standard for EDDAs and EDSVs and working knowledge of the regional language and simple arithmetic for other EDAs (and working knowledge of English for ED Messengers) should be given preference over the candidates belonging to other communities, even if the latter are educationally better qualified, provided that the candidates belonging to Scheduled Castes/Scheduled Tribes are otherwise eligible for the post."

(Vide page 62-63 of Swamy's Compilation)

10. The background behind the aforesaid instructions are stated to be the special nature of ED posts. No rigorous reservation is possible as these are isolated and non-transferable posts for which only local residents with other sources of income are appointed on part-time basis. Such context has been spelt out by DG & PT through his circular letter No. 43-117/80-Pen, dated 8-10-1980 which reads as follows:

"(8) *Enforcement of percentages fixed for SC and ST in the recruitment.*— It has been observed that filling up posts of ED Agents according to point system, particularly when ED Agents are supposed to be local residents employed for part-time work having other avocations and not transferable from one Branch PO to another, will be impracticable for the Administration. Keeping in view the government policies of giving the representation to these communities and to ensure at least the minimum fixed percentage as laid down for other Groups 'C' and 'D' cadres for these communities in employment of ED staff, if not more, the orders referred to in Para 7 were issued.

The representation of SC and ST candidates in the employment of ED staff should at least be kept to the prescribed minimum limits as in the Groups 'C' and 'D' posts in the department. These instructions may be brought to the personal notice of all Divisional Heads for their guidance and for assessing the position on divisional basis." (Vide page 63 of Swamy's Compilation)

11. We have no quarrel with this context. But as things are, according to the aforesaid instructions of DG & PT, just because there is allegedly inadequate representation of SC/ST candidates in recruitment to ED posts, if an eligible SC/ST candidate is available, he has to be given preference to other candidates. There should be no problem with such general proposition. But any such scheme of 'preference' should strictly operate only amongst the equally-qualified and eligible

*Ganesh Prasad Singh v. Union of India*, (1991) 15 ATC 20, *disse*

*Vikram Kumar v. Union of India*, (1990) 14 ATC 367, *relied on*

**D. Appointment** — Review of — Competent authority — Held on facts, review could be conducted by appointing authority and not by the higher authority — Appointing authority in this case, mechanically acting on the directions of higher authority which conducted review — Termination order declared invalid *inter alia* on account of this infirmity (Paras 28 and 29)

**N. Ambujakshi v. Union of India**, (OA No. 57 of 1991) (Hyd. F.B.); *Amar Singh v. Union of India*, (1995) 1

ATJ 64, *relied on* K-M/A-06716

Application allowed

Advocates who appeared in this case : —

S.N. Srivastava, Advocate, for the Applicant

The Judgment of the Bench was delivered by

**S. DAS GUPTA, ADMINISTRATIVE MEMBER** — The post of Extra Departmental Branch Post Master (EDBPM for short) of the Branch Post Office, Mungeri, Karchana, District Allahabad fell vacant on 15-3-1993 on the retirement of the existing incumbent. On receipt of requisition from the postal authorities, the District Employment Exchange Allahabad sponsored the names of four candidates including that of the applicant. The applicant was found the most suitable among the candidates and, therefore, he was appointed on the post. He took charge of the post of EDBPM, Mungeri on 8-6-1993. According to the applicant, he was performing his duties with sincerity and to the full satisfaction of his superiors, yet the Senior Supdt. of Post Offices, Allahabad (Respondent 2) issued a notice dated 8-8-1994 (Annexure 1) seeking to terminate his services on expiry of one month from the date of the notice.

**2.** The applicant filed this OA under Section 19 of the Administrative Tribunals Act, 1994 for quashing of the impugned notice dated 8-8-1994 and seeking a direction to the respondents to interfere in the functioning of the applicant as EDBPM, Mungeri. On 8-9-1994 an order was passed by this Tribunal directing the respondents to maintain status quo as on date. This interim order has been extended from time to time and was still operative when the case was heard and order reserved.

**3.** The grievance of the applicant is that the impugned notice seeking termination of his service has been issued without affording any opportunity of hearing to him or to show-cause and, therefore, the impugned notice is violative of the principles of natural justice. He has asserted that being fully qualified and eligible for holding the post of EDBPM for which he was regularly selected and appointed, he has a right to continue to hold the said post. He has alleged that the impugned notice is arbitrary and mala fide in nature and has been issued solely with the purpose of harassing the applicant and getting the post vacated for accommodating the henchmen of the respondents.

**4.** The respondents have contested the applicant's claim by filing a CA. The facts averred by the applicant have not been disputed. It has, however, been submitted that the appointment of the applicant was cancelled by DPS, Allahabad, Office of the Post Master General, Allahabad by an order dated 4-1-1994 issued under revised Rules 6(a) and (b) of EDA (Service and Conduct) Rules, 1964. It has been further submitted that there was a complaint against the applicant from Shri Surve Prakash Tewari based on which the Director, Postal Services, Allahabad

ar their own costs.

*Annexure 1*  
(1997) 35 Administrative Tribunals Cases 474

*Central Administrative Tribunal, Allahabad*

(BEFORE S. DAS GUPTA, ADMINISTRATIVE MEMBER  
AND T.L. VERMA, JUDICIAL MEMBER)

ISHNU KANT SHUKLA, *Applicant*

Versus *Respondents*

UNION OF INDIA AND OTHERS *Respondents*

O.A. No. 1275 of 1994, decided on May 17, 1996

**A. Appointment** — Cancellation of — Show-cause notice — Held, such notice is not necessary where appointment is void ab initio — But where appointment is *prima facie* valid, show-cause notice is necessary (Paras 11 and 22)

*Bishnu Kant Jha v. Union of India*, (1991) 15 ATC 15, *concurred*

**B. Administrative Tribunals Act, 1985** — Ss. 20(1) and 3(r) — Departmental remedies — Exhaustion of, when not necessary — Remedy of appeal not available to an Extra Departmental Agent (EDA) whose services were terminated simpliciter but he could apply for review of termination order which was passed as a disciplinary measure — Held, there was no departmental remedy which such an EDA was required to exhaust — Hence, S. 20(1) was not contravened when an EDA approached direct to the Tribunal — Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964, R. 16 (Para 12)

**C. Appointment** — Preferential treatment to reserved category candidates — Non-permissibility of, unless posts were reserved for such candidates — Administrative instructions prescribing that candidate with higher merit in academic examination was to be preferred in appointment as Extra Departmental Agent (EDA) — There was another set of administrative instructions that preference was to be given to SC/ST candidate even with lesser merit — However, there was no specific order reserving posts of EDAs for SC/STs — Held, in the absence of any specific order of reservations, a reserved category candidate could not get preferential treatment over a general category candidate with superior merit — Cancellation of applicant's appointment on the ground that there was another SC candidate — therefore declared invalid — Termination — Posts

Respondent 2 issued the impugned notice of termination of services of the applicant. The respondents have taken a stand that there is no provision in the rule to give any opportunity to the applicant before issuing notice of termination of his services, which was issued in accordance with the rules of the department and is neither arbitrary nor mala fide in nature. They have also taken a stand that the applicant has filed the present OA without exhausting the departmental remedy available to him.

5. The applicant filed a RA, reaffirming his contention in the OA. He has further contended that there is no departmental remedy available to him for redressal of his grievance. He has further stated that the respondents have not indicated the nature of irregularity which was noticed by the respondents in his appointment and in any case mere irregularity cannot justify the cancellation of the appointment of the applicant without affording opportunity of showing cause.

6. The respondents thereafter file a Supplementary Counter Affidavit to indicate the nature of irregularity which prompted the respondents to terminate the services of the applicant. It has been explained that one of the four candidates viz. Shri Asha Ram was a SC candidate and he was also fulfilling eligibility criteria for the appointment and, therefore, should have been given preference over the applicant in the matter of appointment on the post. It has been further stated that the Respondent 2 was wrong in deciding that the said Asha Ram did not fulfil the eligibility condition regarding residence, since he is a resident of Dumari Ka Purwa, which is a part of the village Mungeri and is not a separate village as decided by Respondent 2. The further submission of the respondents is that the representation of the SC community was inadequate in Allahabad Division and, therefore, preference was to be given to the SC candidates. Asha Ram, a SC candidate, has passed High School Examination with 45% marks and he has adequate source of income in his own name as well as accommodation for maintaining post office. Therefore, he should not have been ignored in favour of the applicant. In this regard DG P&T communication dated 13-3-1984 and 8-3-1978 (Annexures SC A-1 and A-2) have been referred to.

7. The applicant filed a Supplementary Rejoinder Affidavit in which he has stated that all the candidates sponsored by the Employment Exchange were duly considered by the appointing authority and it was only after finding the applicant as the most suitable candidate, he was appointed on the post. He has strongly denied that Shri Asha Ram was ignored in any manner. He has further averred that Dumari Ka Purwa is not a part of the village Mungeri. It constitutes a separate and independent revenue village, which is distinct from the village Mungeri. In any case, the irregularity which the respondents are now pointing out should have been taken into consideration prior to issuance of the appointment letter, the applicant contends. He has also taken a stand that the DPS has no jurisdiction to cancel appointment of the applicant. He has denied the contention of the respondents that the representation of the SC candidate was inadequate in Allahabad Division and that nothing has been brought on record to prove this contention. He has stated that by a subsequent communication the communications dated 13-3-1984 and 8-3-1978 have been superseded. He has, however, not annexed a copy of the communication allegedly issued by the department superseding the earlier communications.

8. The undisputed facts in this case are that the applicant was one of the four candidates sponsored by the Employment Exchange. He has fulfilled all the

adjudged the best amongst all the four candidates and, therefore, the DPS had taken a view that the appointment in pursuance of which the applicant actually took over charge and started functioning. There is nothing on record to show that the conduct or performance of the applicant was in any manner unsatisfactory. The only reason why the DPS cancelled the appointment of the applicant pursuant to which the impugned notice of termination of his services was issued is that there was among the candidates a candidate belonging to the SC community and he also fulfilled all the eligibility criteria, though Respondent 2 did not consider that he had fulfilled the qualification relating to the respondents. Therefore, the DPS had taken a view that the departmental instructions for giving preference to the SC candidates have been contravened by ignoring the SC candidates in favour of the applicant. Therefore, the appointment of the applicant was cancelled. The question which, therefore, falls squarely for our consideration is whether the alleged irregularity committed by Respondent 2 in ignoring SC candidate would justify the cancellation of the appointment of the applicant and subsequent issue of notice of termination of his services without giving him any opportunity to show cause.

9. The services of the applicant are stated to have been terminated in exercise of powers vested by Rule 6 of the ED (Conduct & Service) Rules, 1964. We may at this stage usefully reproduce the context of the Rule:

6. *Termination of Services:* (a) The services of an employee who has not already rendered more than three years' continuous service from the date of his appointment shall be liable to termination at any time by a notice in writing either by the employee to the appointing authority or by the appointing authority to the employee;

(b) The period of such notice shall be one month.

Provided that the service of any such employee may be terminated forthwith and on such termination, the employee shall be entitled to claim a sum equivalent to the amount of his basic allowance plus Dearness Allowance for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services; or, as the case may be, for the period by which such notice falls short of one month."

10. This Rule is somewhat analogous to the provisions of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965. In other words, the termination of service of an employee under Rule 6 of the EDA (Conduct and Service) Rules, 1964, is in the nature of discharge simpliciter. The departmental instructions indicate that no reasons should be indicated in the order of termination. However, it has been stated that the termination of services under this Rule may normally be ordered only in cases of unsatisfactory services or for administrative reasons not connected with the conduct.

11. We have already mentioned that there is nothing on record to indicate that the applicant's services were unsatisfactory or his conduct was in any manner reprehensible. Therefore, the termination of the applicant's service is for administrative reasons not connected with the conduct. The respondents have disclosed the administrative reasons in the supplementary counter affidavit. It has been stated that the applicant was appointed ignoring the SC candidate and this was in contravention of certain departmental instruction by which the SC candidates were to be given preference in the matter of appointment as DA in order to make up the inadequate representation of the members of this community. The extent of powers

of the competent authority in terminating the services of an employee under Rule 6 of the EDA (Conduct and Service) Rules, 1964, has been subject of judicial scrutiny in numerous cases. The decisions given by various courts and benches of the Tribunal do not appear to be wholly consistent with regard to the nature of powers vested in the competent authority under this Rule. In fact, in view of this, this Bench has already made a reference of this matter for an authoritative pronouncement by a larger bench. However, on perusal of the various decisions one could say that it would render the appointment void ab initio, the appointment itself can be cancelled, and the services of the employee can be terminated by a simpliciter order without giving any opportunity to the employee to show-cause. If, however, the nature of irregularity is not fatal to the appointment, the principles of natural justice would dictate that the termination of the services of the employee is done only after affording a proper opportunity to the employee to show-cause unless the termination of service is on account of unsatisfactory performance, in which case the order of termination would amount to discharge simpliciter.

12. Before we consider the nature of irregularity involved in the appointment of the applicant in this case, we would like to dispose of the objection raised by the respondents to the maintainability of this application on the ground that he has approached the Tribunal without exhausting the departmental remedy. Under Section 20 of the Administrative Tribunals Act, 1985, the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant has availed of the remedies available to him under the relevant service rules as to redressal of grievances. The respondents have not indicated under which service rules, the applicant had a departmental remedy available to him against his grievance. We have, however, referred to the EDA (Conduct and Service) Rules, 1964 to ascertain whether there is any provision for departmental remedy against an order of termination of services. We have seen therefrom that the Director General Post & Telegraph instruction No. 8, below Rule 6 *ibid.*, clearly states that there will be no right of appeal against an order of termination of services. However, an order of termination can be reviewed within a period of six months under Rule 16. We have also referred to Rule 16 *ibid.* and it would appear therefrom that the provision of review in that Rule relates essentially to the orders passed by way of disciplinary action. We are satisfied that by approaching the Tribunal directly challenging the order of termination of his services, the applicant has not contravened the provisions of Section 20 of the Administrative Tribunals Act, 1985.

13. We may now consider the nature of irregularity involved in giving appointment to the applicant. The respondents have relied on two departmental circulars by which the SC/ST candidates are supposed to be given preference in the matter of employment as ED Agents. These are DG P & T communications dated 8-3-1978 and 13-3-1984. Extract of these communications printed in the Swamy's Compilation of Service Rules for ED Staff have been annexed as Annexure SC A-1 and A-2. The communication dated 8-3-1978 gives reference to certain earlier orders and then goes on to state the following:

"It is hereby clarified that candidates belonging to the Scheduled Castes/Scheduled Tribes with the minimum educational qualifications prescribed in this office Letter No. 5-972-ED Cei, dated the 18-3-1973, viz., VIII Standard for ED BPMs, VI Standard for ED DAs and ED SVs and working knowledge of the regional language and simple arithmetic for other EDAs (and working knowledge of English for ED Messengers) should be given preference

over the candidates belonging to other communities, even if the latter are educationally better qualified, provided that the candidates belonging to Scheduled Castes/Scheduled Tribes are otherwise eligible for the post."

14. The communication dated 13-3-1984 reads as follows:

"It has now been decided that while making selection to the posts of EDBPMs/ED SPMs in divisions where SC/ST representation in ED appointment in general is inadequate SC/ST may be given preference. This is, however, subject to the condition that they fully satisfy all criteria for such appointment; provided further that notwithstanding this concession, any candidate with matriculation qualification subject to satisfaction of all other criteria, will be preferred to those with less than matriculation qualification. No weightage need be given in qualification above the level of matriculation.

These instructions should be brought to the notice of the subordinate formations urgently."

15. It would appear from the perusal of the above communications that the intention of the authorities is that if there is among the candidates a SC/ST candidate and he fulfils all the eligibility qualifications for the ED posts, he shall be preferred over the other general candidates in the matter of appointment. The communication dated 8-3-1978 even states that if the general candidates are educationally better qualified even then they are to be ignored in favour of the SC/ST candidates fulfilling the minimum qualifications. This would factually make the posts reserved for the SC/ST community unless the Employment Exchange does not sponsor qualified SC/ST community candidates at all.

16. In this regard we also referred to the method of recruitment of ED Agents contained in Section III of the EDA (Conduct and Service) Rules, 1964. In Para 1(2), which deals with educational qualification for the ED Posts itself inter alia specifies that the educational qualification for the EDBPM would be Matriculation and the selection should be based on the marks secured in the Matriculation or the equivalent examination. It has been elsewhere clarified that a candidate getting higher marks in the matriculation or equivalent examination shall be preferred over others who have obtained lesser marks. In a Full Bench decision in the case of *S. Ranganayakulu v. Sub Divisional Inspector (Postal)*<sup>1</sup>, it was held that in the absence of statutory rules, executive instructions issued by the competent authority will have full play. As there are no statutory rules governing recruitment of EDAs, the executive instructions which are contained in Section III, under the heading, "Method of Recruitment," would hold the field. Therefore, the condition that the selection should be based on the marks secured in the Matriculation or equivalent examination for appointment on the post of EDBPM, cannot be overridden unless certain posts are reserved for candidates of certain communities for whom, getting lower marks than the general candidates would not come in the way of their being selected for the post.

17. The communications relied upon by the respondents, extracts of which have been quoted above, do not indicate that there is any provision of reservation for the post of EDA for SC/ST candidates. In the absence of a provision for reservation of the post, it is difficult to hold that a SC/ST candidate shall be appointed in preference to a general candidate who is superior in merit by virtue of higher percentage of marks obtained in the Matriculation or equivalent examination.

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Service Rules, 1964, that it has been clearly specified that for the ED posts *other than those of ED BPM/ED SPM* (emphasis supplied), preference to SC/ST candidates may still be given in order to ensure the minimum fixed percentage as laid down in the letter dated 8-10-1980. For the convenience of reference, we quote the relevant extracts of Para 1.6 of Section III:

#### "6. Preferential categories:

The last orders issued in this connection under Letter No. 43-191/79-Pen. dated 22-6-1979, fixing the four preferential categories according to the earlier orders issued vide D.G.P.T., letter No. 43-14/72 Pen., dated 2-3-1972, No. 43-246/77-Pen., dated 8-3-1978, to Scheduled Castes and Scheduled Tribes candidates; and No. 43-231/78-Pen., dated 17-2-1979, (regarding Ex. Army Postal Service Personnel); No. 43-312/78-Pen., dated 20-1-1979 (regarding Backward Classes and weaker sections of Society, and to the educated unemployed persons, it is clarified that the above preference should be subject to first and foremost condition that the candidate selected should have an adequate means of livelihood, which though already prescribed seems to have been ignored for some time past especially in view of these preferential categories being introduced in the above orders.

The criterion to *have adequate means of livelihood* should be that in case he loses his main source of income, he should be adjudged as incurring a disqualification to continue as ED SPM/ED BPM. In other words, there must be absolute insistence on the adequate source of income of ED SPM/BPM and the allowances for his work as ED SPM/BPM must be just supplementary to his income. To ensure this condition, the candidate must be able to offer office space to serve as the agency premises for postal operations as well as public call office and as such business premises such as shops, etc. must be preferred regardless of the various categories of preference mentioned above.

The preference earlier given to Backward Classes and weaker sections of society stipulated under D.G. P.&T. Letter No. 43-312/73-Pen., dated 20-1-1979, should be dispensed with as no such categories have been defined on an All India basis.

For the ED Posts other than those of ED BPM/ED SPMs, preferences to Scheduled Caste/Tribe candidates may still be given in order to ensure the minimum fixed percentage as laid down in Letter No. 43-117/30-Pen., dated 8-10-1980.

(D.G. P. & T. Letter No. 43-84-Pen, dated the 30-1-1981 and corrigendum, dated the 29-3-1981, D.G. Posts Letter No. 41-301/87-PE-II (ED & Trg.) dated the 6-6-1988 and No. 17-366/91-ED & Trg., dated 12-3-1993.)

19. It is, therefore, clear that unless the departmental instructions have been further amended, the preference to SC/ST candidates is not to be given in respect of EDBPM/EDSPM. As the applicant was selected for the post of EDBPM, his appointment cannot be regarded irregular merely because another candidate, who, admittedly was inferior to the applicant, was not appointed on the strength of his belonging to SC community. The respondents have not placed before us any departmental circular in support of their contention that preference has to be given to SC/ST candidates even for the post of EDBPM except the circular dated 8-3-1978 and 13-3-1984. It would appear from the authority of the DOPT letter quoted below,

(sic).

20. The learned counsel for the applicant cited several cases in support of his contention that the applicant's services could not have been terminated without giving him an opportunity to show-cause. These are:

- (I) *Bishnukant Jha v. Union of India*<sup>2</sup>
- (II) *Ganesh Prasad Singh v. Union of India*<sup>3</sup>
- (III) *Vikram Kumar v. Union of India*<sup>4</sup>
- (IV) *Amar Singh v. Union of India*<sup>5</sup>

21. In *Bishnukant Jha*, the applicant was selected and appointed on the post of EDBPM. After he joined the post, on certain complaints from one of the unsuccessful candidates, his appointment was cancelled in pursuance of the direction of the Director of Postal Services. Thereafter, his services were terminated by a simpliciter order. The plea taken by the respondent was that the applicant was not the best among the candidates since some other candidate had a higher qualification of Intermediate in Science than the applicant who was only a Matriculate and the said candidate had also better financial resources than the applicant. The Patna Bench of the Tribunal *inter alia* held that before cancellation of appointment, the applicant should have been afforded an opportunity of being heard. It further held that where an appointment is void ab initio, the same can be cancelled without giving any notice or without giving any opportunity.

22. We are in respectful agreement with the above, proposition of law which we have had occasion to refer to in the earlier portion of our order. Had the present applicant's appointment been void ab initio, the cancellation of his appointment and the termination of his services could have been done without giving any opportunity to him. We have, however, already seen that there is nothing to indicate that the applicant's appointment was void ab initio since there is no statutory rules which are violated by this appointment. Therefore, it was necessary to give him an opportunity to show-cause before his appointment was cancelled or his services were terminated.

23. In *Ganesh Prasad Singh v. Union of India*<sup>3</sup> the applicant was appointed as EDBPM after proper selection. His appointment was, however, subsequently cancelled and another candidate, who was earlier unsuccessful was appointed on that post. The case of the respondents was that the said unsuccessful candidate had submitted a representation alleging irregularity in the appointment of the applicant. Thereupon the appointment file was called for by the administrative head of the circle and on review it was found that the earlier unsuccessful candidate was the most suitable candidate as he had higher marks in the Matriculation Examination and had more landed property than the applicant. In this case, the Patna Bench of the Tribunal held that unless there be a patent illegality in respect of the appointment, it is not proper that the appointment is cancelled and another person is appointed. It further held that on the facts of the case the applicant would have been given an opportunity of being heard on the basis of the principles of natural justice.

24. We are not fully in agreement with the proposition of law laid down in the above cases since from the facts of the case, it was clear that the applicant had

- 2. (1991) 15 ATC 15
- 3. (1991) 15 ATC 20
- 4. (1990) 14 ATC 367
- 5. (1995) 1 ATJ 64

unsuccessful' and as the marks obtained in the Matriculation or equivalent examination is the determining factor in the selection and finds place under Section III of the EDA Rules, which has got a statutory force in terms of the Full Bench decision in the case of *S. Ranganayakulu*<sup>1</sup>. We, however, are in full agreement with the proposition that unless there is a patent illegality in the appointment, it would not be possible to cancel the same without giving the opportunity to the appointee. This part of the proposition of law is fully applicable to the present applicant since there is no patent illegality in his appointment.

25. In *Vikram Kumar*<sup>4</sup>, the applicant was appointed as EDBPM. After he joined the post, his appointment was cancelled in pursuance of the decision of Director of Postal Services. The respondents submitted that Vikram Kumar was not the best candidate as he has less income. The Patta Bench of the Tribunal inter alia held that this was a matter for consideration by the departmental authorities at the time of selection and not afterwards. After appointment, if any dissatisfaction, either in his work or conduct would have been found, action could have been taken against him under the provisions of Rule 6.

26. In the case before us also, the appointing authority should have considered the question of giving preference to the SC candidates, if such preference was required to be given even for the post of EDBPM before the applicant was selected and appointed. Once he was selected and appointed, his appointment could not have been cancelled nor his services could have been terminated without giving him an appropriate opportunity.

27. In *Amar Singh* also the appointment of the applicant as EDBPM was cancelled on review by the Director General of Postal Services. The Chandigarh Bench of the Tribunal inter alia held that the appointing authority being the Senior Supdt. of Post Offices, an authority administratively higher than the appointing authority had no power of review in the matter of appointment by the appointing authority.

28. From narration of facts in the present case in the foregoing paragraphs, we have brought out that the applicant's appointment was cancelled by the Director of Postal Services, Allahabad on review of appointment. On the basis of the ratio of *Amar Singh case*<sup>5</sup>, the Director of Postal Services, Allahabad has no power to review the appointment of the applicant or cancel it on such review. This proposition of law has also been propounded by the Full Bench of Hyderabad Bench of the Tribunal in *N. Ambujakshi v. Union of India*<sup>6</sup>. In that case, the applicant was appointed as EDBPM by the Senior Superintendent of Post Offices. His appointment was reviewed by the Director of Postal Services, who issued direction that the candidate having more marks than the applicant should be appointed. The Full Bench inter alia held that Rule 16 of the EDA Rules which (sic) of review of orders, does not confer upon a higher administrative authority the power to revise the order of appointment purported to have been passed by a lower authority under Rule 3. It further held that higher administrative authority has no order, either inherent or otherwise to revise the order of appointment passed by the lower administrative authority or to set aside the same. The Full Bench also independently upheld the decision of the Patta Bench in *Ganesh Prasad Singh*<sup>3</sup> and overruled the decision of the same Bench i.e. the case of Umesh Rai in which a view different from *Ganesh Prasad Singh*<sup>3</sup> was taken.

29. It would be clear, therefore, that even otherwise, the Director of Postal Services, Allahabad, had no authority to review the appointment of the applicant and to cancel his appointment. This could have been done only by the appointing authority. Admittedly, in the present case, the appointing authority acted merely at the behest of the Director, Postal Services in seeking to terminate the appointment of the petitioner.

30. In view of the reasons given in the foregoing, we have no hesitation in holding that the cancellation of the appointment of the applicant and the issuance of the impugned notice seeking to terminate his services are illegal, arbitrary, untenable and, therefore, cannot be sustained. The impugned notice dated 8-8-1994 is hereby quashed. If by virtue of the interim order passed earlier, the applicant is still working on the post, he shall continue to function on that post. If, he has been relieved of the charge during the pendency of the application, he should be reinstated forthwith on the post and would be deemed to have continued on that post as if his appointment was never cancelled. He shall also be entitled to the benefit of continuity of service for all purposes except back wages.

31. The parties shall, however, bear their own costs.

*Re*  
*DBP* *Review of*  
*Cancellation of the*  
*Appointment*

(A2) (40)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

DA.1551/97

Between::

M.Satyaseela Reddy

Dated: 23/12/1997.

Applicant.

A N D

1. The Chief Post Master General,  
Andhra Pradesh Postal Circle,  
Hyderabad.
2. The Post Master General, Hyderabad  
Region, Hyderabad.
3. The Superintendent of Post Offices,  
Wanaparthy Postal Division,  
Wanaparthy, Mahaboobnagar.
4. Sri Venkataiah, S/o Tirumalaiah,  
Resident of Rajapet, A/W Koshapet,  
Mahaboobnagar Dist.

Respondents.

Counsel for the Applicant :: Mr.K.S.R.Anjaneyulu.

Counsel for the Respondents :: Mr.V.Bhimanna, Addl.CGSC

ORAM:

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

THE HON'BLE MR. B.S.JAI PARAMESWAR : MEMBER (J)

\* \* \*

THE TRIBUNAL MADE THE FOLLOWING ORDER:-

Heard Sri Subrahmanyam for Sri K.S.R.Anjaneyulu for the applicant counsel for the Respondents not present. But one Mr. Subrahmanyam of the Postal Department prays time for producing the Records. list it on 9.1.1998 by which date respondents shall produce the records.

*Anjaneyulu*  
26-12-97  
Deputy Registrar

DA.1551/97

Copy to:-

1. The Chief Post Master General, Andhra Pradesh Postal Circle, Hyderabad.
2. The Post Master General, Hyderabad Region, Hyderabad.
3. The Superintendent of Post Offices, Wanaparthy Postal Division, Wanaparthy, Mahaboobnagar.
4. Sri Venkataiah, S/o Tirumalaiah, Resident of Rajapet, A/W Koshapet, Mahaboobnagar Dist.
5. One copy to Mr. K.S.R. Anjaneyulu, Advocate, CAT., Hyd.
6. One copy to Mr. V. Bhimanna, Addl. CGSC., CAT., Hyd.
7. One duplicate.

srr

I/o

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.G. JAI PARAMESWAR :  
M(J)

Dated: 23/12/97

ORDER / JUDGMENT

NA / R.A. / C. S. No.

in

C.A. NO. 1551 / 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.

SRR

II Court

Dore

1551-198  
2

केन्द्रीय प्रशासनिक विधिकरण  
Central Administrative Tribunal  
DESPATCH

29 DEC 1997

हैदराबाद न्यायालय  
HYDERABAD BENCH

A copy of the Chief Postmaster General, Hyderabad letter no. VIG/Misc./Tfr/ML., dated 15/1/97 addressed to all SSPOs / SPOs etc.,

Sub:- Irregular appointments of EDAs by  
Appointing Authorities - Ref.  
-: 800 :-

Of late during the course of vigilance checks by the Circle office over the appointments of T.D. As in a Division, it is observed by the C.P.M.G. that the Appointing Authorities notify the vacancies to the candidates without mentioning whether it is a reserved vacancy and at the time of appointment, a decision is being taken to select a candidate belonging to reserved community on the pretext that required percentage of S.C. / S.T. community is wanting. This is irregular.

It is pertinent to mention that the D.G. Posts, vide clarification in Item 2(b) of letter no. 17-366/91-ED & Trg., dated 26.5.95, made it clear that in such circumstances, in order to fill up required percentage of certain community, the process of selection should commence from the notification level only by declaring the vacancy as reserved for SC/ST/OBC, as the case may be. Taking a decision at a later date to select a particular community candidate after notifying a vacancy without any indication of the nature of vacancy, becomes violation of the said instructions of D.G. Posts, besides becoming bad in law.

You are requested to take suitable notice and instruct all concerned to avoid all such irregularities.

Sd/ x x x x x  
Asst. Postmaster General (say)  
O/o C.P.M.G. Hyderabad - 500 001.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD

O.A. No. 1551 of 1997.

Between:

M.Satyaseela Reddy

....Applicant

AND

Chief Postmaster-General,  
A.P.Circle,  
Hyderabad and others.

....Respondents.

REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS No.1-3

I, V.S.Krishna Murthy son of V.Satyam aged 57 yrs  
occupation Government service, do hereby solemnly affirm and  
state as under:-

1. That I am the Asst. Director Office of the Postmaster-General, Hyderabad Region, Hyderabad - 500001 and dealing with the facts of the case as such I am well acquainted with the facts of the case. I am filing this reply statement on behalf of the respondents No.s. 1-3 as I have been authorised to do so. The material averments in the O.A. are denied save those that are expressly admitted here under:-

2. On 9.3.1997 the regular BPM was discharged from service and provisional arrangement was made by the SDI(P) Wanaparthy appointing the applicant of the O.A as BPM, Rajapet from 9.8.1997. As per the report of SDI(P) no SC/ST candidates were available after giving due publicity for the provisional appointment. Requisition was made on the Employment Exchange on 16.6.97 fixing the last date as 15.7.97 no candidate was sponsored by the Employment. Open notification was issued on 21.8.97 fixing the last date for receipt of applications as 23.9.97. In the open notification in item VII of the conditions it was clearly mentioned that preference will be given to the ST/SC/OBC candidates. As on the date the

Attestor

सहायक निदेशक डाक सेवा  
पोस्टमास्टर जनरल का कार्यालय,  
हैदराबाद क्षेत्र, हैदराबाद-500 001  
Assistant Director of Post & Services  
O/o The Postmaster-General  
Hyderabad Region Hyderabad-500 001

Deponee

सहायक निदेशक डाक सेवा  
पोस्टमास्टर जनरल का कार्यालय,  
हैदराबाद क्षेत्र, हैदराबाद-500 001  
Assistant Director of Post & Services  
O/o The Postmaster-General  
Hyderabad Region Hyderabad-500 001

(43) 44

representation of SC/ST was 51/696 and 6/696 whereas it must be 104 and 42 respectively. Again in the lr. No. H/ST/14-3/WPT dtd. 3.3.1997 instructions were issued that the representation of SC/STs in ED posts in Mahabubnagar and Wanaparthy division was found to be far below the prescribed minimum percentage and it should be made clear in the notification itself that preference would be given to candidates belonging to the reserved communities. According to the above directions the post was reserved for ST/SC/OBC candidates.

3. In response to the notification nine applications were received and they were sent to the SDI(P), Wanaparthy for verification on 24.9.97. The SDI(P) with prior intimation to all the candidates visited the BO village on 30.9.97 and submitted his report on 22.10.97.

The DSC consisting of the SPOs, Mahabubnagar and SPOs, Wanaparthy met on 24.10.97 considered the seven eligible applications out of the nine applications. The post is reserved for ST/SC candidates and the meritorious ST candidate is selected for the post i.e. Respondent no. 4 orders were issued selecting the candidate on 27.10.97. The charge of BPM was accordingly transferred to Respondent No. 4 from the applicant on 1.11.97. In the present O.A. the applicant challenged the action of the respondents in reissuing the post for SC/ST.

4. In reply to para 4:4:- In the open notification itself it was made clear that preference will be given to ST/SC OBC candidates in order to fulfill the shortfall in the representation of the communities as mentioned above. At the time of provisional appointment the applicant was appointed on provisional basis as none of the candidates belonging to ST/SC/OBC were available for the provisional appointment at that time. The applicant belonging to the OC community didnot have the right to expect the selection on regular basis.

*Attestor*  
सहायक निदेशक डाक सेवा

पोस्टमास्टर जनरल का कार्यालय,  
हैदराबाद क्षेत्र, हैदराबाद-500 001.  
Assistant Director of Post & Services  
O/o The Postmaster-General  
Hyderabad Region, Hyderabad-500 001

*Deponent*  
सहायक निदेशक डाक सेवा

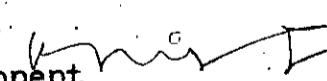
पोस्टमास्टर जनरल का कार्यालय,  
हैदराबाद क्षेत्र, हैदराबाद-500 001  
Assistant Director of Postal Services  
O/o The Postmaster-General  
Hyderabad Region, Hyderabad-500 001

✓ 5. In reply to para 4:5:- There is no violation on the part of respondent No.3 in selecting respondent No.4. The DSC consisting of respondent No.3 and SPOs, Mahabubnagar considered all the eligible applications and the rules on the reservation in view of the short fall in ST/SC/OBC and considered the selection of respondent No.4 in view of his merit among the ST/SC applications. The selection is according to the method of recruitment prescribed by the department.

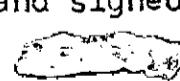
6. In reply to para 4:6:- As per the directions of RO in the lr. No. H/ST/14-3/WPT dated 3.3.97 in the open notification it was clearly mentioned that preference will be given for ST/SC/OBC candidates. It is to fulfill the shortfall. If no candidate belonging to the preferential communities is available the OC candidates would be considered for selection.

7. In reply to para 5.2:- The applicant being a candidate belonging to OC community and his application was not considered for selection in view of the shortfall and in giving the preference to ST/SC candidates as per the DG P&T lr. No. 43-246/77 pen dtd. 8.3.1978 over the candidates belonging to other communities even if the later are educationally better qualified, provided that the candidates belonging to ST/SC are otherwise eligible for the post. Hence considering the merit of the applicant does not arise. The post is reserved for ST/SC/OBC in the notification staged itself as clear stipulation that preference will be given to these categories only was made.

For the reasons states above, there are no merits in the OA and the Hon'ble Tribunal may be pleased to dismiss the same and pass further orders as may be considered necessary in the circumstances of the case.

  
Deponent

महायक निदेशक डाक सेवा  
पोस्टमास्टर जनरल का कार्यालय,  
हैदराबाद क्षेत्र, हैदराबाद-500 001  
Assistant Director of Posts & Services  
O/o. The Postmaster-General  
Hyderabad Region, Hyderabad-500 001

Sworn and signed on this   
day of  1998. at Hyderabad  
and signed before me.

  
Attestor  
महायक निदेशक डाक सेवा  
पोस्टमास्टर जनरल का कार्यालय,  
हैदराबाद क्षेत्र, हैदराबाद-500 001  
Assistant Director of Posts & Services  
O/o. The Postmaster-General  
Hyderabad Region, Hyderabad-500 001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:  
Hyderabad.

O.A No. 1551 of 1997

Between:-

M.Satyaseela Reddy ...Applicant

And:-

Chief Postmaster-General,  
A.P.Circle, Hyderabad and others

...Respondents.

Reply statement



Copy received  
Satyaseela Reddy  
24/2/98

Filed by *[Signature]*  
24/2/98

V. Dharmaraj  
Addl. C.G.S.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT: HYDERABAD

D.A. No.1551 of 1997

BETWEEN:

M.Satya Sheela Reddy

APPLICANT

A N D

CPMG and 3 others.

RESPONDENTS

COUNTER AFFIDAVIT FILED BY RESPONDENT NO.4

I, K.Venkataiah, S/o.Tirumalaiah, aged 18 years, working as ED/BPM, Rajapet, A/w.Kotthakota, Wanaparthy Postal Division, Mahaboobnagar District, do hereby solemnly and sincerely affirm and state on oath as follows:

1. That I am the deponent herein and Respondent No.4 in the DA No.1551/97 therefore well acquainted with the facts of the case.

2. I submit that I belong to Rajapet Village, qualified upto 10th class and I am having property and income from it, and so I am fully eligible to be appointed as BPM Rajapet. More over I belong to ST community and in Wanaparty Division, there is no adequate representation of 7.5% of STs in ED cadre.

3. I respectfully submit that, the IIIrd Respondent issued notification on 21.08.1997 to fill the Superannuation vacancy of BPM, Rajapet clearly mentioning that preference will be given to ST/SC/BC candidates. I applied for the post enclosing all the required certificates and the SPOs selected me and appointed as BPM Rajapet and I am continuing in the post from 1.11.1997. Since then I have been working with utmost sincerity and devotion.

2

K.Venkataiah  
contd

4. I further submit that the applicant in the OA, Sri M. Satya Sheela Reddy was working as BPM Rajapet purely on provisional basis and on my being appointed, he filed the OA, which is liable to be dismissed for the following reasons.

5. I humbly submit that, the very remark in the notification prescribes that, preference will be given to ST/SC/OBC. As per DG P&T letter No.43-117/80-Pen dt. 8.10.1980, and No.32-1/80 SCT, dt: 14.11.1980, it is incumbent to maintain atleast the minimum percentage of reserved category candidates in ED cadre as in the promotional cadre like Group-D and Postman which are to be exclusively filled through ED officials there is statutory reservation of 15% for SCs and 7.5% for STs. In the Wanaparty Postal Division, with over 800 ED officials the representation of the ST community is almost zero. The ST community has a right of getting about 60 ED posts if the total ED posts is 800. I humbly submit that, I may be the first ST ED/BPM in the Division, even EDMCs are not more than two or three.

6. I further submit that, the Superintendent of Post offices was perfectly right in prescribing that preference will be given to STs since there is under representation. In such circumstances, the applicant cannot plead of his merit. As already submitted, I am fully eligible for the post of the BPM and with such un-accountably low representation of the ST community, the applicant has no right to plead of his merit.

7. The applicant also cannot plead of any technicality as long as the the representation of ST in Wanaparty Postal Division is almost zero, since technicality cannot be used for preventing obtaining the objective of having an equitable society.

contd.....  
R.Venkatesh

IN THE CENTRAL ADMINISTRATIVE  
TRIBUNAL: HYDERABAD BENCH:  
AT: HYDERABAD.

O.A. NO: 1551 OF 1997

BETWEEN:

M.S. Sheela Reddy.. Applicant

A N D

CPMG AND 3 OTHERS

Respondents

Court Affidavit

~~DIRECTOR PETITION~~  
~~RB 5010232~~

~~PETITION FILED UNDER RULE 34  
OF THE TRIBUNAL~~



FILED FOR: APPLICANT

FILED ON: 31.3.1998

*Received  
CJG*

*Recd (874)  
W.M.M.  
Adel 28/6  
29-6-98*

FILED BY:

*Recd (874)  
W.M.M.  
Adel 28/6  
29-6-98*

SANKA RAMA KRISHNA RAO,  
ADVOCATE, 1-8-549/C, 11nd Floor

CHIKKADAPALLY, HYDERABAD-20.

COUNSEL FOR THE APPLICANTS.

contd.....

*Recd (874)  
W.M.M.  
Adel 28/6  
29-6-98*

46  
52

8. I humbly submit that, the Superintendent of Post Offices has rightly appointed me as a BPM and perhaps I am the first ST BPM in the Division and as there is no illegality in my appointment which is as per rules and as I am fully eligible for the post. The question of merit does not arise and, the OA is liable to be dismissed with costs.

In view of the above, it is, therefore, prayed that the Hon'ble Tribunal may be pleased to dismiss the OA No.1551/97 declaring the same as not maintainable duly ordering status-quo as far as it relates to the post of BPM Rajapet in Wanaparty Division till the disposal of the case, in the interest of justice and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

K. Venkatach

Sworn and signed on this  
16th day of March, 1998  
at Hyderabad.

D E P O N E N T.

BEFORE ME

DSmythy  
ADVOCATE.

contd.....

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
HYDERABAD

S.A. No. 1551 OF 1997

DATE OF DECISION: 12-11-1998

M. Satya Seela Reddy PETITIONER(S)

Mr. K.S.R. Anjaneyulu ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India & Ors. RESPONDENT(S)

Mr. V. Bhimanna, Addl. CGSC &  
Mr. S. Rama Krishna Rao ADVOCATE FOR THE  
RESPONDENT(S)

THE HON'BLE MR. JUSTICE KM. AGARWAL, CHAIRMAN

THE HON'BLE MR. JUSTICE D.H. NASIR, V.C.

THE HON'BLE MR. H. RAJENDRA PRASAD, AM

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*

2. To be referred to the Reporter or not? *yes*

3. Whether their Lordships wish to see the fair copy of the Judgement?

4. Whether the Judgement is to be circulated to the other Benches

JUDGEMENT DELIVERED BY HON'BLE CHAIRMAN.

  
( K. M. AGARWAL )  
CHAIRMAN

55

CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

O.A. NO. 1551/1997

Hyderabad, this the 12th day of November, 1998.

HON'BLE MR. JUSTICE K. M. AGARWAL, CHAIRMAN  
HON'BLE MR. JUSTICE D. H. NASIR, VICE CHAIRMAN  
HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (A)

M. Satyaseela Reddy S/O Ranga Reddy,  
R/O Rajapet, A/W Kothakota,  
Mahboobnagar District.

... Applicant

( By Mr. K. S. R. Anjaneyulu, Advocate )

-Versus-

1. Union of India through  
The Post Master General,  
Andhra Pradesh Postal Circle,  
Hyderabad.
2. The Post Master General,  
Hyderabad Region, Hyderabad.
3. The Superintendent of Post Offices,  
Wanaparthy Postal Division,  
Wanaparthy, Mahboobnagar.
4. Shri Venkataiah S/O Tirumalaiah,  
R/O Rajapet, A/W Koshapet,  
Mahboobnagar District. ... Respondents

( By Mr. V. Bhimanna, Addl. CGSC for Resp. 1-3 and  
Mr. S. Rama Krishna Rao for Resp. No.4, Adv.)

O R D E R

Mr. Justice K. M. Agarwal :

This Full Bench has been constituted for considering  
the following question of law referred to it by a Division  
Bench of this Tribunal :-

"Whether the condition that "preference will  
be given to ST/SC/OBC" would mean the  
candidates belonging to ST/SC/OBC even though  
they possess less merit than O.Cs., are to be  
considered and selected and if any of the  
candidates in the category of ST/SC/OBC are  
not selected, then only the O.C., candidates  
will be considered and selected in  
accordance with the rules?"

*Jm*

2. Briefly stated, the post of Extra Departmental Branch Post Master (in short, EDBPM), Rajapet in District Mahboobnagar fell vacant. The applicant was provisionally appointed as EDBPM. By notification dated 21.8.1997, applications were invited from eligible candidates for regular selection to the said post of EDBPM. Both the applicant and the 4th respondent were aspiring for the post and were, therefore, applicants before the official respondents for the said post of EDBPM, pursuant to the said notification dated 21.8.1997. Paragraph 3 of the notification laid down the conditions required to be fulfilled by a candidate for the said post. In clause VII thereof it was notified that "Preference will be given to ST/SC/OBC candidates". The applicant belonged to the general category, whereas the 4th respondent belonged to the Scheduled Caste community. Both of them were eligible for consideration as also for appointment to the post of EDBPM, Rajapet. However, the applicant had secured more marks than the marks secured by the 4th respondent in matriculation examination. On these facts, ordinarily the applicant would have been selected for the post but for the clause in the notification for giving preferential treatment to a candidate belonging to ST/SC/OBC, the 4th respondent was appointed to the post in preference to the applicant. Being aggrieved, he filed the said O.A. for quashing the appointment of the 4th respondent. The application is resisted by the respondents. After hearing the learned counsel for parties and perusing a decision of the Calcutta Bench of this Tribunal in SHIBANATH DHARA vs. UNION OF INDIA, (1997) 36 ATC 41 (Calcutta) the Division Bench of this Tribunal felt that as the issue involved in the case appeared to be important, it would be preferable if the point was finally decided by the Full Bench.

Accordingly, the aforesaid question was referred to the Full Bench for consideration and came to be heard by us.

3. Referring to a decision of the Supreme Court in POST GRADUATE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH vs. FACULTY ASSOCIATION, 1998 SCC (L&S) 961 and the three decisions of Ernakulam, Calcutta and Allahabad Benches of this Tribunal in K. P. CHANDARAN, vs. SUB DIVISIONAL INSPECTOR 1994 (1) SLJ 550 (Ernakulam); VISHNU KANT SHUKLA vs. UNION OF INDIA, (1997) 35 ATC 474 (Allahabad); and SHIBANATH DHARA vs. UNION OF INDIA, (1997) 36 ATC 41 (Calcutta), the learned counsel for the applicant submitted that the post of EDBPM for Rajapet was an isolated post and, therefore, it could not be reserved for ST, SC or OBC candidates without violating Articles 14 and 16 of the Constitution. Equating 'preferential treatment' with 'reservation', the learned counsel further submitted that the appointment of the 4th respondent to the said post was violative of Articles 14 and 16 of the Constitution and, therefore, liable to be quashed. In the alternative, it was submitted that only in a case where other things were equal in all respects, a candidate belonging to ST, SC or OBC could be preferred to that of a candidate from general category. It was argued that the marks obtained by the applicant in the matriculation examination were more than the marks obtained by the 4th respondent. Accordingly, the 4th respondent could not be treated to be equal in every respect with the applicant and overlooking his merit, the 4th respondent could not be appointed to the said post of EDBPM.

4. The learned counsel for the official respondents and for the 4th respondent submitted that insertion of a

*Jm*

clause in the notification for giving preference to the ST, SC and OBC candidates was not bad or violative of Articles 14 or 16 of the Constitution. According to them, it was obligatory on the part of the Government and the official respondents to give the Constitutional safeguards in matters of public employment to the persons belonging to the Scheduled Tribes, Scheduled Castes and Other Backward Classes of the society. Accordingly, in a situation like the present one, where reservation is not possible in view of the existence of only <sup>one</sup> post, the Government or the official respondents could lawfully achieve the Constitutional objective by making a provision for giving preference to <sup>one</sup> of ST, SC or OBC community.

4. In K. P. CHANDRAN (supra), the Ernakulam Bench observed that :-

"2.....To our mind, preference envisages the existence of two eligible categories. Preference does not imply exclusion of one of the two eligible categories. If that were so, it would not be preference but reservation. It is a relative and not an absolute concept. If the right is singularised in one, there is no question of preference. All that the expression conveys is that, priority can be extended to one if in other respects both are equal."

It was further held that :-

"3. A member belonging to Scheduled Caste is entitled to preference or reservation, in given cases. This will have to be understood in the context of facts, and not in an absolute sense. It is common knowledge that when there is only one post,

*Jm*

there is no reservation. There may be cases, where there are 10 posts and 100 applicants, with 10 belonging to a reserved category. If all the posts are to go to them, it will lead to 100 percent reservation. It is well settled that reservation cannot exceed 50% of the vacancies. We are referring to these instances, only to illustrate that reservation or preference is not absolute. We do not think that applicant is entitled to be appointed merely by reason of his community status to the single vacancy which is in existence."

From these observations of the Ernakulam Bench, we find nothing to support the contention of the learned counsel for the applicant that 'reservation' and 'preferential treatment' are one and the same thing.

5. In SHIBANATH DHARA (supra), the Calcutta Bench observed that :-

"11.....But any such scheme of 'preference' should strictly operate only amongst the equally-qualified and eligible candidates whether SC/ST or non-SC/ST. If SC/ST candidate and a non-SC/ST candidate have each equal qualification, then only SC/ST candidate may be selected by operation of the scheme of 'preference'. But if the SC/ST candidate is less qualified than the other non-SC/ST candidate, then in the name of 'preference' such SC/ST candidate cannot be selected by ignoring the higher merits of other candidates. This would otherwise imply wrongly applying the scheme of 'preference'. Any such selection by ignoring higher merits of others can be done only through alternative scheme of reservation of quota prescribed for SC/ST candidates."

*Jm*

It was further held that :-

"12. In the instant case, since the post is admittedly an unreserved one, the official respondents' action in selecting private Respondent 4 by ignoring more qualified non-SC/ST candidates is clearly not justified. The learned counsel for the official respondents has very articulately endeavoured to draw our attention to that part of the text of DG&PT instructions dated 8-2-1978 which prescribes that SC/ST candidate should be given preference over other candidates even if others are educationally better qualified provided the SC/ST candidates are otherwise eligible for the post. But this part of the instructions is clearly arbitrary and ultra vires the provisions of Articles 14 and 16 of the Constitution of India. As the post is not reserved for SC/ST candidate, the department's adherence to DG & PT's aforesaid instructions dated 8-3-1978 would in fact imply that wherever SC/ST candidate with minimum qualification is available, the post would be treated by the department as reserved for such SC/ST candidates and, thus 100% reservation will follow. In such cases, the chance of a non-SC/ST candidate becomes totally illusory even if the post has been formally notified as a non-reserved one. This is clearly arbitrary and discriminatory."

7. In VISHNU KANT SHUKLA (supra), the Allahabad Bench first referred to the method of recruitment of ED Agents<sup>given</sup> in Section III of E.D.A. (Conduct and Service) Rules, 1964 and then held that :-

"16.....the condition that the selection should be based on the marks secured in the Matriculation examination for appointment on the post of EDBPM, cannot be overridden unless certain

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posts are reserved for candidates of certain communities for whom, getting lower marks than the general candidates would not come in the way of their being selected for the post."

In paragraph 17 of the order, it was further said that :-

"17. The communications relied upon by the respondents, extracts of which have been quoted above, do not indicate that there is any provision of reservation for the post of EDA for SC/ST candidates. In the absence of a provision for reservation of the post, it is difficult to hold that a SC/ST candidate shall be appointed in preference to a general candidate who is superior in merit by virtue of higher percentage of marks obtained in the Matriculation or equivalent examination."

8. The decision of the Supreme Court in POST GRADUATE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH (supra) was cited only in support of the contention that reservation cannot be applied through roster or otherwise in the case of a single post cadre. As the correctness of the principle laid down by the Supreme Court in this case is not in dispute, it does not appear necessary to examine or discuss the case at any further length.

9. To begin with, the distinction between 'reservation and preference', or 'relaxation and preference', or 'reservation and relaxation' does not appear to have been streamlined in any of the aforesaid decisions relied on by the learned counsel for the applicant and, therefore, a confusion appears to have been created in explaining or understanding the said cases. We have, therefore, first to see the difference between 'reservation and preference' and between 'relaxation and preference', or 'reservation and relaxation'. According to us, reservation of a post or posts

for a particular category of candidates means total exclusion from consideration of other categories of candidates, even if more qualified or better merited. Relaxation on the other hand means certain concession by variation or changes in the eligibility conditions, such as age relaxation to candidates belonging to ST/SC/OBC categories by increasing the upper age limit for any post in their cases. As opposed to reservation and relaxation, when preference is stipulated, all eligible candidates, irrespective of their categories, are simultaneously considered for any post on equal footing, and are subjected to a common and uniform process of selection. If no person belonging to any particular preferential category is available or selected, no question of giving preferential treatment to such a category of persons arises. Where such a person is available or selected and empanelled in the select list, he gets the benefit of preferential appointment irrespective of his position in the select list which is also known as merit list. In rarest of rare cases, two candidates get equal position in the select list and in that eventuality, how selection is to be made is indicated in the relevant rules. In some cases, seniority in age is the deciding factor. In some other cases, marks obtained in a particular subject at any examination is the deciding factor for choosing one between the two. Accordingly, if an SC candidate finds his name at Sl. No. 1 of the merit list, no question of giving preferential treatment arises. If his name is below the names of persons not in preferential category, he gets preference over such other candidates not in preferential class in matter of public employment by invoking the provision of preferential treatment in the recruitment rules or in the notified conditions of eligibility. We are of the view that the Calcutta Bench committed an error by equating qualification

with merit. Extra qualification or over-qualification is meaningless where minimum qualification is prescribed for a post. All persons possessing the minimum required qualification are treated alike, over-looking additional qualifications of any particular candidate. Thus, a person possessing matriculation certificate will get a similar treatment with a graduate for the post of an EDBPM, because the requisite minimum qualification for that post is S.S.C. or matriculation certificate. As per rules, inter se merits are required to be determined on the basis of markslist of S.S.C. examination. As the applicant had secured more marks in the S.S.C. examination, he was ordinarily entitled to be appointed against the post of an EDBPM. However, as preference was notified to be given to a person belonging to ST/SC/OBC categories and the 4th respondent belonged to one of such categories, he was preferred for appointment to the said post. If both of them had secured identical marks, there could have been no occasion for giving any preferential treatment to the 4th respondent. Accordingly, we are of the view that the 4th respondent was correctly given appointment against the post of EDBPM, though less merited as compared to the applicant, by invoking the clause containing provision for giving preferential treatment to a person belonging to ST/SC/OBC categories. The next question is whether unlimited number of persons may be given preferential treatment by invoking the notified clause for giving preference to the ST/SC/OBC candidates, or whether that clause for preferential treatment is violative of Article 14 or 16 of the Constitution? We are of the view that unrestricted number of candidates cannot be given preferential treatment in the matter of public employment. If it is restricted to a certain permissible limit, it will not

*John*

be violative of Articles 14 or 16 of the Constitution. If unrestricted, it may violate Articles 14 or 16 of the Constitution. In the present case, it has been the case of the respondents that approximately as many as 400 posts of EDBPM are available for approximately 400 villages. Keeping in view the permissible limit of reservation, preferential treatment for the post of EDBPM is restricted to certain number of villages, without exceeding the permissible limit of reservation in view of the fact that only one post of EDBPM is available for one village and due to this reason reservation has not been possible for the post of EDBPM. It has not been shown by the applicant that innumerable persons belonging to ST/SC/OBC categories have secured employment to the post of EDBPM, or that such appointments had exceeded any permissible limit for reservation.

10. In the light of the discussions aforesaid, our answer to the question referred to the Full Bench is as follows :-

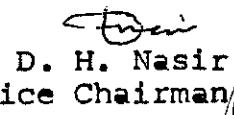
"The condition that preference will be given to ST/SC/OBC would mean that the candidates belonging to ST/SC/OBC even if placed below the names of OCs (i.e., other candidates, or candidates belonging to general category) in the merit list, would be entitled to appointment in preference to OCs, though all the candidates belonging to general category or ST/SC/OBC categories would be entitled to equal consideration for the purpose of selection. If the name of no candidate belonging to ST/SC/OBC finds place in the merit list, or no eligible ST/SC/OBC candidate is available for the post, then only OC candidate may be selected for appointment according to rules."

*Jm*

11. Ordinarily, after answering the question, we would have sent back the case to the Division Bench for its disposal in accordance with law. However, as we find that no other point survives in this case, we propose to finally dispose of this case in the light of our aforesaid answer to the question referred to this Full Bench. Accordingly, this O.A. fails and it is hereby dismissed, but without any order as to costs.



( K. M. Agarwal )  
Chairman



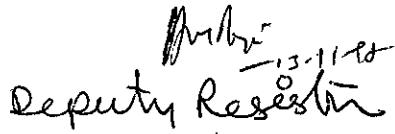
( D. H. Nasir )  
Vice Chairman



( H. Rajendra Prasad )  
Member (A)

Dated the 12th November, 1998.

/as/



Deputy Registrar  
13.11.98

To

1. The Postmaster General,  
Union of India, A.P.Postal Circle,  
Hyderabad.
2. The Postmaster General,  
Hyderabad Region, Hyderabad.
3. The Superintendent of Post Offices,  
Wanaparthy Postal Division, Wanaparthy  
Mahaboobnagar.
4. One copy to Mr. K.S..R.Anjaneyulu, Advocate, CAT.Hyd.
5. One copy to Mr. V.Bhimanna, Addl.CGSC. CAT.Hyd.
6. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
7. One copy to HHRP.M.(A) CAT.Hyd.
8. One Copy to All Reporters, as per standard list of CAT.Hyd.
9. One spare copy.
10. 4 copies to HMC & H-member  
pvm.

23/11/98  
TYPED BY  
CHECKED BY

I COURT  
COMPARED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

The Hon'ble Mr. Justice K. M. Agarwal : chairman  
THE HON'BLE MR. JUSTICE D. H. NASIR :  
VICE-CHAIRMAN  
AND  
THE HON'BLE MR. H. RAJENDRA PRASAD : M(A)

DATED: 12-11-1998.

~~ORDER/JUDGMENT~~

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

in  
O.A.NO. 1551/97  
T.A.NO. (W.P.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions

Dismissed.

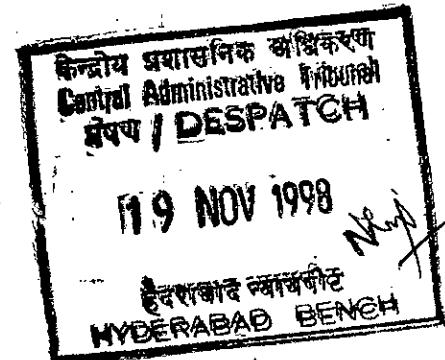
Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.



Form No.8

(See Rule 29)

BY R.P.A.D.

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH AT HYDERABAD

1st Floor, HACA Bhavan, Opp: Public Garden, Hyderabad-500 004. A.P.

ORIGINAL APPLICATION NO. 1551. OF 1997.

Applicant (s) **M. Satya Seela Reddy** VS.

Represented by

Advocate Shri: **K.S.R. Anjaneyulu.**

Respondent (s)

**The Chief Post Master General, Hyd. & others.**

Represented by

Advocate Shri **V. Dhimanne.**

**Addl.CGSC.**

To

**R-4. Sri Venkataiah,  
Resident of Rajapet, A/W Kachapet,  
Mahaboobnagar Dist.**

Whereas an application filed by the above named applicant under Section 19 of the Administrative Tribunals Act, 1985, as in the copy annexed hereunto has been registered and upon preliminary hearing the Tribunal has directed that you should be given an opportunity to show cause why the application should not be admitted.

Notice is hereby given to you to appear in this Bench of the Tribunal in person or through a Legal Practitioner Presenting Officer in this matter at 10-30 A.M. of the **Twelfth,.....** day of **February,.....**, 1998. to show cause, why the application should not be admitted. If you fail to appear, the application will be heard and decided in your absence.

Given under my hand and the seal of this Tribunal, this the **Twenty Second,.....** day of **January,.....** 1998.

*Received for Service  
to R-4*

*W. S. Balaji  
Advocate*

**// BY ORDER OF THE TRIBUNAL //**



Date : 27.1.98.

*R*  
FOR REGISTRAR.

Form No.8

(See Rule 29)

OK

BY R.P.A.D.

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH AT HYDERABAD

Ist Floor, HACA Bhavan, Opp: Public Garden, Hyderabad-500 004. A.P.

ORIGINAL APPLICATION NO.

1551

OF 199 7.

Applicant (s)	MS. Subba Reddy	V/S,	Respondent (s)
Represented by	CPMG, A.P.Hyd & 3 ors.	Represented by	
Advocate Shri:	KSR. Anjaneyulu	Advocate Shri:	V. Bhimanna, Addl. C.G.

To

- R-1. Chief Post Master General, A.P.Postal Circle, Hyderabad.
- R-2. The Post Master General, Hyderabad Region, Hyderabad.
- R-3. The Superintendent of Post Officer, Wanaparthy Postal Division, Wanaparthy, Mahaboobnagar.
- R-4. Sri. Venkataiah, S/o Tirumalaiah, R/o Rajapet, A/w Koshapet, Mahaboobnagar District.

Whereas an application filed by the above named applicant under Section 19 of the Administrative Tribunals Act, 1985, as in the copy annexed hereunto has been registered and upon preliminary hearing the Tribunal has directed that you should be given an opportunity to show cause why the application should not be admitted.

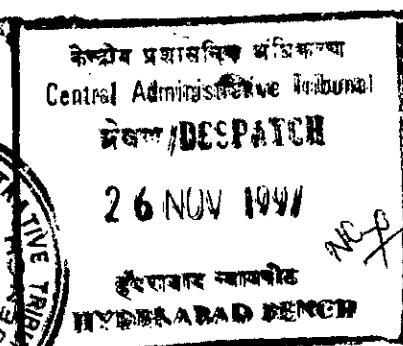
Notice is hereby given to you to appear in this Bench of the Tribunal in person or through a Legal Practitioner Presenting Officer in this matter at 10-30 A.M. of the Twenty Third..... day of December, 199<sup>7</sup>..... to show cause, why the application should not be admitted. If you fail to appear, the application will be heard and decided in your absence.

Given under my hand and the seal of this Tribunal, this the Twenty fifth..... day of November, 199<sup>7</sup>.....

// BY ORDER OF THE TRIBUNAL //

Or  
24/11/97

OK



Date : 24-11-97.

FOR REGISTRAR.

Central Administrative Tribunal :  
Hyderabad Bench at Hyderabad

O A No.

of 199

Between

**VAKALAT**

ACCEPTED

*Subrahmanyam*  
ADVOCATES FOR APPLICANT / RESPONDENT

Address of Service :

Phones : 7617006  
7601284

**K. S. R. ANJANEYULU  
D. SUBRAHMANYAM**  
ADVOCATES

1-1-365/A, Jawaharnagar, (5th Street)  
Bakaram, Hyderabad - 500 020.

**In the Central Administrative Tribunal : Hyderabad Bench  
at Hyderabad**

O A No. 1551 of 1997

M: Sathyan Seelam Reddy

Applicant

VERSUS

U.O.D. reply

Chpt Postmaster General  
A.P. Circle Head Office

Respondent

I  
We

In the above Application do hereby appoint and retain

**K. S. R. ANJANEYULU**

ADVOCATE

and

**D. SUBRAHMANYAM**

ADVOCATE

Advocate/s of the High Court to appear for Me/Us in the above Application and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including applications for return of documents or the receipt of any money that may be payable to Me/Us in the said Application and also to appear in all appeals, and applications under clause XV of the Letters Patent and in applications for review and for leave to appeal to the Supreme Court.



H. S. Reddy

I certify that the contents of the this Vakalat were read out and explained in.....(Signature).....in my presence to the executant, or executants who appeared perfectly to understand the same and made his, or her or their signature or mark or marks in my presence.

Executed before me this

3<sup>rd</sup> day of

Oct-Nov 1997

Krishna Noham  
Advocate

On the 24th, 1999

O/A no. 1551 of 97

Memo. of appearance

Dated by

V. Bhimrao  
Adv. CSC



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH  
AT HYDERABAD

O.A. No. 1551 of 97

M.M.O. OF APPARANCE

Between :

M. Satyaseela Reddy

And

Chij PMG, AP-crica & Ors

Applicant(s)

Respondent(s)

To

The Registrar,  
Central Administrative Tribunal,  
Hyderabad Bench,  
H Y D E R A B A D

Sir,

I, V. BHIMANNA, Advocate, having been authorised by the Central Government, notified under Section - 14 of the Administrative Tribunals Act 1985, hereby appear for the Respondents and undertake to plead and act for them in all matters in the above said case.

Hyderabad, )  
Dated : 24.2.98 )

*V. Bhimanna*  
Signature of the Counsel  
Addl. CG.C/SC for Railways

Address of the Counsel :

203, Renuka Shakti Apartments,  
King Koti Road,  
Bashirbagh,  
HYDERABAD - 500 029

25  
IN THE COURT OF THE Central  
Administrative Tribunal Hyd Bench  
AT Hyderabad

OA No. 1551 of 1997

BETWEEN :-

Satyendra Reddy

PLAINTIFF  
PETITIONER  
APPELLANT  
COMPLAINANT

AND

Chief Post Master General

DEFENDANT  
RESPONDENT  
ACCUSED

A.P. & others

Accepted

**VAKALAT**

K. S. Jain

ACCEPTED

Advocate for :

R - 4

Filed 24th

June

1998

Address for Service

**SANKA RAMAKRISHNA RAO**

B.A.LL.B., P.G.D.C.R.S.,

ADVOCATE

1-1-10/2, Jainahar School Lane,  
Jawahar Nagar, RTC X Road, Hyderabad-500 020.  
PHONE: 7638883 (O)

1-8-549/C, 2nd Floor,  
Opp. Lane to Pooja Collections,  
Chikkadpally, Hyderabad-500 020.

IN THE COURT OF THE Central Administrative Tribunal

Hyderabad Bench

AT Hyderabad

O.A. No. 1551 of 1998

BETWEEN :-

satya seela Reddy

PLAINTIFF

PETITIONER

APPELLANT

COMPLAINANT

AND

Chief Post Master General A.P. & others

DEFENDANT

RESPONDENT

ACCUSED

I/W Venkataiah - R-4

do hereby appoint and retain

SANKA RAMAKRISHNA RAO

B.A.LL.B., P.G.D.C.R.S.

ADVOCATE



Advocate/s to appear for me/us in the above suit/case and to conduct and Prosecute (or defend) the same and all Proceedings that may be taken in respect of any application for execution of any decree or order Passed therein. I/we empower my/our, Advocates to appear in all miscellaneous proceedings in the above suit or matter till all decrees or orders are fully satisfied or adjusted to compromise and to obtain the return of documents and draw any moneys that might be payable to me/us in the said suit or of matter (and I/w do further empower my/our Advocates to accept my/our behalf, service of notice of all or any appeals or petitions filed in any court of Appeal, reference of Revision with regard to said suit or matter before disposal of the in this Honourable Court.)

K.V.M.Kataiah

Certified that the executant who is well acquainted with English Read this Vekalatnama the contents of the Vekalatnama were read out and explained in Telugu/Urdu to executant or he/she/ they being unacquainted with English/who appeared Perfectly to understand the same and signed or put his/her/their signature/s or/and marks and in my Presence.

Executed

24/6

day or

June

1998

  
24/6  
Advocate

EXTRACT OF DTE'S LR.NO.17-366/91-ED & TRG DTD.26.5.95.

\*\*\*\*\*

Sub:- Revised Educational Qualification and other eligibility condition prescribed for recruitment in various ED categories etc - Clarification on points regarding.

2(b) Whether the candidates belonging to SC/ST community are to be given preference over those belonging to OC irrespective of the fact that the candidates belonging to OC have obtained much higher marks in the examination which makes them eligible to seek appointment in case the selection is made on the basis of marks.

This has to seen in this context whether adequate representation is available for candidates belonging to SC/ST in recruiting unit concerned. If it is not available, the best course would be to make it clear in the notification issued to the Employment Exchange itself that preference would be given to candidates belonging to reserved communities. If this is done, there is every possibility that the Employment Exchange may nominate more than one candidate belonging to SC/ST etc. In such a situation the candidates belonging to reserved communities will have to compete amongst themselves and the point that the OC candidates have secured higher percentage of marks in matriculation examination and should or should not be preferred will become immaterial. However, in other cases, if SC/ST candidate satisfies all the minimum prescribed eligibility conditions including the educational qualification and the representation that category is not adequate, the question of his competing with OC candidates does not arise. He has to be given preference over candidates irrespective of the percentage of marks secured subject only to the condition that he satisfies all the other prescribed eligibility criteria.

2. It has been brought to the notice of this office that at the time of issue of notification for filling up of posts of ED Agents in a number of cases no mention is made to the effect that the candidates belonging to reserved community would be given preference over others. However, while making selection subsequently, the vacancy is treated as reserved for SC/ST/OBC and a candidate belonging to that community is selected ignoring the claim of better qualified candidates belonging to other community. This has lead to avoidable litigation in some cases.

3. The matter regarding reservation/SC/ST/OBC in the matter of appointment to ED posts has been examined in its entirety. Accordingly, the office letter dtd. 8.3.78 referred to above has been amended to read as follows:-

"It is hereby clarified that candidates belonging to SC/ST/OBC/Physically handicapped with the minimum educational qualification prescribed in this office letter no. 17-368/91 ED & Trg. dtd. 12.3.96 viz. matriculation or equivalent standard for ED Branch Postmasters/ED Sub Postmasters and VIII standard for EDDAs, EDSVs and other categories of ED Agents (preference to be given to those who possess matriculation qualification) who satisfy the conditions of eligibility as laid down in this office letter no. 43-84/80-Pen dated 30.01.81 should be given preference over the candidates belonging to other community to the extent of scales of reservation fixed by the Govt of India in respect of Group 'C' and 'D' Departmental employees recruited in that State/Union territory on local basis even if the candidates belonging to other community are superior in merit to the reserved community candidates.

Provided that the candidates belonging to SC/ST/OBC/physically handicapped categories are otherwise eligible for the post.

4. Attention is also invited to this Director's letter no. 137-10/97-SPB. II. dtd. 21.03.97 wherein it has been inter alia, Clarified that the existing vacancy based reservation for reserved community would be replaced by Post-based reservation, etc. Keeping the above in view and with a view to securing uniform application of reservation for SC/ST/OBC, the following guidelines are laid down for strict observance by all concerned.

DEPARTMENT OF POST : INDIA  
% the Postmaster-General, Hyderabad Region,  
Hyderabad 500 001.

(AO)

To,

all the Sr. Supdt. of POs  
in Hyderabad Region,

The SBM Z Dn  
Hyderabad-1.

No. H/ST/14-1/ED.Rlgs/IV dated at Hyd.1, the 7.01.98.

Sub :- Reservation of SC/ST/QBCs etc., in  
appointment to ED categories-issue of  
Comprehensive instructions-reg.

-0-

A copy of Dte. lr. No. 19.11.97 ED & Trg dtd. 27.11.97  
on the subject communicated vide CO lr. No. ST/30-EDh/Rlgs/XI  
dtd. 15.12.97 is sent herewith for information guidance  
and necessary action.

The instructions contained there in should be  
scrupulously followed. Suitable instructions be issued to  
all the sub-appointing authorities under your control in this  
regard.

Asst. Director of Postal Services,  
% the PMG(HR); Hyderabad-500 001

Dn: As above.

Copy of Dte. lr. referred to above:-

Sub :- as above.

Sir,

I am directed to invite your attention to the  
following communications addressed by this Directorate to  
all concerned on the above mentioned subject:-

- i) Letter No. 43-246/77-Pen dtd. 03.03.78
- ii) Letter no. 38-26/78-PRP dtd. 31.03.80
- iii) letter no. 43-117/80-Pen dtd. 08.10.80
- iv) Letter no. 32-1/80-SCT dtd. 14.11.80.

...2...

OC community, as the case may be in the order indicated in the notification. The Employment Exchange should be asked to give a certificate to the effect that suitable candidates belonging to reserved communities specified in the notification are not available nominating other community candidates. Care should be taken to reserve a vacant post for the reserved community for which the extent of representation is comparatively less compared to other reserved community in the descending order.

6. The Candidates belong to reserved categories should fulfill all the conditions of eligibility and no relaxation of the same is permissible. If candidates belonging to reserved or unreserved categories possessing preferential educational qualification are not available selection should be made from amongst them on merit and those possessing essential qualification should be considered.

7. It should be ensured that the candidates securing maximum marks in the examination prescribed as the essential/preferential education a qualification in the manner indicated above is selected if the vacancy is unreserved.

8. In case the Employment Exchange fails to sponsor the minimum number of 3 eligible candidates, an open advertisement should be issued calling for nominations. Even here if the minimum number of 3 eligible candidates do not offer their candidatures approval of the next higher authority to the proposed appointment should be obtained before selection is made from amongst such candidates. In case the Employment Exchange nominates lesser number of eligible candidates than 3 and it becomes necessary to call for applications from the open market also, the candidatures of the nominees of the Employment Exchange should also be considered along with those offering their candidatures in response to the open advertisement.

9. To the extent instructions issued earlier are not consistent with these instructions, the earlier instructions shall stand superceded.

10. The contents of this letter may be brought to the notice of all concerned for information, guidance/necessary action.

11. The receipt of this letter may be acknowledged to this office.

12. Hindi version is enclosed.

Yours faithfully,

sd-  
Asst. Director General (ED&TRG)

i) The reservation for SC/ST/OBC in ED appointment is already post - based and as such shall continue to be so.

ii) Although the gradation lists of all categories of ED agents are maintained at Divisional level, the post - based reservation will be secured for categories other than EDBPM and EDSPM on Sub-Divisional (recruiting Unit) and for EDBPM and EDSPM the same will be secured on Divisional basis with reference to the number of posts by the respective appointing authorities.

iii) The extent of reservation will be as per the statewise percentage fixed for reserved communities.

iv) The post-based reservation will be kept in view and increased or decreased on pro-rata-basis depending upon increase or decrease in the total number of posts in the recruiting unit concerned.

v) The vacancy-based reservation will continue to operate only in such recruiting units in which the representation of persons belonging to the reserved categories has not reached the prescribed percentage of reservation. Thereafter, the same will cease to operate.

vi) The reservation ceiling of 50% should not be violated in any particular year on the basis of total no. of posts. If in any recruiting unit, there is an excess representation of any of the reserved categories or of the total representation of the reserved categories has already exceeded 50% of the total no. of posts, it shall be adjusted in the future appointments.

5. Firm decision should be taken before-hand, whether the post falling vacant is to be filled up by a reserved category candidate and if so a specific mention to this effect and the particulars of the community should be made in the notification while notifying the vacancy to the Employment Exchange or calling for application from the open market in case the Employment Exchange fails to nominate the required minimum number of suitable candidates within the stipulated period. In the notification, it should be specifically mentioned that in case the minimum number of 3 eligible candidates belonging to the particulars reserved community are not nominated or do not offer candidatures, the vacancy in question will be treated as unreserved and offered to the candidate belonging to other reserved category to be specified for which the representation may happen to be deficient or other community candidates, as the case may be. This will further enable the Employment Exchange to nominate candidates belonging to other reserved category or

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

No.5-10-193, 1st floor,  
HACA Bhavan, Post Bag No.10  
(Opp:Public Gardens)  
Hyderabad - 500 004.

Lr.No.CAT/Hyd/Judl/R76/187/98.

Dt:8-10-98.

NOTICE.

800000/22

OA.No.1551 of 1997.

It is hereby informed that Full Bench consisting of the Hon'ble Chairman, the Hon'ble Mr. Justice D.H.Nasir, Vice-Chairman and Hon'ble Mr.H.Rajendra Prasad, Member(A), Hyderabad Bench will be sitting at Hyderabad Bench on 9-11-98 and 10-11-98 at 10-30 A.M. to answer the reference in OA.No.1551/97 on the file of this Bench.

The Counsel for the applicants and the Respondents are requested to take it convenient for advancing their arguments without fail on the aforesaid dates.

*1/10/98*  
Deputy Registrar.

Copy to:

1. Mr.K.S.R.Anjaneyulu, Advocate, CAT, Hyderabad.
2. Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
3. Mr.S.Ramakrishna Rao, Counsel for R4, CAT, Hyderabad.

*10/10/98*  
Deputy Registrar.

*W.B. Main*

*8-10-98*

*K. Palvath*  
*14/10/98*

*D. Subbarao*  
*21/10/98*

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH
21 OCT 1998
हैदराबाद न्यायपीठ HYDERABAD BENCH

17436

No. 13/9/98-JA  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

Speed Post

Faridkot House,  
Copernicus Marg,  
New Delhi-110 001.

Dated 28th Sept. 1998

To

*Tudu*  
*30998*  
The Deputy Registrar,  
Central Administrative Tribunal,  
Hyderabad Bench,  
Hyderabad.

Sub: Constitution of Full Bench in O.A. No.1551/97  
(M.Satyaseela Reddy Vs. Union of India & Ors.)  
on the file of Hyderabad Bench-Reg.

Sir,

*so 61*  
*pl note*  
*Stro.*  
I am directed to refer to your letter No.CAT/Hyd/  
JUDL/161/98 dated 21st September, 1998 on the subject  
mentioned above and to say that matter was placed before  
Hon'ble the Chairman and His Lordship is pleased to  
nominate Hon'ble Shri H.Rajendra Prasad, Member(A),  
Hyderabad Bench in place of Hon'ble Shri R.Rangarajan,  
Member(A), Hyderabad Bench in the above Full Bench.

Yours faithfully,

*DLW*  
(B.L.WANCHOD)  
DEPUTY REGISTRAR(JA)

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal  
हैदराबाद न्यायपाल  
HYDERABAD BENCH

15 OCT 1998

प्राप्त/RECEIVED  
न्यायपाल/NYAYPAL SECTION

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

No.5-10-193, 1st floor,  
RACA Bhavan, Post Bag No.10  
(Opp: Public Gardens)  
Hyderabad - 500 004.

Lr. No. CAT/Hyd/Judl/166 to 18/98.

Dt: 28-9-98.

To  
The Registrar/Deputy Registrar,  
Central Administrative Tribunal,  
All Benches.

Sub: Constitution of Full Bench in OA. No. 1551/97 (M. Satyaseela Reddy Vs. UOI & Ors) on the file of Hyderabad Bench - Reg.,

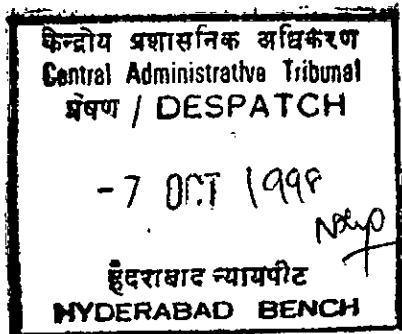
Sir,

In continuation of this office letter of even number dt. 8-6-98, I am to state that the Full Bench will be sitting on 9-11-98 and 10-11-98 for hearing the above matter at Hyderabad Bench.

This may kindly be brought to the notice of all concerned.

Yours faithfully,

*Amma*  
For REGISTRAR.



CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

NO.C-10-433, 4th Floor,  
1020 Heaven, Post Bag No.10  
(Opp. Mahatma Gandhi  
Hyderabad - 500 004.

13.10.87 / 20/20/1163 & 165

20.10.87-1-226

FILE

10.10.1987

In continuation of notice dtd. 8.9.1987, it is informed that  
in full with the enclosures the application No. 10.10.1-226/87 on  
the date of issue of notice will be heard on 20.10.87 and 21.10.87.

It is directed that the same will be heard and the application will  
be disposed of by the concerned officer of the concerned officer of the  
Central Government on the date mentioned above.

DR. R. K. DESPATCH.

21.10.87

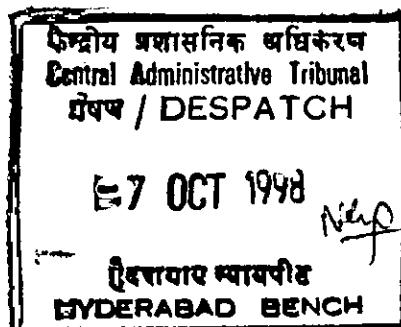
1. Mr. K. R. Despatch, Advocate, 207, NCC Building.

2. Mr. K. R. Despatch, 207, NCC Building.

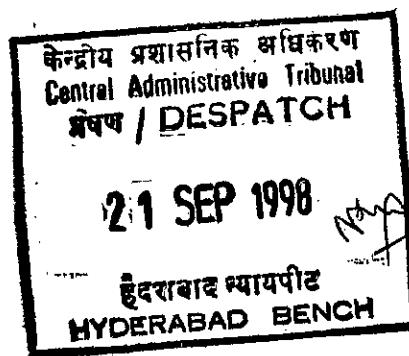
3. Mr. K. R. Despatch, 207, NCC Building, NCC, Hyderabad.

Received  
K. Parvathi  
S. R. K. Rao  
7/10/1987

R  
G. K. / 7/10



CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.



By Speed Post.

xxxxx 234049.

21-9-98.

Ltr. No. CAT/Hyd/Jud1/149162/98.

To  
Sri B.L.Wanchoo,  
Deputy Registrar (JA),  
Central Administrative Tribunal,  
Principal Bench,  
Faridkot House,  
Copernicus Marg,  
New Delhi - 110001.

Sub: Constitution of Full Bench in OA.No.1551/97 (M.Satya  
Seela Reddy Vs. UOI & Ors) on the file of Hyderabad  
Bench - Reg.,

Ref: No.13/9/98-JA, dated 9-9-98.

\* \* \*

Sir,

I am directed to refer to your letter cited on the above  
subject and to state that one of the Hon'ble Members constituting  
the Full Bench viz., Hon'ble Mr.R.Rangarajan, Member (A) will not  
be available and has <sup>been</sup> already sanctioned Earned Leave from 5-10-98  
to 17-11-98 for leaving to abroad.

Therefore, Hon'ble Vice-Chairman, Hyderabad Bench desired that  
the matter may kindly be placed before the Hon'ble Chairman for  
nominating the Hon'ble Mr.H.Rajendra Prasad, Member (A) of this Bench  
or any other Administrative Member in place of Hon'ble Mr.R.  
Rangarajan, Member (A)

Yours faithfully,

(P.Ulameeswaran)  
Deputy Registrar.

Copy to:

1. PPS to Hon'ble Chairman, Central Administrative Tribunal, Principal  
Bench, Faridkot House, Copernicus Marg, New Delhi.

Deputy Registrar.

No.13/9/98-JA  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

Faridkot House,  
Copernicus Marg,  
New Delhi-110 001.

Dated 09th Sept. 1998

Top

The Deputy Registrar,  
Central Administrative Tribunal,  
Hyderabad Bench,  
Hyderabad.

Sub: Constitution of Full Bench in O.A.No.1551/97  
(M.Satyaseela Reddy Vs. Union of India and Ors.) on  
the file of Hyderabad Bench.

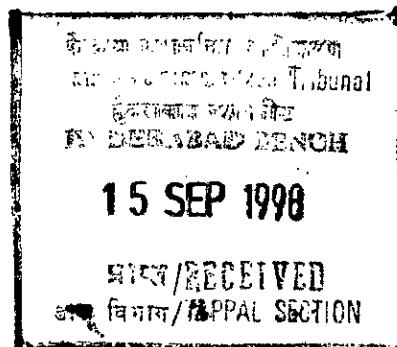
Sir,

I am directed to refer to your letter No.CAT/HYD/JUD/118/98 dated 28th August, 1998 on the above mentioned subject and to say that His Lordship has ordered to fix Full Bench matter on 09th and 10th of November, 1998. His Lordship may also remain at Hyderabad on 11th and 12th for Administrative or Judicial work such as R.A.etc.., if any.

Yours faithfully,

2007-01

(B.L. WANCHOO)  
DEPUTY REGISTRAR (J.A.)



15 SEP 1998

RECEIVED/RECEIVED

## કાન્પ વિભાગ / KAPPAL SECTION

५६५

At the former site

1613

580

~~580~~  
15998

President  
16/10/01



सत्यमेव जयते

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
हैदराबाद न्यायपीठ  
Hyderabad Bench

No. 5-10-193, 1st Floor,  
HACA Bhavan, Post Bag No. 10  
(Opp. Public Gardens)  
Hyderabad - 500 004.  
Grams : "CENTADTRIB"  
Tel. No. 241046

Lr. No. CAT/Hyd/Jud1/ 115/98.

Date..... 20-8-98.

To

Sri B.L.Wanchoo,  
Deputy Registrar (JA),  
Central Administrative Tribunal,  
Principal Bench, Faridkot House,  
Copernicus Marg,  
New Delhi - 110001.

Sub: Constitution of Full Bench in OA. No. 1551/97 hearing  
(R. Satyaseela Reddy Vs. UOI & Ors) on the file  
Hyderabad Bench - Requested - Regarding.

\* \* \*

Sir,

I am to refer to your letter No 13/9/97-JA, dated 19-5-98 on the above subject and to state that since the Hon'ble Mr. Justice D.H.Nasir, Vice-Chairman, Hyderabad Bench has assumed charge, the matter may kindly be placed before the Hon'ble Chairman, for fixing the hearing date and time of the Full Bench case in OA. No. 1551/97 on the file of this Bench.

The Orders of the Hon'ble Chairman passed therein may please be communicated to this Bench for further action.

Yours faithfully,

*AVS*  
(A.V.S. RAJU)  
Deputy Registrar (J)cc.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
हैदराबाद / DESPATCH

28 AUG 1998

हैदराबाद न्यायपीठ  
HYDERABAD BENCH

Full Bench Case

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

No.5-10-193, 1st floor,  
HACA Bhavan, Post Bag No.10,  
(Opp. Public Gardens)  
Hyderabad - 500004.

Ir. No.CAT/Hyd/Jud1/0A.1551/97/Ret 115. Dt: 8-6-1998.

To  
The Deputy Registrar,  
Central Administrative Tribunal,  
All Benches.

Sub: Constitution of Full Bench for answering the reference  
in CA.1551/97 on the file of this Bench - intimation - "e.g.,  
Ref: This Office letter dated 1-6-98 in Ir. No.CAT/Hyd/Jud1/  
0A.1551/97/ /98.

Mr,

I am directed to inform that the Hon'ble Chairman has been  
pleased to constitute the Full Bench comprising of Hon'ble Chairman  
Hon'ble V.C.(J)(Whenever he assumes the charge of the office) and  
Hon'ble Mr. T. Rangarajan, Member(A), Hyderabad Bench, for annex  
answering the reference in CA.No.1551 of 1997 on the file of this Bench.

The sitting date and time of the Full Bench will be intimated  
in due course.

Therefore, I am to request you to bring it to the knowledge of  
the Hon'ble Vice-Chairmen, and Hon'ble Members of your Bench. The  
Advocates of your Bench may be requested to file written arguments if  
any sufficiently in advance so as to enable this Bench to circulate  
the same to the Hon'ble Members constituting the Full Bench for their  
Lordship's perusal. Copy of order of reference dated 23-4-98 in  
CA.1551/97 has already been sent along with the letter cited in the  
reference.

Yours faithfully,

*Ans*  
(A.V.S.RAJU)  
Deputy Registrar(J)cc.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
धैरण / DESPATCH

— 9 JUN 1998

हैदराबाद न्यायपीठ  
HYDERABAD BENCH

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

REMARKS

No. 3-10-193, 3rd floor,  
NACA Bhawan, Post Bag No. 10,  
(Opp. Public Gardens),  
Hyderabad - 500004.

LE.No.CAT/Hyd/Audt/1949/5001

06/2-6-1998.

NOTICE.

GA.No.1951/97.

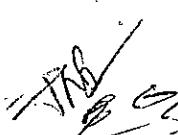
In continuation of Case dt.12-5-98, it is informed that the Non-blo Chairman has constituted the Full Bench comprising the Non-blo Chairman, Non-blo Vice-Chairman(1) (Whenevor he assumes the charge of the Office) and Non-blo No.2, Registrar, Member (4) Hyderabad, for hearing concerning the reference in GA.No.1951/97 on the file of this Bench.

The date and time of the said full Bench sitting will be intimated in due course.

  
Deputy Registrar (3)cc.

Copy to:

1. Mr. K. S. R. Ranjenevulu, Advocate, CAT, Hyderabad.  
2. Mr. B. R. Govardhan, Sr. Cuse, CAT, Hyderabad.

  
Deputy Registrar (3)cc.

*Recd  
Date 10/2/98  
By Mr. R. Ranjenevulu  
File No. 10694*

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

No.5-10-193, 1st floor,  
HACA Bhavan, Post Bag No.40,  
(Opp. Public Gardens)  
Hyderabad - 500004.

Tr. No. CAT/Hyd/Jud 1/ OA. 1551/97/ ~~ST/SC~~ 98.

Dt: 1-6-1998.

To  
The Registrar,  
Central Administrative Tribunal,  
Principal Bench, Faridkot House,  
Copernicus Marg,  
New Delhi - 110001.

Sub: Constitution of Full Bench in OA. No. 1551/97 (M. Satyasseela Reddy  
Vs. UCI & Ors) on the file of this Bench - Reg.,

\* \* \*

Sir,

I am directed to say that a Division Bench at Hyderabad comprising  
Hon'ble Mr. R. Rengarajan, Member (A) and Hon'ble Mr. B. S. Jai Parameshwar,  
Member (J) vide order dated 23-4-1998 (copy enclosed) in above mentioned  
OA., has been pleased to refer the matter to the Hon'ble Chairman for  
the Constitution of Full Bench to decide the following issue:

"Whether the condition that 'Preference will be given to ST/SC/  
OBC' would mean the candidates belonging to ST/SC/OBC even though  
they possess less merit than O.Cs., are to be considered and  
selected and if any of the candidates in the category of ST/SC/  
OBC are not selected, then only the O.C., candidates will be  
considered and selected in accordance with the rules?".

I am therefore, directed to request you to lay the matter before  
the Hon'ble Chairman for his Lordship's kind consideration and passing  
necessary Orders. The Orders as may be passed by the Hon'ble Chairman  
may be communicated to this office for taking appropriate action.

Yours faithfully,

A. V. S. RAJU

(A. V. S. RAJU)  
Deputy Registrar (J) cc.

Encl: As above.

Copy is along with a copy of reference order dt. 23-4-98 passed in  
OA. 1551/97 is forwarded to the Registrar/Dy. Registrar of All Benches  
of CAT for information and necessary action.

Copies to all Benches despatched

A. V. S. RAJU  
Deputy Registrar (J) cc.

केन्द्रीय प्रशासनिक न्यायालय  
Central Administrative Tribunal  
हैदराबाद न्यायालय  
HYDERABAD BENCH

- 9 JUN 1998  
Despatched N.Y.S.  
~~2000~~

TD  
SDG

A Notification dated 21.8.1997 (Annexure I Page 7 to the O.A.) was issued for filling up the post of BPM, Rajapet sub Post Office. In Para VII of the said notification, it is stated that preference will be given to ST/SC/OBC candidates. The learned counsel for the applicant submits that the applicant who belongs to O.C. Community was not even considered whereas Respondent No.4 was selected who is a Scheduled Caste candidate ignoring the merit of the applicant herein. The applicant submits that the post is not reserved for any community as per the Notification. But there is a note "that preference will be given to ST/SC/OBC candidates" in the Notification.

This O.A., is filed challenging the selection of the Respondent No.4.

The learned counsel for the applicant submits that the condition that preference will be given to ST/SC/OBC candidates will operate only when all the candidates who applied for the posts in response to the notification whether they belong<sup>ed</sup> to ST/SC/OBC or O.C., are equal in all respects. This he submits ~~in accordance~~ <sup>relying on</sup> with the Judgment of the Calcutta Bench of the Central Administrative Tribunal reported in SHIBNATH DHARA Vs. UNION OF INDIA ( 1997 (36)ATC (Cal.) 41. ). Hence the issue involved

It

1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

..  
O.A.No. 1551 of 1997.  
-----

Date of decision: April 23, 1998.  
-----

Between:

M. Satyaseela Reddy. .. Applicant.

and

Union of India represented by:

1. The Chief Post Master General, Andhra Pradesh Postal Circle, Hyderabad.
2. The Post Master General, Hyderabad Region, Hyderabad.
3. The Superintendent of Post Offices, Wanaparthy Postal Division, Wanaparthy, Mahaboobnagar.
4. Sri Venkataiah. .. Respondents.

Counsel for the applicant: Sri K.S.R. Anjaneyulu.

Counsel for the respondents: Sri V.Bhimanna

CORAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

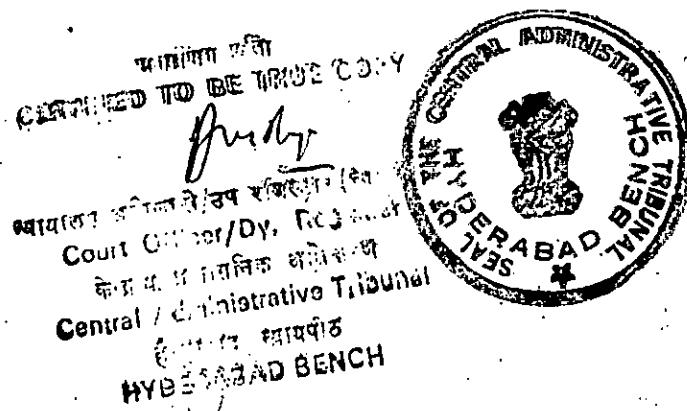
O R D E R

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

---

Heard Sri K.S.R. Anjaneyulu for the applicant  
and Ms. Parvathi for Sri V.Bhimanna for the respondents.

The Registry should arrange to place the  
papers before the Hon'ble Chairman, Principal Bench  
for constituting a Full Bench.



in this O.A., is:

"whether the condition that "preference will be given to ST/SC/OBC" would mean the candidates belonging to ST/SC/OBC even though they possess less merit than O.Cs., are to be considered and selected and if any of the candidates in the category of ST/SC/OBC are not selected, then only the O.C., candidates will be considered and selected in accordance with the rules?"

The learned counsel for the applicant submits that if the post is reserved for ST/SC/OBCs., then only they can be selected even though the O.C., candidates are more meritorious. If such an interpretation is not taken then it will be violative of Articles 14 and 16 of the Constitution. He further adds that/is the essence of the Judgment of Calcutta Bench cited supra.

As we feel that this is an important issue, it is preferable that the issue may be finally decided by a Full Bench of the Tribunal. Hence, we are referring the issue for final decision of the Full Bench to be constituted by the Hon'ble Chairman, Central Administrative Tribunal.

*T*

*A*



4721/A

No. 13/9/97-JA  
केन्द्रीय प्रशासनिक अधिकरण  
CENTRAL ADMINISTRATIVE TRIBUNAL  
प्रधान न्यायपीठ  
Principal Bench, New Delhi

Faridkot House, Copernicus Marg,  
New Delhi - 110 001

Dt: 19-05-98

To

The Deputy Registrar,  
Central Administrative Tribunal,  
Hyderabad Bench,  
Hyderabad.

*Tech*  
*26/5/98*  

---

Sub:- Constitution of Full Bench in O.A. 1551/97  
(M. Satyaseela Reddy Vs. U.O.I. & Ors) on the  
file of C.A.T., Hyderabad Bench.

*So*  
*2*  
Sir,

I am directed to refer to your letter No. CAT/HYD/JUDL/DA. 1551/97/60/98 dated 4-5-98 on the above subject and to say that matter was placed before Hon'ble the Chairman and His Lordship is pleased to constitute Full Bench comprising of Hon'ble Chairman, Hon'ble V.C.(J) (Whenever he assumes the charge of the office) and Hon'ble Shri R. Rangarajan, Member (A) to hear the above matter.

2. The date and time will be intimated later on.

Yours faithfully,

*26/5/98*  
( B.L. WANCHOO )  
DEPUTY REGISTRAR (JA)

*126*

126	RECEIVED
26/5/98	RECEIVED प्राप्ति विभाग/काला सेक्शन

Copy along with a copy of reference order dt.23-4-98 passed in  
OA.1551/97 is forwarded to the Registrar/Dy. Registrar of All  
Benches of CAT for information and necessary action.

*R*  
Deputy Registrar (J)cc.  
*ED*

*ED*  
23-4-98



सत्यमेव जयते

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
हैदराबाद न्यायपीठ  
Hyderabad Bench

No. 5-10-193, 1st Floor,  
HACA Bhavan, Post Bag No. 10  
(Opp. Public Gardens)  
Hyderabad - 500 004.  
Grams : " CENTADTRIB"  
Tel. No. 240980

Tr. No. CAT/HyB/Jud1/DA.1551/97/6190 Date 4-5-1998

To  
The Registrar,  
Central Administrative Tribunal,  
Principal Bench, Faridkot House,  
Copernicus Marg,  
New Delhi - 110001.

केन्द्रीय प्रशासनिक अधिकरण

Central Administrative Tribunal

हैदराबाद न्यायपीठ

HYDERABAD BENCH

4 MAY 1998

Despatch

RECORDED

विभाग/प्रप्त सेक्शन

Sub: Constitution of Full Bench in DA.No.1551/97 (M.Satyagrala  
Roddy Vs. UOI & Ors) on the file of this Bench - Reg.,

\* \* \*

Sir,

I am directed to say that a Division Bench at Hyderabad comprising Hon'ble Mr.R.Rangarejan, Member(A) and Hon'ble Mr.S.S. Jai Parameshwar, Member(J) vide order dated 23-4-1998 (Copy enclosed) in above mentioned DA, has been pleased to refer the matter to the Hon'ble Chairman for the Constitution of Full Bench to decide the following issue:

"Whether the condition that 'Preference will be given to ST/SC/0BC' would mean that candidates belonging to ST/SC/0BC even though they possess less merit than O.Cs., are to be considered and selected and if any of the candidates in the category of ST/SC/0BC are not selected, then only the O.C. candidates will be considered and selected in accordance with the rules?".

I am therefore, directed to request you to lay the matter before the Hon'ble Chairman for his Lordship's kind consideration and passing necessary Orders. The Orders as may be passed by the Hon'ble Chairman may be communicated to this office for taking appropriate action.

Yours faithfully,

A.V.S. RAJU  
Deputy Registrar(J)cc.

Enccl:As above.

... 608...24

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

No.5-10-193,1st floor,  
HACA Bhavan, Post Bag No.10  
(Opp: Public Gardens)  
Hyderabad - 500 004.

Lr.No.CAT/Hyd/Judl/ 164/98.

Dt:28-9-98.

NOTICE.

OA.No.1551 of 1997

In continuation of notice dt.8-6-98, It is informed that the Full Bench for answering the reference in OA.No.1551/97 on the file of this Bench will be sitting on 9-11-98 and 10-11-98.

The Counsel for the applicants and the Respondents are requested to make it convenient for advancing their arguments without fail on the aforesaid dates.

*Ambr*  
For REGISTRAR.

Copy to:

1. Mr.K.S.R.Anjaneyulu, Advocate,CAT, Hyderabad.
2. Mr.N.R.Devaraj,Sr.CGSC,CAT, Hyderabad.
3. Mr.S.Ramakrishna Rao,Counsel for R4, CAT, Hyderabad.

*Ambr*  
for REGISTRAR.

A/10

.. 6 ..

selection he or they will be sent for training as soon as it becomes administratively feasible.

(3) The seniority of the applicants who are sent for the training will be maintained as if they were included in the appropriate place in the panel approved on 4.7.1990.

There shall be no order as to costs.

**CERTIFIED TO BE TRUE COPY**

Date..... 5/93  
Court Officer  
Central Administrative Tribunal  
Hyderabad Bench  
Hyderabad.

sd

Copy to:-

1. Secretary, Railway Board, Union of India, Rail Nilayam, New Delhi.
2. Chairman, Railway Board, Rail Bhavan, New Delhi.
3. General Manager, S.E.Rlys, 11 Garden Reach road, Calcutta.
4. Chief Personnel Officer, S.E.Railway, 11 Garden Reach, Calcutta.
5. Divisional Railway Manager, S.E.Railway, Waltair, Visakhapatnam.
6. One copy to Sri. S.Sitarama Swamy & advocate, CAI, Hyd. 3-4-468, Barkarwadi, Chann
7. One copy to Sri. N.R.Devaraj, SCfor Rlys, CAI, Hyd.
8. One copy to Library, CAT, Hyd.
9. One spare copy.

Rsm/-

Case Number 22983/93  
Date of Judgement 21/9/93  
Copy made ready on 11/10/93  
Section Officer (U)

ATTESTED  
V. SUBRAHMANYAM  
ADVOCATE

OA No. 1551/97

Notice sent to RR 1184 on 24.11.97

R1 - Sd

R2 - Sd

R3 - Sd

R4 - ~~Returned unopened~~

On  
29/11/97

OA No. 1551/95

R1 - Notice Personal notice given to the counsel  
for the applicant for R4.

R2 - Sd

On  
19/12/98

No. 13/9/98-3A  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

Faridkot House,  
Copernicus Marg,  
New Delhi-110 001.

Dated 09th Sept.1998

To

The Deputy Registrar,  
Central Administrative Tribunal,  
Hyderabad Bench,  
Hyderabad.

Sub: Constitution of Full Bench in O.A.No.1551/97  
(M.Satyaseela Reddy Vs. Union of India and Ors.) on  
the file of Hyderabad Bench.

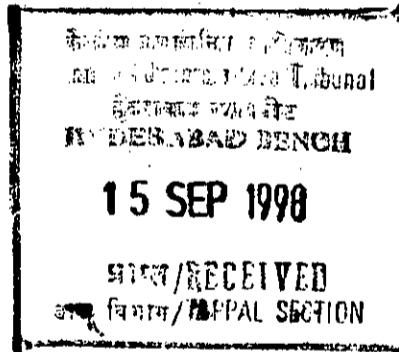
Sir,

the Hon'ble  
Chairman

I am directed to refer to your letter No.CAT/HYD/JUD/118/98 dated 28th August, 1998 on the above mentioned subject and to say that His Lordship has ordered to fix Full Bench matter on 09th and 10th of November, 1998. His Lordship may also remain at Hyderabad on 11th and 12th for Administrative or Judicial work such as R.A.etc., if any.

Yours faithfully,

(B.L.WANCHOO)  
DEPUTY REGISTRAR (J.A.)



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