

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1657/97

DATE OF ORDER : 09-02-1998.

Between :-

C.Guruprasad Reddy

... Appellant

And

1. Superintendent of Post Offices,
Proddatur Division,
Proddatur, Cuddapah District.
2. The Post Master General, Kurnool.
3. The ASPO's Proddatur North Sub Division,
Proddaturu, Cuddapah District.
4. P.Rama Subbaiah

... Respondents

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Counsel for the Applicant : Shri A.Rama Rao

Counsel for the Respondents : Shri N.R.Devaraj, Sr.CGSC

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CORAM:

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A)

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

(Order per Hon'ble Shri H.Rajendra Prasad, Member (A)).

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(Order per Hon'ble Shri H.Rajendra Prasad, Member (A)).

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Heard Sri A.Rama Rao, counsel for the applicant and Sri N.R.Devaraj, standing counsel for the respondents.

2. Superintendent of Post Offices, Proddatur (Respondent No.1) issued a notification on 1-3-97 calling for applications to fill the post of EOBPM. Four applications are said to have been received in response to it but before the selections could be finalised, certain complaints are stated to have been received to the effect that adequate publicity ^{hadn} was not given to the existence/availability and recruitment to the post. Consequently, a second notification was issued on 27-6-97, in response to which the present applicant applied, among others, for the vacancy. However, ignoring the second notification as well as the applications received in connection therewith, Respondent No.1 has selected Respondent No.4 for the post.

3. The submissions of the applicant are as under :-

- (i) The selected candidate was an applicant in response to the first notification. With the issue of the second notification, the validity of the first notification ceased automatically and selecting Respondent No.4 was therefore impermissible;
- (ii) The second notification was issued owing to inadequate publicity which was alleged in connection with the earlier notification. Due to this the respondents can not revert to the first notification even without cancelling the notification that had been issued subsequently;
- (iii) The second notification was withdrawn only on 18-8-97, i.e., after selection and appointment of Respondent No.4;

Jg Q/A

(iv) He (the applicant), being the most meritorious

amongst all candidates who applied in response to the first as well as the second notifications, should have been selected and appointed.

4. The selection file maintained in the office of Respondent No.1 (Superintendent of Post Offices) was asked to be produced for perusal. What it revealed makes astonishing reading. Firstly, it had been alleged by certain persons, including certain representatives of the people, that adequate publicity had not been given to the first notification. This charge should have been gone into in detail on the basis of facts and material available on record. This appears to have not been done. Instead, the allegation was merely accepted as true. It was necessary in such a situation to exercise caution because of the normal tendency of rejected individual applicants to make incorrect allegations, or cause them to be so made on their behalf. It is, however, seen that copies of the first notifications were duly despatched to the concerned Extra Departmental Branch Post Office, Sub-Post Master of the Office under which the Branch Office functions, Asst. Superintendent of Post Office, Mail Overseer, Mandal Revenue Officer, Mandal Development Officer, Village Assistant, Head Master of the local School and the Employment Officer. Acknowledgements from all these individuals/ Offices are on record. All were required to display the notification on their respective notice-boards. Additionally, the existence of the vacancy and the details of recruitment procedure were duly publicised through the village drummer(s). This was done, too, as borne out by the record. It is not understood why, in the face of such overwhelming evidence, a mere allegation of inadequate publicity was at all accepted, and a second notification issued. This

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action was totally uncalled for and was certainly not justified by the available evidence. We have, therefore, to hold that the second notification and all actions based on it, or any occurrence connected thereto, are not valid in law or on facts. In that view of the matter the non-selection of any one candidate in relation to the second notification cannot form any viable cause for grievance. A suggestion was made by the applicant's counsel that, instead of ignoring the second notification altogether, or the applications received in response thereto, the cases of candidates who had applied for the post in response to the first as well as the second notifications could be clubbed and considered together with a view to selecting the most suitable among all of them. We are unable to accept this suggestion for the reason that, in our considered view, issuing of the second notification was itself not proper or justified and was actually un-called for. We cannot possibly create or confer any right on the applicant which is based on such a plea.

5. It is also complained that the appointment of Respondent No.4 instead of being made provisional, as is usually done, was made on a regular basis. An^{an} established and accepted procedure is said to be in vogue in the department^{in this regard} while making final selections of candidates. While noting that this is at best a side-issue, not germane or vital to the main contentions of the applicant in the OA, it would be enough and expedient to direct Respondent No.4 to review this particular aspect in accordance with rules and instructions and to determine once for all whether the facts of this case make it

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necessary to give a provisional appointment or a regular and final appointment to the selected candidate (Respondent No.4). This may be done within a month from today, and this point need not detain us here.

6. Since we have held that the issue of the second notification was ab-initio ⁱⁿ correct and impermissible, no relief can possibly be granted to the applicant. The OA has to be dis-allowed and is hereby dis-allowed.

7. Before we part with the case, we should record our amazement and outrage at the manner in which the Superintendent of Post Offices at the relevant time allowed himself to be hustled and pressurised by extraneous considerations into agreeing for the issuance of the second notification. To say the least, this action smacks of misfeasance. It is for the concerned authorities to take such notice, , , as, they might wish to, of less than worthy conduct of the officer concerned.

8. OA is dis-allowed. No costs.


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

9.2.98


(H. RAJENDRA PRASAD)
Member (A)

Dated: 9th February, 1998.
Dictated in Open Court.

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O.A.1657/97,

To

1. The Superintendent of Post Offices,
Proddatur Division, Proddatur, Cuddapah Dist.
2. The Postmaster General, Kurnool.
3. The ASPO's Proddatur North Sub Division,
Proddaturu, Cuddapah Dist.
4. One copy to Mr.A.Rama Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, Sr.CGSC. CAT.Hyd.
6. One copy to HHRP.M.(A) CAT.Hyd.
7. One copy to D.R.(A) CA_t.Hyd.
8. One spare copy.

pvm.

17/2/98

I Court

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE

VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

The Hon'ble Mr. B.S. Jaiparameswar: M(C)

DATED: 9-2-1998

ORDER/JUDGMENT:

M.A./R.A./C.A.No.

in

O.A.No.

1657/97

T.A.No.

Q.W.P.

Admitted and Interim directions
Issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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