

(19)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

OA.No.1667/97

Date of Order : 17.12.97

BETWEEN :

P.Prabhakara Reddy

.. Applicant.

AND

Superintendent of Post Offices,
Nandyal Division, Nandyal.

.. Respondent.

- - -

Counsel for the Applicant

.. Mr.G.Prabhakara Rao

Counsel for the Respondents

.. Mr.V.Vinod Kumar

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CORAM:

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

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O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Mr.G.Prabhakara Rao, learned counsel for the applicant
and Mr.V.Vinod Kumar, learned standing counsel for the respondents.

2. The applicant is an aspirant for the post of Branch Post Master, Kalvapalli Village. It is stated that he is working temporarily against that post. Notification bearing No.B6/BPM/Kalvapalli, dated 21.10.97 (A-1) was issued by the respondent authorities for regular filling up of the post of EDBPM at Kalvapalli Branch Office. The notification states under 3(vii) that the ~~vacancy is~~ reserved for S.C. only. The applicant submits that the reservation of posts for SC is not contemplated in the ED service rules and hence the above said clause is to be deleted and he should also be considered for that post along with others. The learned counsel for the

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applicant further submits that the executive order No.14-23/92-ED&Trg. dated 28.9.92 (A-2) cannot override the rules laid down in the Service Rules for Extra Departmental Staff in Postal Department. The applicant also submits that earlier ~~one~~ ^a notification was issued for filling up the post by SC candidates and that notification was cancelled due to the non-availability of the SC candidates. Hence issue of this notice is irregular and his case should be considered in accordance with the rules.

3. This OA is filed for a declaration that the impugned memo No. B6/BPM/Kalvapalli, dated 21.10.97 of the Superintendent of Post Offices, Nandyal Division, Nandyal in so far it relates to the reservation of the posts to SC candidates is illegal and for a consequential direction to the respondents to consider the case of the applicant also to the said post.

4. The main contention of the applicant in this OA is that the reservation of the post for SC is not in order and the executive instruction dated 28.9.92 cannot be enforced when such a rule does not exist in the service rules for ED staff.

5. Constitution provides for reservation for SC/ST candidates to the extent of 15 and 7½% respectively. That provision has to be fulfilled even in the cadre of ED staff. Hence the letter dated 28.9.92 was issued to fulfil the obligation thrust on the respondents for adhering to the Constitution provisions. Hence even such a reservation is not specifically provided for in the Service Rules for ED staff the respondents are at liberty to issue executive orders to implement the Constitution provisions and that letter cannot be challenged as it is not in any way against the Constitution provisions. Hence if the respondents have earmarked that post for SC/ST candidates in view of the reduced percentage of SC/ST in that unit the same cannot be questioned.

6. Calcutta Bench of this Tribunal in OA.712/95, decided on 15.11.96 had held that if preference has to be given to SC/ST candidates then the notification should clearly indicate the above fact. In view of the decision of the Calcutta Bench of the Tribunal I do not see any irregularity if in the impugned notification dated 21.10.97 it is indicated that the vacancy is reserved for SC Only. Hence the contention of the applicant that such a remark should not be made in regard to reservation in the notification is not tenable.

7. The applicant submits that he should also be considered along with others and preference can be given to SC/ST candidates in accordance with the notification. I do not find any reason to subscribe to the view of the learned counsel for the applicant. If the post is reserved for SC/ST candidate and if a suitable candidate is available from that reserved community even if an OC candidate is considered and found meritorious compared to SC candidate ~~and~~ that OC candidate cannot be posted in view of the preference given to the SC/ST candidate. However if the present notification is cancelled and a fresh notification issued in view of the fact that no eligible SC/ST candidates responded to the notification or could not be selected for some reason or the other then the applicant may have a case for considering ^{himself along} with others ^{Candidates} _{in accordance with the law for posting against that post.} If such a condition arises the applicant is at liberty to challenge ~~the case that for notification is not valid.~~

8. In view of what is stated above I find no merit in the OA and the same is dismissed accordingly. No costs.

(R. RANGARAJAN)
Member (Admin)

Dated : 17th December, 1997

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(Dictated in Open Court)

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DA.1667/97

Copy to:-

1. The Superintendent of Post Offices, Nandyal Division, Nandyal.
2. One copy to Mr. G. Sasbhakara Rao, Advocate, CAT., Hyd.
3. One copy to Mr. V. Vinod Kumar, Addl. CGSC., CAT., Hyd.
4. One copy to D.R.(A), CAT., Hyd.
5. One duplicate.

srr

29/12/97
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

Dated: 17/12/97

~~ORDER / JUDGMENT~~

~~MA./R.A./C.A.No.~~

in

O.A.NO. 1667/97

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

