

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 517/99

Date of Order : 22.9.99

BETWEEN :

T.Reddy Prasad

.. Applicant.

AND

1. The Sr.Superintendent of Post Offices,
Chittoor Division, Chittoor.2. Assistant Supdt. of Post Offices.
Madanapalle West,
Chittoor Division, Chittoor.

3. P.Amarnath .. Respondents.

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Counsel for the Applicant .. Mr. Krishna Devan

Counsel for the Respondents .. Mr.J.R.Gopala Rao
for R-1 & 2.. Mr.R.Suraj Singh
for R-3

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CORAM :

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

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

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O R D E R

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

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None for the applicant. Mrs.S.Shakthi for

Mr.J.R.Gopala Rao, learned standing counsel for R-1 and 2

and Mr.R.Suraj Singh , learned counsel for R-3.

Mr.K.Sri Kumar, I.P.O., Chittoor ^{was} ~~is~~ present with
selection proceedings.

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2. We are deciding this OA in accordance with Rule 15 (1) of the C.A.T. (Procedure) Rules 1987 as this is posted for dismissal today.

3. The post of EDBPM, Valasapalli Branch Post Office, a/w Madanapalle HO in Chittoor division fell vacant on account of the regular incumbent tendering resignation to the said post ^{as a result} ~~on account~~ of his promotion to Group-D post. The vacancy of the EDBPM of that Branch Office was notified on 20.11.98 inviting applications from the eligible candidates fixing 22.12.98 as the last date for receipt of applications. In the said notification it was indicated that the post was reserved for a candidate belonging to OBC. In response to the said notification dated 20.11.98 8 applications were received and all the 8 applications were rejected for the reasons detailed in page-2 and 3 of the reply.

3. Hence a second notification dated 6.1.99 was issued fixing the last date as 28.1.99. In the second notification condition No.13 was incorporated which reads as follows :-

""In view of the second notification, the first notification dt. 20.11.98 issued by this office is hereby cancelled. The applicants who have applied for the post in response to the first notification are hereby advised to apply for the post afresh enclosing all the copies of the requisite documents if they intend to apply for the post".

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7 eligible applications received in response to the second notification were considered.

5. After verification of the documents, the R-1 and 2 selected and posted R-3 to that post on regular basis.

6. The applicant has filed this OA challenging the issuance of the second notification and also the selection and appointment of R-3 to the post on the grounds that the Respondent No.1 and 2 had not disclosed the reasons for issuing the second notification that R-3 was a resident of Sompally B.O coming under Mulakalacheruvu R.S.Post Office and not the resident of Valasapally B.O. that R-3 had no independent means of livelihood that the R-3 is a member of the joint family and that he had secured 302 marks in the S.S.C. in the first attempt, whereas the R-3 had secured 250 marks passing the examination compartmentally and that, therefore, selection and appointment of R-3 to that post is irregular.

7. The Respondents No.1 and 2 had issued the notification dated 20.11.98. The respondents in the reply stated that in response to the first notification 8 applications were received and all those applications were found to be not in order. In the selection proceedings it is stated that all the 8 applications received were from the OBC candidates

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and that no application was found effective for the reasons stated against the each application. Hence it was put up before the appointing authority. The appointing authority took a decision to renotify the post by issuing the second notification. Thus the respondents submit that the second notification dated 6.1.99 was issued with the stipulation that the candidates who had responded to the first notification were not found eligible for consideration. They have stated that the first notification was cancelled and the second notification was issued. Those who responded were also directed to apply afresh to the second notification in accordance with the conditions of the notification dated 6.1.99.

8. From the material placed on record by the Respondents 1 and 2 we are satisfied that there was justification for them to cancel the first notification dated 20.11.98, and to issue the second notification dated 6.1.99. The applicant if he felt aggrieved by the issue of the second notification dated 6.1.99 he should have challenged the same and obtained process of the ^{law} an order to stay the said notification. Instead he filed this application challenging challenging the notification dated 6.1.99 as well as the selection and appointment of R-3. We feel the applicant should have approached the Tribunal immediately after issue of the second notification. When once the process of selection has been completed,

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challenge to the second notification may not be appropriate .

9. In response to the second notification 7 applications were received. The notification is for filling up the post by an OBC candidate. Both the applicant and R-3 belong to OBC. Category.

10. The applicant submits that the R-3 does not possess the income and property and hence his selection is irregular.

We perused the documents enclosed by the Respondent No.3 to the application. The R-3 has obtained the M.R.O. certificate dated 23.1.99. From the certificate it is seen that R-3 is having 0.86 cents of land in the Survey No.361/1, market value of which is Rs.23,400. He derives Rs.2000/- from that property. The Respondent No.3 fulfills the condition of possessing the property.

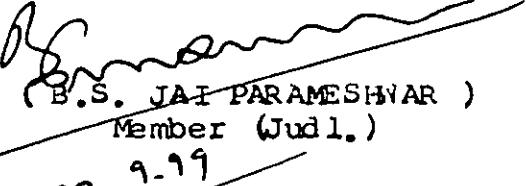
11. The second contention of the applicant is that he is an EDBPM on provisional basis and hence that qualification should be considered. When everything is equal including the marks then the question of giving any weightage to the experience gained as the provisional EDBPM will arise. But the applicant has secured less marks in the S.S.L than the R-3. Hence both are not equal. Hence non-consideration of the provisional appointment of the applicant is in order.

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12. The record also reveals that the R-3 is more meritorious compared to the applicant as the R-3 has obtained more marks in the SSC compared to the applicant. Hence the applicant cannot be said to be meritorious then R-3.

13. Hence we find no merit in the OA and the OA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)

Member (Judl.)

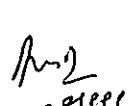

(R. RANGARAJAN)

Member (Admn.)

Dated : 22nd September, 1999

(Dictated in Open Court)

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Amulya
Pillai

1ST AND 2ND COURT

COPY TO :-

1. HODNO

2. HRRN M (A)

3. HBSJP M (D)

4. D.R. (A)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY
11/10/99

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H.NASIR
VICE - CHAIRMAN

THE HON'BLE MR.R.RANGARAJAN
MEMBER (ADMN.)

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

* * *

DATE OF ORDER: 22/9/99

MA/RA/CP.NO.

IN
CA. NO. 517/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALL OUED

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
शेषण / DESPATCH

- 7 OCT 1999

हैदराबाद न्यायालय
HYDERABAD BENCH