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G.Chandra Sekhar. .. Applicant.

4. Sri N.Venkata Krishnaiah. .. Respondents.

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

Counsel for the Respondents: Sri V.Rajeswara Rao,
Standing counsel .

CORAM:

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

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

ORDER

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

Heard Sri T.V.V.S,Murty, learned/counsel for the
Applicant and Sri V.Rajeswara Rao, learned/counsel for
the Respondents. Notice served on Respondent No.4
called absent.

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2. The applicant herein was appointed as the provisional EDBPM, Pushpagiri B.O., in response to the Notification issued in May, 1998. The said post fell vacant on the retirement of the regular incumbent Sri K.S.N. Acharyulu with effect from 19.7.1998.

3. However, the respondents terminated the services of the applicant by Proceedings No.82/BPM/Pushpagiri dated 3.2.1999 (Annexure A-5 page 17 to the O.A.) stating that he did not fulfil the primary condition of having property in his own name.

4. It is submitted that in the applicant's place, Respondent No.4 was appointed.

5. The applicant has filed this O.A., challenging the termination of his services by Memo No. 82/BPM/Pushpagiri dated 3.2.1999 as illegal and in violation of the principles of natural justice, consequently praying to quash the impugned Order of termination and reinstate him by setting aside the appointment of Respondent No.4

6. The main contention of the applicant is that he was appointed to the post on regular basis and that the Appointing Authority had no power to review the orders of appointment and terminate his services.

7. It has been held by the Full Bench of this Tribunal in AMBUJAKSHI vs. UNION OF INDIA (O.A.No.95/91) that the Appointing Authority or even the Authority higher

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to the Appointing Authority has no power to review the orders of appointment when once they appoint a candidate.

It is for the aggrieved candidate to approach the competent ~~forum~~ ^{forum} challenging the appointment of a candidate on regular basis but not for the Appointing Authority to review the matter and terminate the appointment of a candidate once made.

8. It is not open to the respondents to terminate the services of the applicant on the ground that he had not produced the documents. The Appointing Authority should have verified the said fact ⁺ before giving him appointment orders.

9. The learned counsel for the respondents submits that Respondent No.4 was meritorious in all respects. Hence he was appointed in place of the applicant. We have already held that there is no panel for EDBPM Post. Only the meritorious candidate should be posted and in case, if he has not fulfilled the conditions stipulated for appointment, the alternative remedy for the Department is to issue a fresh Notification and select ~~xxx~~ a suitable candidate. This view, we have earlier taken in number of cases. Hence the appointment of Respondent No.4 on the ground that he was meritorious ^{and next to} candidate ~~than~~ the applicant and on the ground that the applicant has not fulfilled the primary condition of having property in his name, is not in order and it

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has to be set aside. Hence, the selection of Respondent No.4 is set aside.


10. In the circumstances, the following directions are given:

- i) The impugned Order No.82/8PM/Pushpagiri dated 3.2.1999 and the appointment Order of Respondent No.4 are hereby set aside.
- ii) The applicant shall be reinstated forthwith.
- iii) If any of the persons aggrieved in regard to the appointment of the applicant on provisional basis, they are at liberty to approach the appropriate forum for redressal of their grievance.

11. With the above directions, the O.A., is disposed of. No order as to costs.

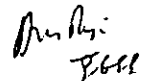

(B.S. JAI PARAMESHWAR)
Member (J)

7.6.99


(R. RANGARAJAN)
Member (A)

Date: 7th June, 1999.

Dictated in open Court


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Copy to:

1. HHHND
2. HHRD (A)
3. HSSDP M(J)
4. D.R. (A)
5. SPARE

1st and IInd Court.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

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

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

THE HON'BLE R. RANGARAJAN
MEMBER (A)

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

DATED: 7-6-99

ORDER/JUDGMENT

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

IN

P.A.NO : 532/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

(8 copies)

