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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.734/99.

DT. Of Decision : 14-10-99.

P.Krishna

.. Applicant.

Vs

1. The Assistant Superintendent of Post Offices,
Hyderabad East Sub-Division, Hyderabad-500 036.
2. The Sr. Superintendent of Post Offices,
Hyderabad S.E.Division, Hyderabad-500 027.
3. The Chief Postmaster General. AP Circle.
(rep. by Union of India), Hyderabad-500 001.
4. G.S.Prakash Rao

.. Respondents.

Counsel for the applicant : Mr.C.Suryanarayana

Counsel for the respondents : Mr.P.Phalguna Rao, Addl. CGSC.
Mr. Y. Appala Raju

CORAM:-

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

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

ORDER

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

Heard Mr.P.Venkateswara Rao for Mr.C.Suryanarayana, learned counsel for the applicant and Mr.P.Phalguna Rao, learned counsel for the Respondents No.1 to 3 and Mr.Y.Appala Raju, learned counsel for the Respondent No.4.

2. The post of BPM, Kurmaguda ND BO, a/w. Saidabad was redeployed as EDSV. Vanastalipuram with effect from 30-08-93 vide order of the R-2 dated 24-08-93. The post of EDSV, Vanastalipuram fell vacant on 6-12-94 on account of termination of the regular incumbent of the said post. The applicant was appointed as provisional basis as EDSV with effect from 6-12-94.

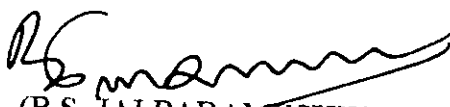


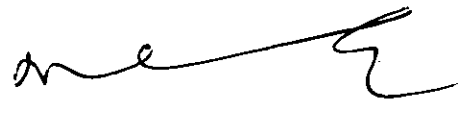
3. In order to make regular selection to the said post the vacancy was notified to the Employment Exchange. There was no response from the Employment Exchange. An open notification dated 29-05-97 was issued. In response to that notification only two applications were received. Since sufficient number of applications were not received they re-notified the vacancy by notification dated 22-6-98 fixing last date as 21-7-98. It is stated that first notification was cancelled. Even the second notification was also not processed further. The respondents issued third notification dated 17-4-99. By letter dated 5-5-99, the Respondent No.1 directed the applicant to appear before him with relevant documents for consideration to the post.

4. At that stage, the applicant being aggrieved has filed this OA to call for the records relating to the third notification No.PF/EDSV/VSP/98-99 dated 17-04-99 (Annexure-VI) issued by the first respondent, read with his letter even No. dated 5-5-99 (Annexure-VII) addressed to him and to quash the same declaring that they are vitiated and consequently to declare in view of the Apex Court judgements referred to above the applicant is entitled to be absorbed in the post of EDSV at Vanasthalipuram Post Office retrospectively with effect from the date of his provisional appointment.

5. The respondents have filed their reply. They have stated that in response to the second notification 6 applications were received for the post. All the candidates were directed to produce their original certificates and accordingly verification was done but only one candidate viz., the applicant was found suitable. Hence the selection could not be finalized for want of minimum 3 eligible candidates for the post. Thus they submit that even for the second notification there were no minimum number of eligible applications. This point was considered by this Tribunal on an early occasion and it was held that once the number of applications received are in excess of three then the selection process shall be finalized. As they themselves admit that irrespective of the fact that some of the applications are not eligible for consideration 6 applications were received in response to the notification dated 22-6-98, the said notification should have been finalized. Hence in our view, the issue of the impugned notification is irregular.

6. We have perused the notification dated 22-06-98. As per the notification the post is reserved for ST/SC/OBC/PHC/OC in that order. The learned counsel for the respondents submits that there were no 3 applications received from either SC or ST or OBC or PHC candidates. If that is the case then all the applications shall be treated as OC candidates and the most meritorious candidate amongst them should be selected. Even though the applicant belongs to OBC community he cannot be appointed on the basis of the reservation for OBC as there are no 3 applications received from OBC candidate. As there are 6 applications received, an OC candidate can be appointed on the basis of that notification.
7. Hence the third notification dated 17-4-99 is hereby set aside.
8. The respondents are directed to select the most meritorious candidate among those who responded to that notification dated 22-6-98 without any reservation if no 3 candidates had applied from SC/ST/OBC community candidate or from PHC category.
9. Till such time the regular candidate is selected the present incumbent shall be continued as provisional EDSV of that post office.
10. The OA is ordered accordingly. No order as to costs.
(The records perused and returned back)


(B.S. JAI PARAMESHWAR)
MEMBER(JUDL.)



(R. RANGARAJAN)
MEMBER(ADMN.)


Dated : The 14th October, 1999.
(Dictated in the Open Court)

SPR



6. We have perused the notification dated 22-06-98. As per the notification the post is reserved for ST/SC/OBC/PHC/OC in that order. The learned counsel for the respondents submits that there were no 3 applications received from either SC or ST or OBC or PHC candidates. If that is the case then all the applications shall be treated as OC candidates and the most meritorious candidate amongst them should be selected. Even though the applicant belongs to OBC community he cannot be appointed on the basis of the reservation for OBC as there are no 3 applications received from OBC candidate. As there are 6 applications received, an OC candidate can be appointed on the basis of that notification.
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(B.S. JAI PARAMESHWAR)
MEMBER(JUDL.)


(R. RANGARAJAN)
MEMBER(ADMN.)

Dated : The 14th October, 1999.
(Dictated in the Open Court)

SPR

1ST

COPY TO :-

1. HONND
2. HRRN M (A)
3. HBSOP M (J)
4. D.R. (A)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

29/10/99

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: 14/10/99

MA/PA/CP/NO

IN

CA. NO.

734/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOTTED

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

3 copies

