

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
HYDERABAD

O.A.No.747 of 1999.

DATE OF ORDER:26-7-1999.

BETWEEN:

M.Abdul Razzack.

.....Applicant

A n d

1. The Sub-Divisional Inspector (Postal),
Atmakur (K), Sub Division Atmakur.

2. The Sub-Postmaster, Talamudipi (P.O.),
A/w Gadivemula B.O., Kurnool District-518 508.

3. The Superintendent of Post Offices,
Kurnool Division, Kurnool-518 001.

4. B.Chandrasekhar, s/o B.Buddanna, aged 26 yrs,
EDMC/DA, Talamudipi P.O., A/w Gadivemula B.O.,
Kurnool District.

.....Respondents

COUNSEL FOR THE APPLICANT :: Mr.S.A.Hussaini

COUNSEL FOR THE RESPONDENTS: Mr.V.Rajeshwar Rao for R-1 to 3
: Mr.Krishna Devan for R-4.

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: ORDER :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN))

Heard Mr.S.A.Hussani, learned Counsel for the Applicant and
Mr.V.Rajeshwar Rao, learned Standing Counsel for the Official Respondents, and
Mr.Krishna Devan, learned Counsel for the Respondent No.4.





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2. The applicant in this OA was appointed as provisional EDMC/DA, Talamudipi Post Office, A/w Gadivemula B.O., Nandyal Taluq, Kurnool District, on 14-7-1997 against a post which became vacant due to the retirement of the regular incumbent of that Post Office. The applicant was appointed on provisional basis in that post as can be seen from Annexure.R-I letter dated:14-7-1997. It is also stated in the Memo No.PF/EDMC/DA/T.Mudipi, dated:29-9-1997, (Annexure.R-III to the reply) that the applicant was a provisional appointee .

3. A notification for filling up the post regularly was issued by Memorandum No.PF/EDMC/DA/Talamudipi, dated:8-10-1997, (Annexure.VI (A) to the reply). The Applicant, Respondent No.4 and others responded to that notification. It is stated that the selection was done on 28-1-1999, as seen from the Annexure.R-VII to the reply. Respondent No.4 was appointed.

4. This OA is filed challenging the selection of Respondent No.4 as EDMC/DA of that Post Office and for a consequential direction to the respondents to appoint the applicant vice Respondent No.4.

5. Three main contentions ~~were~~ advanced by the applicant in this OA. They are:-

i) The applicant was appointed on provisional basis on 14-7-1997 and he worked in that post till 20-1-1999. Having worked for about nearly two years, the applicant should have been treated as a regular candidate and hence, he should have been absorbed regularly in that Post Office;

ii) The selection was held on ¹³28-1-1999, but the regular candidates was posted only on 20-1-1999. The applicant having worked for about a year after the selection process is over, cannot be termed as a provisional candidate and that

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it should be construed that he has been absorbed regularly on the basis of the selection as he was allowed to continue for one year and hence, he should be treated as a regular candidate of that post.

- iii) In the affidavit filed by Respondent No.4, there is a mention in regard to calling of some candidates. The applicant submits that those candidates were called after the selection was over ie., after 20-1-1999, as there ^{was} ~~was~~ some irregularity and to bridge that irregularity some more candidates were called after 20-1-1999. That itself was an irregular practice and hence the selection made should be set aside on that basis.

6. We have considered the above contentions. It is a fact that the applicant was appointed only on provisional basis on 14-7-1997. Records speak for that submission. Hence, it cannot be said that the applicant was appointed on regular basis with effect from 14-7-1997. He worked upto 20-1-1999. But that period of provisional appointment does not give him any vested right to consider him as a regular candidate. Even those who worked more than three years, the department keeps such candidates on the list of thrown out candidates and then absorbed as and when vacancies arise in order of their registration. If that be the case, the applicant having worked very much less than three years, cannot demand that his continuance for about 1 1/2 to 2 years is to be treated as a regular appointment. Hence, his contention as above has to be rejected.

7. The applicant submits that he worked for about a year after the selection is over and that he has a right to be continued as a regular candidate. We feel that the time taken by the respondents to finalise the selection is very long. Such tendency to delay the publication of results has to be curbed. We caution the department to be more careful in announcing the results soon after the selection is over within a



reasonable time. But that delay would not mean that the selection made is irregular.

~~From some~~ As seen from the record, the applicant is not a meritorious candidate as he has secured less marks than R-4. Hence, R-4 was correctly selected. It is also not the case that the applicant that the R-4 had not produced the required documents. Both the applicant and R-4 had submitted all the records required in accordance with the rules and hence the most eligible candidate or most meritorious candidate was selected on the basis of the marks obtained in SSLC Examination. Respondent No.4 having obtained more marks than the applicant was selected in accordance with the rules. Hence, the contention that the applicant has worked for more than a year after selection and hence he should be deemed to have been regularized on that basis cannot be a proper contention to allow this OA. Hence, this contention is rejected.

8. The affidavit of R-4 which caused the advancement of the third contention referred to above was examined. The Respondent No.4 could have clearly stated that before the ^{finalization of the} selection that is before 20-1-1999, some candidates were called for and calling those candidates was irregular. But even that would arise only if R-4 was not selected. Hence, he has made this contention without giving any thought to the repercussion that will emanate from such a submission. The learned Counsel for the Applicant clutches on that and submits that an irregularity was committed and hence the selection has to be set aside. A reading of the selection proceedings does not indicate any irregularity. The selection has been done in accordance with the rules and the most meritorious candidate viz., R-4 has been selected and appointed. We see no reason to set aside the selection of R-4.

9. The learned Counsel for the Applicant submits that the applicant had worked for quite some time and a promise was given to him that he ^{would} be posted in some other post even if he ^{was} not selected for the post. We leave it to the department to consider the above submission and act if any promise has been given to the applicant


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in this connection. We do not want to pass any order in this connection as such a promise given by the respondents cannot be reason to allow this OA.


10. The learned Counsel for the Applicant strenuously argued that the antecedents of the Respondent No.4 was checked after he was appointed and that is irregular. Normally, checking of antecedents has to be done earlier to the appointment. But antecedents checked after the appointment is not a reason to set aside the appointment. If the antecedents prove to the detriment of the selected candidate, eventually it will lead to the cancellation of the appointment of the selected candidate. Hence, the contention that as the antecedents of the Respondent No.4 was done after his appointment the selection should be set aside cannot be sustained.

11. In view of what is stated above, the OA is liable only to be dismissed and accordingly it is dismissed. No costs.


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


(R. RANGARAJAN)
MEMBER (ADMN)

DATED: this the 26th day of July, 1999
Dictated to steno in the Open Court


30/7/99

DSN.

COPY TO.-

1. HCHN3
2. HHRP M(A)
3. HBSJP M(J)
4. D.A. (A)
5. SPARE

1st AND 2nd COURT.

TYPED BY
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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD.

9/8/99

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

THE HON'BLE MR. H. RAJENDRA PRASAD
MEMBER (ADMN)

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

THE HON'BLE MR. O.S. JAI PARAMESHWAR
MEMBER (JUDL)

ORDER: Date. 26/7/99

ORDER / JUDGMENT

MA./RA./CP.NO
IN
DA.NO.

347/89

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED

R.A. CLOSED.

D.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS.

8 copies

केन्द्रीय प्रशासनिक अपीलरूप Central Administrative Tribunal प्रेषण / DESPATCH
- 5 AUG 1999
हैदराबाद न्यायपीठ HYDERABAD BENCH