

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

O.A.No.761/99

Date of Order:11.8.99

BETWEEN:

H.Ramanjaneyulu

.. Applicant.

AND

1. The Superintendent of Post Offices,
Kurnool Division, Kurnool.
2. The Sub Divisional Inspector(Postal),
Dhone Sub Division,
Kurnool District.
3. K.Lokeshwarachari,
S/o.Dyvadeenam, R/o Padigiray,
Tuggali Mandal, Kurnool Dist. ..Respondents.

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Counsel for the Applicant

.. Mr.G.S.S.Siva Kesava

Counsel for the Respondents

..Mr.P.Phalguna Rao
(for R-1 and 2)

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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.Jaiparameshwar,
Member(Judl.)

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Mr.G.S.S.Siva Kesava, learned counsel for the
applicant and Mr.P.Phalguna Rao, learned standing
counsel for the respondents 1 and 2. ^{Notre on} R-3 served.
Called absent.



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2. The Respondent No.1 issued notification dated 12.1.99 for filling up the post of EDBPM, P.Kothur, Kurnool District. In response to the open notification 14 applications were received. However, the respondents found among the 14 applications, 6 applications to be in order. After verification of the 6 applications the SDIP (P) submitted a report that no application received from S.C.candidate is found to be in order. Hence the vacancy was treated as unreserved and offered the post to the candidate belonging to the O.B.C. in order of SC/ST/OBC. As there were no eligible applications from 3 SC candidates, the respondent No.1 selected and appointed R-3 to that post. Even though first preference as per notification was required to be given to a SC candidate.

3. The applicant herein is an SC candidate. He is aggrieved by the selection and posting of R-3. He has filed this OA to direct the respondents 1 and 2 to appoint the applicant to the post of EDBPM, P.Kothur village which post is reserved for SC candidate as he was the only eligible and available candidate from SC community.

4. The respondents have filed a reply stating that there were no SC candidates. Hence R-3 was selected. They further state in the additional reply that in



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view of the directorate letter No.19-11/97-ED&TRG dated 27.11.97 the word "effective" should mean receipt of 3 eligible applications for consideration. Even though 5 candidates belonging to SC community had applied in response to the said notification, 4 applications of the SC candidates were rejected ^{from} ~~for~~ consideration for various reasons. The respondents submit that since there were no effective number of applications from SC community candidates and no candidate from ST had responded to the notification, a candidate from the OBC (i.e.R-3), in order of preference, was selected and appointed. Thus they justify their action in selecting and appointing the R-3 to that post. R-3 belongs to O.B.C.

5. It is now to be considered whether the above contention of the respondents can be accepted or not.

6. The same question came up for our consideration in OA.1434/98 which was disposed of on 7.4.99. We had asked the highest authority in the postal department, namely, the Chief Post Master General as to how the word "effective" should be interpreted. As additional reply given by the C.P.M.G. was not adequate, this Bench took upon itself to interpret the word "effective" and the interpretation of the word "effective" has been detailed in para-9 of the judgement in that OA. This para-9 reads as below:-



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"In all the selections it is immaterial of number of applications received. The selection process starts when no such restriction is in regard to the number of applications to be received for pursuing the selection. In the ED Rules it is stated that, at least minimum three applications are to be received so as to ensure that the proper candidate is selected for filling up that post. We do not pass any order in regard to receiving of three applications, in our opinion, may be necessary to select a suitable candidate. But the word effective should only mean when the minimum number of applicants (three) are received irrespective of the fact where the applicant in those three application is eligible for consideration or not the condition is fulfilled. If he is not eligible, that application may be rejected from the purview of the selection. Hence, in view of the interpretation, in respect of the second notification three applications were received. Hence, there is no need to cancel the second notification No.BED/II-7, dated 20.9.97 which was issued on the ground that three effective applications were not received. In that view, the selection has to be finalised only considering the three applications received in response to the second notification dated 20.9.97".

7. The learned counsel for the respondents submits that the Directorate letter was not available before the CPMG and hence the clarification was not given suitably. The above explanation of the learned

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counsel for the respondents does not appeal to us. The CPMG cannot be ignorant of the directorate letter especially in regard to the policy matters. We have no doubt in our mind the directorate letter was perused by the CPMG. But it is not followed. After having perused the letter of the directorate the clarification given by the CPMG was not at all satisfied^{-acty}. Hence the interpretation of the word "effective" was given by us as indicated above. We see no reason to change our views in that connection.

8. In the present OA there were 6 applications from the SC community candidates. The receipt of 6 applications means the requirement of the department for getting 3 minimum effective applications is fulfilled. Hence not considering the SC candidate whose application was found to be in order in all respects and appointing an OBC candidate (R-3), ~~is not~~, in our humble view, is not in order when the notification was issued for selecting a candidate from SC community.

9. (a) In view of that the selection of R-3 is liable to be set aside and accordingly ^{set} set aside.

(b) The respondents are directed to consider all the applications received and




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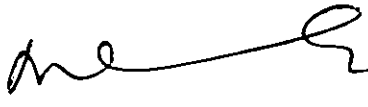
select the most meritorious SC candidate from amongst those who applied in response to the notification dated 12.1.99.

(c) Time for compliance is 3 months from the date of receipt of a copy of this order. Till such time the present incumbent of the post shall be continued on provisional basis.

10. The OA is allowed. No costs.

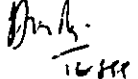

(B.S. JAI PARAMESHWAR)
Member (Judl.)

11.8.99


(R. RANGARAJAN)
Member (Admn.)

Dated 11th August, 1999

(Dictated in Open Court)


Dmly.
16/8/99

sd

COPY TO:-

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

1st AND II nd COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD:

19/8

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 PARAMESHWAR
MEMBER (JUDL)

ORDER DATE: 11.8.99

MA/BA/CP.NO

IN

DA.NO. 761/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

D.R. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

3 copies

केन्द्रीय प्रशासनिक अपिचरण
Central Administrative Tribunal
प्रेषण / DESPATCH

17 AUG 1999

हयदराबाद ब्याचपीठ
HYDERABAD BENCH