

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.932/99 &
O.A.1143/99.

DT. Of Decision : 08-09-99.

K.Satyanarayana Reedy

.. Applicant in OA.932'99.

Smt.C.Malathi

.. Applicant in OA.1143'99.

Vs

1. The Senior Superintendent of Post Offices,
Chittoor Division, Chittoor.

2. K.Sreedhar Naidu

.. Respondents in Both the OAs.

Counsel for the applicants

: Mr.M.Chandrasekhar Reddy in OA.932/99
Mr.A.Hariprasad Reddy in OA.1143/99.

Counsel for the respondents

: Miss.Shyama, Addl.CGSC. in OA.932/99
Mr.B.N.Sharma, Sr.CGSC. in OA.1143/99.

ma. P.P. Vittal in OA 932/99.

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.M.Chandrasekhar Reddy, learned counsel for the applicant in OA.932/99, Mr.A.Hariprasad Reddy, learned counsel for the applicant in OA.1143/99. Mr.B.N.Sharma, learned counsel for the respondent in OA.1143/99 and Miss Shyama, learned counsel for the respondent in O.A.932/99. R-2 is not present. He has filed reply in OA.932/99. The Respondent No.1 in both the OAs has not filed any reply. However the learned counsel for the respondent No.1 has produced the selection proceedings.

2. Since in both these OAs challenge is made to the selection and appointment of the Respondent No.2 to the post of EDBPM, Sarakallu B.O. A/W Aragonda S.O.

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Thavanampalli Mandal, Chittoor District, both these OAs are clubbed, heard, and are being disposed of by this common order.

3. The Respondent No.1 issued notification No.B3/267 dated 1-2-99 (Annexure-II) inviting applications from the eligible ST candidates to fill up the post of EDBPM, Sarakallu ED Branch Post Office under Aragonda Sub Post office. In the said notification it is stated that the post is reserved for a candidate belonging to ST community. However sufficient number of applications from that community was not received, the post would be filled from among the candidates from SC or OBC or OC candidates, in that order. The last date fixed for receipt of application was 3-3-99.

4. The applicants in both these OAs and the Respondent No.2 in both the OAs had submitted their candidature. The Respondent No.1 selected and appointed the Respondent No.2 to that post.

5. The applicant in OA.932/99 challenges the selection and appointment of Respondent No.2 on the ground that he is most meritorious candidate being a graduate that the property certificate produced by the applicant did not disclose the actual land that the pattadar pass book produced by him disclosed different Survey Number, that the respondent had offered a thatched shed to run the Branch Office and that therefore the selection of R-2 to that post is irregular.

6. The applicant in OA.1143/99 challenges ^{on the ground} that the reserved community i.e., the SC/ST only should have been posted and selecting the OC candidate ignoring the SC/ST candidates who had applied in response to the notification, is irregular.

7. In response to the said notification 13 applications were received. Out of those 11 applications were received within the last date. 2 applications were received after the last date prescribed in the notification.

8. On perusal of the selection proceedings it is disclosed that no candidate belonging to ST community had responded to that notification.

9. Hence, the respondents were to go in to fill up the post by a candidate belonging to SC/OBC or OC in that order.

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10. Among the 11 candidates offered, only 2 candidates belong^{ing} to SC community had responded. In the ED Rules it is stated that atleast 3 applications must be received to consider for selection. As the candidates belong^{ing} to SC community had not responded to that extent the respondent authorities proceeded to select from among the other community candidates. We find no irregularity in that respect.

11. The applicant in OA.932/99 and the selected candidate, that is R-2, belong to OC community.

12. If the reserved community candidate cannot be considered due to lack of sufficient number of applications when there is a provision for consideration of OC in that selection all the candidates who had applied in response to the notification had to be treated as General Candidates and most meritorious candidate fulfilling the required condition from among those who applied would have to be selected. In this OA the above procedure has been followed by considering all the applications received in response to the said notification and R-2 was selected.

13. As regards the applicant in OA.932/99 he had secured 213 marks in SSC and 28 marks in Hindi. The applicant in OA.1143/99 had secured 261 marks in all the subjects and 30 marks in Kannada. The R-2 that is the selected candidate had secured 358 marks in all the subjects and 58 marks in Hindi. Thus the R-2 is the most meritorious.

14. As regards the applicants' contention that the selected candidate has not produced the property certificate the R-2 stated that his family had Survey No.86/B that his father had transferred the said Survey Number to his name and on that basis the revenue authority had issued the Pattadar pass book and that he had produced the same along with his application. The MRO in his certificate had indicated the description of the survey number as 96/B instead of survey no.86/B.

15. The MRO certificate is issued by the revenue authorities regarding the property owned by an individual. The department authorities normally insist upon production of registered document corroborating the certificate issued by the MRO. In the instant case, the selected candidate had produced the Pattadar Pass Book to show that he was the owner of land bearing Survey No.86/B. As the applicant contends that there was

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discrepancy in the certificate issued by MRO and the Pattadar Pass Book produced by the R-2 the Respondent No.1 at the time of scrutiny of the application must have come to the conclusion that the applicant had produced the Pattadar Pass Book as to the real owner of the property described therein and then preferred to rely upon the Pattadar Pass Book than the certificate issued by the MRO. We cannot make an inquiry whether the R-1 could have relied upon the MRO certificate or on the Pattadar Pass Book.

16. The Pattadar Pass Book is issued by the State Government and is a reliable document to show that an individual entered in that book is the owner of the property described therein. Further as regards the discrepancy, the R-2 has clearly stated that the Pass Book consisted of his photo, name as well as his father's name and his signature. The applicant has not stated anything regarding this aspect. Further the R-1 considering all these factors might have taken the Pattadar Pass Book as the relevant property document to select his candidature.

17. The applicant is a Graduate whereas the selected candidate has passed the SSC examination in first class. The minimum qualification prescribed for the post is the SSC examination. The learned counsel for the applicant in support of his contention that the applicant is the most meritorious than the selected candidate relied upon the decision of the Hon'ble Supreme Court in the case reported in 1992 (3) SCC 63 (Y.Srinivasa Rao Vs. J.Veeraiah and others). In that case the Hon'ble Supreme Court held that the decision to prefer an uneducated person over an educated person amounts to allowing premium on ignorance, incompetence and consequently inefficiency. Here the case is not as ^{it}~~he~~ is available in the case cited by the learned counsel for the applicant. The respondents have selected a meritorious candidate in accordance with the prescribed qualification under the rules. The applicant had not secured so much of marks in the SSC examination as secured by the selected candidate. His graduation is not the criteria for selecting the post. The minimum qualification is the criteria for selecting the post. The applicant was not a meritorious and had not secured more marks than the selected candidate. The facts of the reported case can easily be distinguished from the facts of this case as that case was between literate and illiterate in the matter of preference to issue license to run a fair price

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shop where there may not be any service rule prescribed whereas in this case there are ED Rules prescribed and that rule has been judiciously followed by the respondent organization.

18. The next contention is that the Respondent No.2 had offered^a thatched shed to run the Branch Office. This is not necessary while making selection. If the respondent authorities are not satisfied with the accommodation offered by the Respondent No.2 they are at liberty to take further action under the rules. This cannot ^{invalidate} the selection of R-2 to the post. Hence, this contention is rejected.

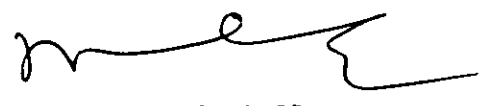
19. Now to the challenge made by the applicant in the OA.1143/99. As seen from the selection proceedings ~~is that~~ only 2 candidates belonging to SC community had responded to that notification. As per the ED Rules the minimum number of applications to be received for consideration is 3. When the minimum number of applications were not received from the SC community candidates then there is no irregularity on the part of the Respondent No.1 in selecting the Respondent No.2 for the post.

20. For the reasons stated above we are of the opinion that the selection of R-2 to the post of EDBPM, Sarakallu Ed Branch Post Office under Aragonda Sub Post Office is quite in order and both the OAs are devoid of merits.

21. Hence both the OAs are dismissed. No order as to costs.


(The selection proceedings were perused and returned back)


(B.S. JAI PARAMESHWAR)
MEMBER(JUDL.)
8/9/99


(R. RANGARAJAN)
MEMBER(ADMN.)

Dated : The 08th September, 1999.
(Dictated in the Open Court)

SPR


27.9.99

COPY TO :-

1. HDHND

2. HRRN M (A)

3. HBSJP M (J)

4. D.R. (A)

5. SPARE (1+1)

6. ADVOCATE

7. STANDING COUNSEL

IST AND II NO COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

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 (DUCL)

* * *

DATE OF ORDER: 8/9/99

MA/RA/CP.NO.

IN

CA. No.

932/99
CA. 1143/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED.

CP CLOSED

RA CLOSED

CA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दस्तावेज / DESPATCH

29 SEP 1999

हैदराबाद न्यायपीठ
HYDERABAD BENCH