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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.950/99.

DT. Of Decision : 01-10-99.

M.A.Rahim

.. Applicant.

Vs

1. The Superintendent of Post Offices,
Sangareddy Division, Sangareddy.
2. The Chief Post Master General,
AP Circle, Hyderabad.
3. The Director General of Posts,
Dak Bhavan, Min. of Communications,
New Delhi.

.. Respondents.

Counsel for the applicant : Mr.S.Ramakrishna Rao

Counsel for the respondents : Mr. V. Vinod Kumar, Addl.CGSC.

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 R. RANGARAJAN : MEMBER (ADMN.))

Heard Mr.S.Ramakrishna Rao, learned counsel for the applicant and Mr. V. Vinod Kumar, learned counsel for the respondents.

2. The applicant in this OA was appointed as a provisional EDBPM Yeddu-mailaram on 20-09-94. A notification bearing No.N3/Yeddu-mailaram dated 1-3-99 was issued for filling up of that post regularly and that was reserved for SC/ST/OBC.
3. The applicant aggrieved by that notification has filed this OA for setting aside the impugned notification dated 1-3-99 and for a consequential direction to the

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respondents to regularize the services of the applicant in that post as he had completed more than 3 years of service in that post and he has got vested right for appointment regularly in view of the DG P&T Letter dated 18-05-79 and to delete the portion of the instructions in DG Lr.No.43-4/77-Pen dated 18-05-79 to keep the ED Agents in waiting list to provide alternative appointment.

4. The applicant has got a right for the deletion of the Instructions as per order dated 18-05-79 as stated above only if he has a right to be posted in this present post. As in view of the direction that is going to be given in this OA we feel that deletion will be harmful ^K of the interest of the applicant and hence that issue is not decided in this OA and is kept open for consideration in future as and when ^{the occasion} it arises.

5. The only point to be decided in this OA is whether the applicant's request for setting aside the impugned notification dated 1-3-99 and the applicant should be regularized in that post is in order or not.

6. It is seen from the impugned notification dated 1-3-99 the said EDBPM post is to be filled by SC/ST/OBC candidate in that order. The applicant is neither an SC nor ST. The first preference goes to SC/ST. The applicant is not an SC/ST community candidate. Hence it is not correct to suspend the notification dated 1-3-99. We are repeatedly observing that the constitutional obligation for reservation over weighs the DG P&T Letter dated 18-05-79. The post may not be filled by open notification under the present circumstances only if it is not reserved for SC/ST candidates. The applicant is not an SC or ST community and the post is reserved for SC/ST community. Hence, he cannot demand that he should be regularized in view of the DG P&T letter dated 18-05-79. He can only be kept in the list of thrown out ED agent list in accordance with the DG P&T letter dated 18-05-79 for absorption in a future vacancy either in the same post office or elsewhere in accordance with law. In view of the above the following direction is given:-

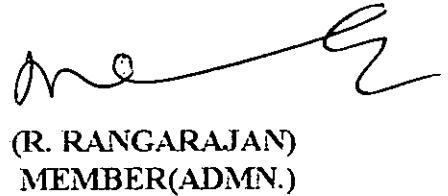
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The name of the applicant should be kept in the list of thrown out ED Agent for absorption regularly in a future vacancy either at the same place or elsewhere in accordance with law.

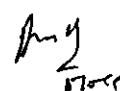
7. The OA is disposed of as above. No costs.


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


(R. RANGARAJAN)
MEMBER(ADMN.)

Dated : The 01st October, 1999.
(Dictated in the Open Court)


SPR


Amg
17-10-99

1ST AND 2ND COURT

25/10/99

COPY TO :-

1. HDHNO
2. HRRN E (1)
3. HSSDP M (3)
4. D.R. (A)
5. SPARD
6. ADVOCATE
7. STANDING COUNSEL

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 (ADMM.)

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

* * *

DATE OF ORDER: 11/10/99

MA/PA/CP/NG.

IN
GA. No. 950/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

OR CLOSED

RA/CL/CLOSED

~~DISPOSED OF WITH DIRECTIONS~~

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

