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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

HYDERABAD

O.A.No.98 OF 1999.

DATE OF DECISION: 29 JUL 99

BETWEEN:

M. Prabhakara Sastry.

...Applicant

and

1. The Superintendent of Post Offices,  
Amalapuram Division, Amalapuram-533 201.

2. The Chief Postmaster-General, A.P.Circle,  
(Representing Union of India),  
Hyderabad-500 001.

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...Respondents

COUNSEL FOR THE APPLICANT :: Mr.C.Suryanarayana

COUNSEL FOR THE RESPONDENTS :: Mr.V.Rajeshwar Rao

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

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

: ORDER :

(PER HON'BLE SRI H.RAJENDRA PRASAD, MEMBER (A) )

Heard Sri C.Suryanarayana and Mr.V.Rajeshwar Rao  
for the opposite parties.

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2. The Applicant was allowed to work as a nominee-substitute EO8PM in a leave vacancy for about four months in 1985. He was later provisionally appointed to the post on 16-2-1993. The disciplinary case against his predecessor, the regular incumbent, resulted in his removal from service, and the appeal submitted by him was also turned down and disposed of on 7-10-1997. Soon thereafter a notification was issued by Respondent No.1 inviting applications from eligible candidates to fill up the clear vacancy which had arisen thus.

3. The Applicant is aggrieved by the said notification (Annexure.A-2) on the ground that inasmuch as he had been functioning for several years in the same post, there was no need or justification to issue any notification and that he should have been regularised in the post straightaway instead of holding a fresh selection. The applicant bases his claim on DGP & T letter No.43-4/77-PEN, dated:23-2-1979, relating to the adjustment of surplus EDAs.

4. The Respondents submit that the Applicant's substitute service in a leave vacancy during 1985 cannot be taken into consideration since it was only in a temporary leave vacancy. His appointment from 16-2-1993 onwards was also provisional and he had been clearly informed beforehand that his provisional appointment was tenable only during the pendency of

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the disciplinary proceedings against the regular incumbent and that the Applicant was not only aware but <sup>had</sup> fully accepted the appointment on a clear understanding of the conditions attached to it (Page.24 of the OA). It is further submitted by them that selections have not been finalised against this post though 21 applications were received in response to the impugned notification and were scrutinised at the time of the filing of this OA. The Applicant was one of the candidates who applied for the post. The Respondents state that they would consider the Applicant's alternate appointment only if he is not found meritorious for selection in the normal course. It is stated that in case the applicant cannot compete with other candidates for the post, his case will be considered for an alternate appointment in the Division as a whole.

5. The DGP&T letter on which reliance is placed by the applicant refers to the offer of an alternate appointment to ED Agents who are rendered surplus or discharged. The situation envisaged for such alternate appointments is one where, due to administrative reasons, like abolition of posts, reduction in existing establishment or closure of a BO or its merger with a neighbouring office or upgradation, an incumbent regularly-selected EDA is rendered surplus to the requirements and is to be discharged. In the present instance it is doubtful if the Applicant can be said to have been rendered surplus or whether DG's Circular will have full applicability to his case.

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6. It is noted, nevertheless, that the Applicant has been functioning in the post, though admittedly on a provisional basis, for more than six years. The respondents themselves agree to consider him, along with other applicants, for the post of EOBPM. They add that in case he is not selected for the post, he will be brought on to the waiting-list and offered an alternate appointment in the Division. It is submitted by the learned Additional Standing Counsel on instruction that two posts of EOBPM are to arise in September and December, 1999.

7. The OA is, therefore, disposed of with a direction that the applicant's candidature for the post of EOBPM, in Vakkalanka Branch Office/account with Mukkamala Sub Office in Amalapuram Division, be considered, along with all other eligible applicants, for post. In case he is not found <sup>to be</sup> the most suitable candidate for the post in the regular selection, his name may be brought on the waiting list, as undertaken by the respondents, and considered for the post of EOBPM ( ) in any of the two vacancies which are to arise shortly, according to the Respondents. It is also noted that, according to the Respondents, there are no candidates on the waiting list in the Division as on 10-3-1999.

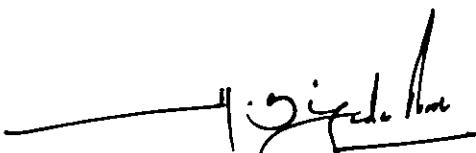
While rejecting the claim of the applicant for setting aside the impugned notification, or for

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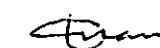
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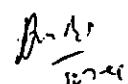
regularisation of his appointment as EDBPM, Vakkalanka  
ED 80, the OA is disposed of in terms of the directions  
contained in the preceding paragraph. No costs.



(H.RAJENDRA PRASAD)  
MEMBER (ADMN)

  
(D.H.NASIR )  
VICE CHAIRMAN

DATED: this the 29 day of JUL , 1999

  
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1st AND 1<sup>st</sup> COURT.

1. H.D.H.N.J
2. H.H.R.P.M.(A)
3. H.S.D.P.M.(J)
4. D.R. (A)
5. SPARE

TYPED BY  
COMPILED 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. H. RAJENDRA PRASAD  
MEMBER ( ADMN )

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

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

ORDER: Date. 29/7/99

ORDER / JUDGMENT

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

98/99

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.

फेन्स्ट्रोय इष्टाप्रविल बिलिकर्प  
Central Administrative Tribunal  
प्रेषण / DESPATCH

2 AUG 1999

हैदराबाद न्यायालय  
HYDERABAD BENCH