

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. 994/99

Date: 27-02-2002

Between:

M.Kasaiah

.. Applicant

A N D

1. The Union of India
through
The Chief Postmaster General,
Andhra Pradesh,
Dak Sadan, Abids,
Hyderabad - 500001.
2. The Postmaster General,
A.P. Southern Region,
Kurnool - 518 004.
3. The Superintendent of Post Office,
Nandyal Division,
Nandyal - 518 501.
4. The Sub-Divisional Inspector
of Post Offices,
Cumbum(K) ~~Sub~~ Sub Division,
Cumbum(K) - 523 333.
5. Sayyed Khasim
son of S. Peera Saheb
EDMC/DA
Ramachandrapuram (Branch Post Office)
A/w. Vemulakota 523 329. .. Respondents

Counsel for the applicant : Mr. U.R.S. Gurupadam

Counsel for respondents 1 to 4: Mr. K. Narahari

Counsel for respondent No. 5 : Mr. (TVVS Murthy) Krishna Devan
Coram:

Hon. Shri M.V. Natarajan, Member (A)

Hon. Mrs. Bharati Ray, Member (J)

O R D E R
(Per Hon. Mrs. Bharati Ray, Member (J))

This is an application filed u/s.19
of the A.T. Act, 1985 seeking to set aside the
appointment of respondent no. 5 as EDMC/DA,
Ramachandrapuram Branch Post Office contained
in the impugned order of respondent no. 4 No. EDMC/
DA/RC Puram dt. 28-9-98 and for further direction

to the respondents to appoint the most meritorious among the applicants that applied in reference to the notification issued by respondent no.4 in July'98.

2. The facts of the case are that the post of EDMC/DA at Ramachandrapuram Branch Post Office in account with Vemulakota S.O. under Markapur H.O. fell vacant due to the resignation tendered by the then incumbent. As the prescribed number of applications were not received from the candidates sponsored by the Employment Exchange, Ongole, the officiating SDI(P), Cumbum issued an open notification vide his memo No.PF/EDMC/DA/RC Puram dt. 4/6-7-98 by reserving the vacancy for "PC" which is to be interpreted as "Forward Caste". In response to this open notification, 8 applications were received. In all 9 applications i.e. ^{one} 8 from open notification and from EE, Ongole. 4 applications were from OC, 1 from SC, 1 from ST and 3 from OBC candidates. But the officiating SDI(P) had taken into consideration only the application of OC candidates presuming that the vacancy is reserved for "OC" candidate. Among the 4 OC candidates only 2 candidates appeared for the interview on 29-8-98. Among 2 candidates who attended the interview one ^{was} Sri Syed Khasim selected by the Officiating SDI(P) to the post and he was appointed in the said post

vide SDI(P) memo No.EDMC/DA/RC Puram dt.

28-9-98.

3. Aggrieved by the selection of the said Sri Syed Khasim, the applicant approached this Tribunal in OA 994/99. The said application was disposed of on 16-8-1999 directing the respondents to set aside the order No.EDMC/DA/RC Puram dt. 28-9-98 and the 4th Respondent i.e. SDI(P) Cumbum sub division was directed to select meritorious person as per rules of the Department and further directed that till such time the candidate who is working as EDMC/DA should be continued on provisional basis and that the time granted for complying the order of the Tribunal within 2 months from the date of receipt of the copy of the order.

4. The non-selected candidate has moved the Hon. High Court in Writ Petition No.26373/99. The Hon. High Court observed that whether respondent no.1 in writ petition(respondent No.5 before the Tribunal) had attended the interview

or not and whether he had been called for interview or not had not been decided by the Tribunal and remitted the said application to this Tribunal for consideration of the matter afresh in the light of the observations and the contentions raised by the parties in their respective affidavit and counter.

5. Learned counsel for the applicant submitted that the applicant who passed the SSC examination in the first chance secured 346 marks which is higher than the marks obtained by the private respondent no.5 who has passed the examination in compartmental and secured only 237 marks. Therefore it is beyond doubt that applicant is more meritorious than the private respondent no.5 viz. Sayyed Khasim. It is also the contention of the applicant that he was not called for interview/verification, although he was eligible to be considered in all respects. On the other hand it is the contention of the private respondent that the applicant did not participate in the interview and verification which process is the sine qua non for conducting the selection and therefore he has no locus-standi to challenge the said selection and therefore the OA is frivolous.

6. **Learned counsel for the respondents** submitted that they called only OC candidates thinking that the vacancy is reserved for OC candidate.

He has also stated that applicant has passed the SSC examination in first division and secured 346 marks and the respondent no.5 passed SSC in compartmentally and secured 237 marks. In all 9 applications were received i.e. from open notification and from Employment Exchange Ongole 4 applications were from OC, 1 from SC, 1 from ST and 3 from OBC candidates. But the officiating SDI(P) had taken into consideration only the applications of OC candidates presuming that the vacancy is reserved for "OC". Learned counsel for the respondents further submitted that out of the 4 OC candidates only 2 candidates appeared for the interview on 29-8-98. Among two candidates who attended the interview one Sri Syed Khasim selected by the officiating SDI(P) to the post and he was appointed in the said post vide order dt. 28-9-98. Official respondents have also stated in their reply that respondent no.5 passed the SSC examination in compartmentally and secured 237 marks whereas the applicant passed the examination in first division and secured 346 marks. But the officiating SDI(P) was under the impression that the selection is to be made from among the candidates belonging to other communities and ignored the applicant as he belongs to OBC category.

7. Heard the learned counsel on either side and gone through the pleadings and the material

papers placed before us.

8. We find that there is no dispute to the fact that applicant is more meritorious than respondent no.5. It is also not in dispute that applicant passed the SSC examination in first division in first chance and from the counter reply and statement made by the learned counsel for the respondents it is clear that applicant was not called for interview/verification as the officiating SDI(P) was under the impression that selection has to be made among the candidates belonged to OC candidates.

9. In view of the above facts, it is clear that the selection process suffered from irregularity. The officiating SDI(P) was wrong in calling only OC candidates for interview/verification for consideration.

10. In view of the above facts and circumstances the impugned order No.EDMC/DA/RC Puram dt. 28-9-98 is set aside. Respondent No.4 is directed to call all the 9 candidates and select the most meritorious among them in accordance with the rules of the department. Till such time the candidate who is working as EDMC/DA in the said P.O. should be continued on provisional basis. Time for compliance three months from the date of receipt of a copy

of this order.

11. OA is disposed of accordingly.

No order as to costs.

Bharati Ray
(BHARATI RAY)
Member (J)

Condtns
(M.V.NATARAJAN)
Member (A)

MD

Chumar
27/2/62
DR (8)