

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 65/98

Date of Order : 8.4.99

BETWEEN :

P. Mahaboob Basha

.. Applicant.

AND

Union of India represented by

1. Chief Post Master General,
A.P.Circle, Hyderabad.2. Director of Postal Services,
O/o P.M.G., Kurnool.3. The Superintendent of Post Offices,
Proddatur Postal Division,
Proddatur, Cuddapah District.

.. Respondents.

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Counsel for the Applicant

.. Mr. K.S.R. Anjaneyulu

Counsel for the Respondents

.. Mr. J.R. Gopala Rao

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CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUD L.)

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X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Mr. K.S.R. Anjaneyulu, learned counsel for the applicant and Mr. J.R. Gopala Rao, learned standing counsel for the respondents.

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2. A notification dated 16.10.98 (A-2) was issued for filling up the post of EDBPM, Mbillakalva Village, Cuddapah District as the Employment Exchange did not sponsor the candidates. It is stated in the open notification that top priority will be given to SC/ST/OBC communities. However ~~(~~) it is stated/Without cancelling the first notification dated 16.10.98 the second notification dated 21.12.98 (A-1) ~~was issued~~.

3. This OA is filed to set aside the second notification dated 21.12.98 and for a consequential direction to select a suitable meritorious candidate in accordance with the first notification dated 16.10.98.

4. An interim order was passed in this OA on 18.1.99 whereby the respondents were directed not to take any further steps in response to the second notification dated 21.12.98, the legality of which is challenged in this OA, till further orders.

5. The main reason given in the reply for issuing the second notification, that effective number of applications ^{is} ~~were~~ not received in response to the first notification and though 13 applications were received only 2 out of them ^{for consideration} were eligible/fulfilling the requisite conditions. It is

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stated that there should be minimum of three effective applications to proceed with the selection. Hence the first notification was superseded by the second impugned notification .

6. The learned counsel for the respondents submits that there should be minimum 3 applications. The candidates in those three applications are to be eligible for consideration and thereby meaning effective receipt of 3 applications. If not the selection has to be reordere~~d~~.

7. The same point arose for consideration in OA.1438/98 which was disposed of on 7.4.99. In that OA we ~~were~~ directed the respondents to state clearly the meaning for the phrase 3 effective applications. It was also directed that the affidavit explaining the meaning for the above phrase should be signed by the CPMG of the Department. The CPMG in the reply affidavit to the above query did not confirm that effective means eligible 3 applicants. It is a very vague reply and no meaning could be read from that letter. In view of that we interpreted the word effective and held that even if one application from an eligible candidate is received the notification cannot be cancelled. But minimum of 3

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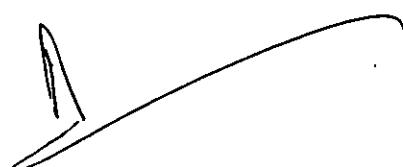
applications should be received and even if one of the candidates amongst the three applicants are eligible the selection should be processed and finalised. The same reasoning holds good in this OA also. In this OA it is stated that 2 candidates among the 13 candidates who applied in response to the notification were eligible for consideration. We do not propose to elaborate on the eligibility of those 2 candidates and it is for the department to select the meritorious and suitable candidate in accordance with the law as the rule of receipt of 3 effective applications has been fulfilled.

8. In view of what is stated above the impugned notification dated 21.12.98 has to be set aside and a direction has to be given to consider the applications received in response to the earlier notification dated 16.10.98 and select the most meritorious suitable candidate.

9. In the result, the following direction is given :-

The impugned notification dated 21.12.98 is set aside. The respondents are directed to select the regular candidate

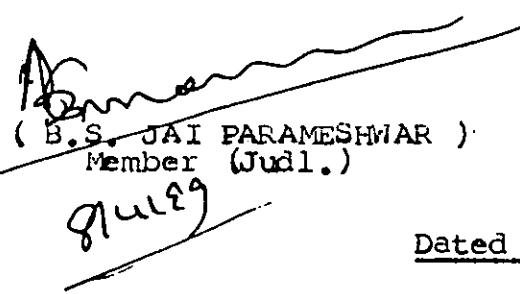
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as per rules on the basis of the applications received in response to the first notification dated 16.10.98.

10. The OA is disposed of. No costs.

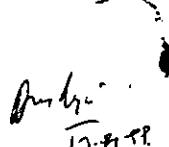

(B.S. JAI PARAMESHWAR)

Member (Judl.)

8/1999


(R. RANGARAJAN)

Member (Admn.)


8/1999

Dated : 8th April, 1999

(Dictated in Open Court)

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