

42

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

OA.682/99

dated : 2-7-99

K. Sathaiah

: Applicant

Vs.

1. Asstt. Supdt. of Post Offices  
Hyderabad East Sub Divn.  
Hyderabad

2. Sr. Supdt. of Post Offices  
Hyderabad South East Divn.  
Hyderabad 500027

3. Chief Postmaster Genl.  
AP Circle, Hyderabad

4. R. Vijaya Lakshmi  
EDSV of Public School Post Office  
Ramantapur, RR Dist.  
Hyderabad

: Respondents

Counsel for the applicant

: K. Venkateswara Rao  
Advocate

Counsel for the respondents

: K. Narahari  
CGSC

Coram

Hon. Mr. R. Rangarajan, Member (Admn.)

Hon. Mr. B.S. Jai Parameshwar, Member (Judl)



Order

Oral order (per Hon. Mr. B.S.Jai Parameshwar, Member(J)

Heard Mr. K. Venkateswara Rao for the applicant and Mr. K. Narahari, learned counsel for the respondents. Notice served on Respondent-4 called absent.

1. The applicant herein is working as Provisional EDSV in the office of Hyderabad Public School Post Office with effect from 27-12-1997.

2. In order to fill up that post by a regular candidate, the respondents 1 to 3 approached the Employment Exchange by letter dated 7-8-1998 for sponsoring candidates. The post is reserved for ST/SC/OBC/PHC/OC communities in that order of preference.

3. However, as there were no ST/SC candidates available, an open notification was issued vide memo dated 9-11-1998 vide No.PF/EDSV/HPS/98 (Annex.I). Even to this notification no ST candidates had responded but the next category that had to be considered was SC candidates as per the notification. It is noted that 20 applications were received. Out of which six <sup>from</sup> were SC candidates. As only one SC candidate was found eligible for consideration amongst the six responded and since the eligible applications was less than three applications for SC category, the respondents selected an OBC candidate viz. the Respondent-4 herein. The Respondent-4 was selected amongst the 5 OBC candidates.

4. The applicant submits that he is an SC candidate and his case should have been considered for regular selection of EDSV in that post office.

LH

5. This OA is filed to set aside the appointment of Respondent-4 and to consider his case for appointment against that post.

6. Apart from other considerations raised in this OA, the main contention is that when there were six SC applications received in response to the notification dated 9-11-1998, and even though five applications were not in order the respondents should have considered the case of the eligible candidate amongst the SCs and if he was found fit he should have been posted. Only if he was not found fit then only they could go for OBC candidates in <sup>the</sup> order of preference.

7. The respondents submit that three eligible applications from SC category were not received, as there was a stipulation that only if three eligible applications of that category were received candidates of that category could be considered. They submit that the question of considering a lone SC candidate, who is eligible for consideration in pursuance of the notification dated 9-11-1998, did not arise.

8. The same point came for consideration in OA.1434/98 (R. Muralidhar Rao Vs. Superintendent of Post Offices, Parvathipuram Division, Srikakulam District and others) disposed of on 7-4-1999. The relevant para-9 of the judgement is produced below :

"In all the selection it is immaterial of number of applications received. The selection process starts when no such restrictions is in regard to the number of applications to be received for pursuing the selection. In the ED Rules it is stated that, atleast minimum three applications are to be received so as to ensure that the proper candidate is selected for filling up that post. We do not pass any order in regard to receiving of three applications. The receipt of three applications in our opinion may be necessary to select a suitable candidate. But the word effective should only means when the minimum number of applications (three) are received ir-

R

-respective of the fact where the applicant in those three applications is eligible for consideration or not the condition is fulfilled. If he is not eligible, that application maybe rejected from the purview of the selection. Hence, in view of the interpretation, in respect of the second notification three applications were received. Hence, there is no need to cancel the second notification No.BED/II-7, dated 20-9-97 which was issued on the ground that three effective applications were not received. In that view, the selection has to be finalised only considering the three applications received in response to the second notification dated 20-9-97".

9. In view of the above, as six applications from candidates belonging to SCs had been received the question of considering the next preferred category <sup>did</sup> ~~does~~ not arise. The most eligible and meritorious candidate amongst the six SCs should have been considered and selected.

10. In view of the above the posting of the Respondent-4 is irregular and has to be set aside.

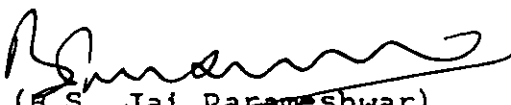
11.(a) In the result the selection and posting of the Respondent-4 is set aside.

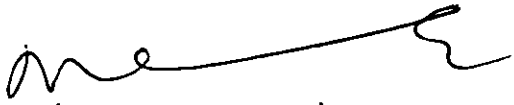
(b) One of the most eligible and meritorious candidate amongst the six applications received from SCs shall be selected and posted.

(c) Till such time a regular candidate is posted Respondent-4 should continue as provisional candidate.

(d) Time for compliance is three months from the date of receipt of copy of this order.

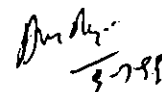
12. The OA is ordered accordingly. No costs.

  
(B.S. Jai Parameshwar)  
Member(Judl.)

  
(R. Rangarajan)  
Member(Admn.)

27/7/99

Dated : July 2, 1999  
Dictated in Open Court

  
8-7-99

COPY TO:-

1. HQHND
2. HHRM(A)
3. HBSDP M(J)
4. D.R. (A)
5. SPARE

1st AND 11nd COURT.

TYPED BY  
COMPALED 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. 2-7-99

ORDER / JUDGMENT.

MA./RA./CP.NO

IN

QA.NO.

682/99

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

IN ORDER AS TO COSTS.

