

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.697/99

DATE OF ORDER : 16.3.2000

Between:

Galla Satyanarayana

...Applicant

And

1. Senior Superintendent of Post Offices,
Rajahmundry Division, Rajahmundry.

...Respondent

COUNSEL FOR THE APPLICANT : Shri S.Ramakrishna Rao

COUNSEL FOR THE RESPONDENT: Ms. Shyama, Addl.CGSC

CORAM:

THE HONBLE SHRI R.RANGARAJAN : MEMBER (A)

THE HONBLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

Heard Shri S.Ramakrishna Rao, learned counsel for the applicant and Sri B.Narasimha Sarma for Ms.Shyama, Standing Counsel for the Respondents.

2. The applicant in this OA was appointed as a provisional EDBPM of Kanavaram post office on 25.2.1997. Initially the Employment Exchange was approached for sponsoring candidates for filling up the post regularly on 16.3.1998 reserving that post for OBC category with next preference for SC category. That notification was superseded by notification dated 12.2.1999 on the ground that 3 effective applications were not received by the Employment was Exchange. In view of that, the first notification dated 12.2.1999 also superseded by notification dated 24.3.1999 (Annexure-I page-9 to the OA). Even in the first notification dated 12.2.1999 there were no three effective applications from OBC or SC category because of which that notification was superseded. In the second notification dt.24.3.1999 the post ^{is} reserved for OBC and in case the sufficient number of OBC candidates are not available then it will be reserved for SC category. The notification dated 24.3.1999 was corrected suitably so as to convey the meaning that in case OBCs are not available, the vacancy will be reserved for SC community as submitted by them in the reply.

3. The post is not filled so far in view of the interim order dated 6.5.1999. This OA is filed to set aside the impugned notification dated 24.3.1999 of the respondents calling for the applications for the post of EDBPM, Kanavaram Village reserving it both for OBC and SC simultaneously offering reservation for both the communities, depriving the applicant and others for applying for the said post by declaring the same as illegal, unwarranted, mis-conceived and in violation of Articles 14 & 16 of the Constitution and to direct the respondents to continue the applicant as EDBPM, Kanavaram Village with all consequential benefits.

4. The first contention of the applicant is that the post should not be reserved for OBC or SC as there are enough representation in the cadre of ED staff. The

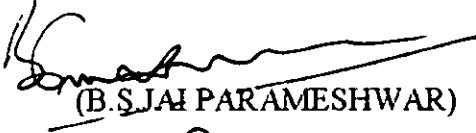
28

respondents in the reply stated that the representation of OBC and SC categories is 12.02 and 8.58 against the prescribed percentages of 27 and 15 respectively. It is in correct on the part of the respondents to compute the shortage only on ^{the} ~~the~~ ^{cadre strength of} EDBPMs, the shortage should be calculated on the overall strength of EDAs. Hence if there is shortage of OBC or SC in the BPMs category, the shortage of OBC and SC should be checked and if there is shortage of OBC or SCs in the whole E.D. cadre strength then only it should be reserved for OBC or SC as the case may be. // Hence a fresh exercise has to be conducted to check the shortage of reservation for OBC and other reserved community candidate in the ED cadre ^{on the basis} strength and ^{in reserved community candidate} ascertain whether the present post is to be reserved or not. On the basis of the re-check in the total ED cadre strength if it is found that there is shortage in representation of OBC, SC and ST, then the respondents are right in asking the Employment Exchange and the selection has to be finalised on the basis of the applications received and the notifications dt.12.2.1999 and dated 24.3.1999 should be set aside. If it is not so, a fresh notification should be issued without reserving the post. If on re-check, if it is found that there is shortage of OBC, SC or ST or in any one of the ^{the} categories, then the reservation can be made to any one of the categories in accordance with the rules. If on that basis of the rechecking shortage is in the category of OBC, ^{the} hence the post should be reserved for OBC and the notification dt.24.3.99 should be allowed further processed and a final decision be taken to appoint the most meritorious candidate who responded to the notification dt.24.3.1999. Till such time the applicant should be allowed to continue as ^a ~~an~~ ^{had} provisional candidate. The applicant submits that he ^{had} completed 3 years of provisional service and he should be regularized. Even if he ^{had} completed 3 years period on the date of issue of notification dt.6.5.1998 then what the applicant submits is in order. The continuation of the applicant beyond 6.5.1998 ^{interim order} is because of the ^{stay} of the Tribunal. Hence the period beyond 6.5.1998 should not be counted for calculating the 3 years service. This is the view taken by us in

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the earlier OAs also. The respondents should check the above points and decide the issue in accordance with the observations made above.

5. With the above directions, the OA is disposed of. No costs.


(B.S.JAI PARAMESHWAR)
163.00 MEMBER (J)


(R.RANGARAJAN)
MEMBER (A)

Dated: 16th March, 2000.

Dictated in Open Court.

Avl/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
HYDERABAD.

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

COPY TO

1. HONMJ

THE HON'BLE MR. JUSTICE D. H. NASIR
VICE-CHAIRMAN

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

3. HBSJP. M. (JUDL)

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

4. D.R. (ADMN)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

DATE OF ORDER

16/3/00

MA/RAL/CP.NO

IN

C.A. NO. 692/09

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

5 copies

केन्द्रीय प्रशासनिक विधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

28 MAR 2000

हैदराबाद न्यायालय
HYDERABAD BENCH