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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
HYDERABAD

O.A.No.835 of 1999.

DATE OF ORDER:21-3-2000.

Between:

Hota Sastry.

...Applicant

a n d

1. Superintendent of Post Offices,
Rajahmundry Division, Rajahmundry
East Godavari District.
2. Chief Post Master General,
AP Circle, Hyderabad.
3. D.Nageswara Rao, EDBPM,
Sitanagaram BPO, Yeditha Sub-
Post Office, Mandapeta, East
Godavari District.

...Respondents

COUNSEL FOR THE APPLICANT :: Mr.N.Saida Rao

COUNSEL FOR THE RESPONDENTS:: Mr.V.Vinod Kumar

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.)

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

: O R D E R :

(PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

None for the Applicant.

Heard Mr.V.Vinod Kumar, learned Standing Counsel for the
Official Respondents. Notice served on Respondent No.3.
Called absent.



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2. The applicant in this OA was taken as a Substitute EDBPM, Sitanagaram Branch Post Office, Yeditha SO, which fell vacant with effect from 9-5-1997 due to the regular incumbent viz., H.Putrappa was promoted to the cadre of Group-'D'. The said Sri H.Putrappa happened to be the father of the applicant herein. The regular incumbent on his promotion as Group-'D' applied for LWA from 9-5-1997 to 30-6-1997 and hence the applicant worked as Substitute in that post. The regular incumbent by his letter dated 29-5-1997 had submitted his resignation to that post. Since the vacancy ^{was} is of permanent nature, the Employment Exchange was notified on 1-5-1997 for sponsoring candidates. As there was no response from the Employment Exchange, open notification was issued on 6-6-1997 fixing 5-7-1997 as the last date for receipt of applications. 12 applications were received within that due date. Out of which, four applications were sent to SDI(P) for thorough verification and after verification those applications were received back on 11-9-1998. The Selection was finalised on 31-3-1999 and the Respondent No.3 was appointed as a regular ^{EDBPM} candidate for that Post Office as he was found to be most meritorious candidate among those applications which are considered for regular appointment for that post. The charge of the Branch Office was also transferred from the applicant to the selected candidate on 3-4-1999.

D

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[Signature]

3. The applicant has filed this OA praying for a declaration that the action of the respondents in terminating his services on 3-4-1999 without any notice and without following due process of law is illegal, improper and violation of rules and regulation and fundamental rights of the applicant and set aside the termination of the services of the applicant on 3-4-1999 as EDBPM, Sitanagaram BPO, and also to set aside the regular posting of Respondent No.3 with all consequential and attendant benefits of posting him as EDBPM, Sitanagaram BPO regularly.

4. The facts of this case are not denied. The applicant contends that before terminating his services no notice was issued, which is irregular. It is an admitted fact that the applicant was a Substitute EDBPM of that Post Office till the regular incumbent submitted his resignation on 29-5-1997. Beyond that date i.e., 29-5-1997, it can be said that the applicant was continued on a provisional basis. His services were terminated on 3-4-1999. From 30-5-1997 till 3-4-1999, the applicant has not completed three years of service even to keep him on the thrown out ED Agents list.


5. A Substitute or a Provisional ED Agent need not be given any notice before termination if a regular candidate is posted. In this case the applicant was replaced by a regular EDBPM of that Post Office. Hence, non-issue of any termination notice is not a ^{factual} ~~factual~~ error and hence the contention that his services were terminated without issuing notice has to be rejected.

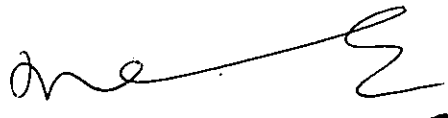
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6. The applicant also submits that the regular appointment of Respondent No.3 is irregular. There is no material available before us to come to the conclusion that the selection of Respondent No.3 was done without following the rules. The applicant has not stated anywhere that the rules as stipulated in the notification was not followed. He only submits that in other Units provisional candidates were regularised even if they have not completed three years of service. It is not for us to check whether the same relief should be given to the applicant herein or not as no rule has been produced to state ~~that beyond~~ that a provisional candidate even before completion of three years of service should be regularised. The only reading that is available before us is a provisional ED Agent who had worked more than three years as such, should be kept on the thrown-out ED Agents list for consideration in other vacancies. Recently, we have also held that if they have completed three years provisional service, then their cases should be considered first before appointing a regular candidate. In this case that also is not applicable to the applicant as he had not completed more than three years of service.

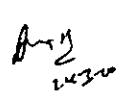
7. Considering all the above facts, we find ^{that} no case has been made out by the applicant for granting him the relief as prayed for in this OA. Hence, the OA is dismissed.
No costs.


 (B.S.JAI PARAMESHWAR)
 MEMBER (JUDL.)
 21.3.00


 (R.RANGARAJAN)
 MEMBER (ADMN.)

DATED: this the 21st day of March, 2000

Dictated in the Open Court



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
HYDERABAD.

1ST AND 2ND COURT

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

COPY TO

1. HON'BLE
2. HON'BLE (ADMN) MEMBER.
3. HON'BLE M. (JUDL)
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

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

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

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

DATE OF ORDER

21/3/00

MA/RA/CP.NO

IN

G.A. NO.

805/99

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

6 copies

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दिल्ली / DESPATCH

29 MAR 2000

हैदराबाद न्यायपीठ
HYDERABAD BENCH