

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

No.O.A.53 of 1999

DATE OF ORDER : 13.8.2002.

M.A.~~217~~, ~~218~~ 385/2002.

BETWEEN :

SHRI S.V.V.SATYANARAYANA MURTHY S/o Saladi Ramaiah,
Aged 41 years,
Working as Offtg.Sub-Divisional Inspector(Postal),
Ramachandrapuram Sub-Division,
Ramachandrapuram, Rajahmundry Division.,
E.G.District, A.P.

... Applicant

A N D

1. Union of India through
Director General,
Department of Posts,
Dak Bhawan,
Sansad Marg, New Delhi.
2. The Chief Postmaster General,
A.P.Circle, Dak Sadan,
Abids, Hyderabad.
3. The Postmaster General,
Visakhapatnam Region, Visakhapatnam.
4. The Superintendent of Post Offices,
Rajahmundry Division, Rajahmundry.

... Respondents

Counsel appearing for the applicant : Mr.Krishna Devan.

Counsel appearing for the respondents: Mr.B.N.Sarma.

C O R A M :

1. Hon'ble Mr.S.K.Agrawal, Member (A).
2. Hon'ble Mrs.Bharati Ray, Member (J).



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O R D E R

(Per Hon'ble Mr.S.K.Agrawal, Member (A))

This O.A. has been filed by the applicant for issue of directions to the respondents to recast the merit list for the entire 47 vacancies of I.P.O.s as notified initially by reserving 3% of vacancies in favour of the applicant under the physically handicapped category and also considering the marks secured by the applicant in the re-examination and pass necessary orders.

2. The applicant was appointed as Postal Assistant in Kakinada Division w.e.f. 22.3.1989. Having regard to the vacancy position in the department under physically handicapped quota, the applicant submits that the said reservation is to be extended in the I.P.O. cadre also. Since the Inspector of Post Offices (I.P.O.) post is not identified by the department for physically handicapped persons, the notification for filling up the post itself do not provide for the same.

3. The ld.counsel for the applicant has argued that the applicant had attended the examination and fared well in all the papers and for no fault of his, the 1st respondent had chosen to cancel the entire examination and required the applicant to take the examination again. The fresh examination was conducted from 7.1.1998 to 9.1.1998 for 47 vacancies. In response to the same, the applicant had again appeared for the said examination in January, 1998, which was earlier held in 1996. It is the case of the applicant that the respondents cannot unilaterally reduce the vacancies to 25 for which merit list was prepared on 12.8.1998. In case, all the 47 vacancies as notified on 17.7.1996 were to be filled up, the applicant could have been rightly included in the list of successful candidates. No reasons were, however, given by the respondents for reducing the vacancies from 47 to 25.

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4. The applicant had earlier approached this Tribunal in O.A.No.53 of 1999 which was decided on 11.4.2000. By the above decision, the O.A. was allowed by this Tribunal by holding as under :

"Further, the above view of ours is fully strengthened by the fact that the applicant had worked on ad-hoc basis for 1½ years as IPO and he had also been given increments for the ad-hoc service. If a physically handicapped person cannot be posted as IPO, the department should not have promoted him on ad-hoc basis in that post. A junior employee should be promoted on ad-hoc basis. As the applicant was promoted on ad-hoc basis as IPO, the submission of the respondents that the post of IPO is not identified under the physically handicapped quota is not borne out by the records. Hence the same contention is rejected. In view of what is stated above, the case of the applicant should be considered against the physically handicapped quota for the post of IPO even if he has not scored 40% marks in each paper and 45% in aggregate total, in accordance with the DOPT OMs referred to above giving relaxation as per the rules. The submission of the respondents that the post of IPO is not identified for the physically handicapped persons, is rejected."

5. The respondents, namely, Union of India, being the aggrieved party, approached the Hon'ble High Court of Andhra Pradesh in writ petition no.15064 of 2000 which was decided on 27th July, 2001. The High Court set aside the judgment of this Tribunal dated 11.4.2000 and the matter was remitted back to this Tribunal for consideration afresh.

6. The ld.counsel for the applicant has argued that the rules provide for 3% reservation for physically handicapped candidates and as such, the case of the applicant may be ordered to be covered in that relaxation. He has further prayed that the select list dated 12.8.1998 be set aside by directing the respondents to revise the select list for 47 vacancies thereby giving appropriate status to the candidature of the applicant considering the marks secured by him in the re-examination.

6. The ld.counsel for the respondents has, however, denied the contentions raised by the applicant's counsel that the applicant's case is covered under the quota for physically handicapped persons. He has produced a copy of O.M. dated 28.2.1986 of

Department of Personnel & Training of the Govt. of India, identifying the jobs for reservation for physically handicapped persons in Group-C and 'D' posts. Appendix-2 of this O.M. mentions various jobs identified for being held by physically handicapped from serial no.1 to serial no.197. Out of this, serial no.149 mentions the post of Inspector, Telegraph Messengers, Telegraph Master Messenger, against which three categories of disabled, namely, one leg affected (OL), one arm affected (OA) and both legs affected but not arms (BL), are mentioned which are considered to be suitable for the jobs mentioned against this serial no. The respondents counsel has, therefore, submitted that the applicant being a deaf person, is not covered in the categories of disabled persons suitable for the job of I.P.O. and as such, his case would be outside the purview of consideration.

7. Heard the ld.counsel on either side.


8. We have gone through all the material papers and considered the submissions made by the ld.counsel on both sides. It is true that the Govt. has reserved 3% of the vacancies against identified posts in Group-C and 'D' posts for physically handicapped persons. The categories of handicapped persons benefitted from this Scheme are the blind, the deaf and the orthopaedically handicapped, by each category getting 1% reservation. However, the applicant coming under the physically handicapped 'deaf' does not fulfil the physical requirements for the said job nor is ^{categories of disabled persons} ~~covered in the said~~ suitable for the said job as per the O.M. of Govt. of India, Department of Personnel & Training dated 28.2.1986. It is, therefore, seen that the post of Inspector of Post Offices (I.P.O.) is not identified for the physically 'deaf' and the contention of the applicant that the said post has to be reserved for the said category is not sustainable and cannot be accepted.

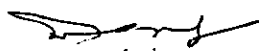


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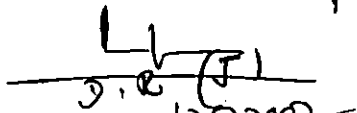
9. We, therefore, do not find any merit in the contentions made in the O.A. The O.A. is accordingly dismissed with no order as to costs.

10. M.A.No.385/2002 stands dismissed.


(Bharati Ray)
Member (J)


(S.K.Agrawal)
Member (A)

DATED THE 13th AUGUST, 2002.


J.E. (J)
1382002

r.s.