

53

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1071/99

Date of Order : 13.10.99

BETWEEN :

Nandipati Venkateswara Ro

.. Applicant

AND

1. The Postmaster General,
Vijayawada Region, Vijayawada-2.
2. The Supdt. Of Post Offices,
Machilipatnam Division,
Machilipatnam.
3. The Sub-Divisional Inspector(Postal),
Machilipatnam Sub-Division,
Machilipatnam.
4. D.Radhakrishna .. Respondents

Counsel for the Applicant

.. Mr. S.Ramakrishna Ro

Counsel for the Respondents

.. Mr.J.R.Gopala Ro
Mr. J. R. Gopala Rao

CORAM:

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

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

R

D

A

.. 2 ..

ORDER

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

Heard Mr.S.Ramakrishna Rao, learned counsel for the applicant, Mr.J.R.Gopala Rao, learned standing counsel for the respondents, and Mr.Y.Appala Raju, learned counsel for R-4. Mrs.Sarada Sampath, Director of Postal Department, Vijayawada Region was present.

2. A notification dated 5.2.99 (Annexure-1) was issued for filling up the post of ED PACKER AT Malkapatnam Branch Office under Malkapatnam Head Post Office. The applicant and R-4 applied for that post along with some others. But R-4 was selected.
3. The applicant has filed this OA for setting aside the selection of R-4 and for a consequential direction to the respondents to appoint him in that post.
4. A reply has been filed in this OA. The main contention of the respondents in the reply is that the applicant did not submit the income and ownership of property certificates stipulated as one of the conditions for the selection to that post as per the notification dated 5.2.99. Hence his case was rejected.
5. The learned counsel for the applicant submits that the submission of income and property certificates is not a precedent condition for consideration of a candidate for the post of ED Packer, as it is not obligatory condition in view of the clarification given to the query, which is reproduced below:-

Query:- Whether the condition of adequate means of livelihood should be insisted upon while considering candidates for appointment in ED categories other than ED BPM/ED SPM as stipulated in this office multiple letter No.17-104/91 ED & Trg.. dated 6.12.1993, or this recruitment may be restricted to candidates seeking appointment as ED BPM/ED SPM as higher to before.

Clarification:- The fulfillment of the conditions of income/property should be restricted to candidates seeking appointment as ED BPM/ED SPM. In case of candidates seeking appointment to categories other than ED BPM/ED SPM. In case of candidates seeking appointment to categories other than the ED BPM/ ED SPM a declaration will continue to be obtained about vocation and private income as stipulated in this office letter No.43-66/Pen.. dated 17.10.1966".

6. From the above clarification given, it is seen that in case of candidates seeking appointment to the categories other than ED BPM/ED SPM a declaration will continue

2

L

to be obtained about vocation and private income as stipulated in the office letter dated 17.10.66. Whereas in the same clarification, it is stated that the fulfillment of the condition of income property should be restricted to the candidates seeking appointment as ED BPM/ED SPM.

7. From the above clarification, it is evident that the condition of possession of income and property is restricted only to the ED Agents ~~of~~^{like} ED BPM/ED SPM. That would mean that for posts other than ED BPM and ED SPM needs to give only a declaration without any purpose. We find that there is no nexus to the object to be achieved by that declaration.

8. In our opinion, the declaration is required to make good any loss that will be incurred by the respondents' organization by an ED Packer who has to carry postal bags from the alighting destination to the post office. If that be the case, there may not be any use in demanding a declaration of income/property from an applicant who aspires for consideration to the post of ED Packer. It is also seen Section - IV, "method of recruitment" of Swamy's Compilation of Service Rules for Postal ED Staff that some security has to be given by the ED Agent of all categories as per Item-5 under that Section. As per the security clause "ED Agents of all categories including EDDA should furnish a security of Rs.4,000/- subject to the condition that the amount of security should be increased/decreased so as to equal to the amount of cash and valuables that is authorised to be entrusted to them under the orders of Divisional Superintendent or the Head of the Circle". That security clause clearly indicates that if an ED Packer misappropriates the money or any other valuables entrusted to him for the carriage from the alighting point, it has to be reimbursed from the security amount which can be increased or decreased as per the directions of the Divisional Superintendent. It is also be to noted that the department reserves the right to get further undertaking to ensure security to the materials be to carried by the ED Packers. Under the above circumstances the declaration appears to be a redundant one. It has no nexus to the object to be achieved. That clause, in our opinion, will only lead to malpractices. Hence that condition should not stand in the way of the applicant who





.. 4 ..

applied for the post of ED Packer. Further, it is also noted that the applicant has submitted the certificate of income of his father. Though it may not be a relevant certificate as per the condition, that certificate assures the postal department that his father has some income which may be used in case of any misappropriation of the valuables entrusted to him to carry. That itself should satisfy the respondents' organization to meet the exigencies that may arise.

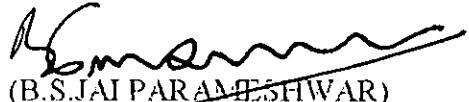
9. The learned counsel for the private respondent (R-4 herein) submits that the applicant having submitted the application in response to the condition stipulated in the notification cannot now challenge that condition.

10. In the normal course we would have agreed with the contention of the private respondent. But in the present case the rule itself is so nebulous. Such a contention will ~~lead not only to malpractices~~ ^{also} ~~misappropriation~~ but other undesirable conditions. Hence the submission of the private respondent should not stand in the way of the applicant for offering the post if he does not fulfil the conditions of property/income certificates ~~declaration~~.

11. In view of what is stated above, some relief has to be given to the applicant. In view of that, the respondents' organization should reconsider all the applications received in response to the notification dated 5.2.99 and select the most meritorious candidate in accordance with the law without insisting ~~the~~ ^{of} declaration certificate of income/property. Till such time a suitable meritorious candidate is posted, the present incumbent shall continue as a provisional ED Packer.

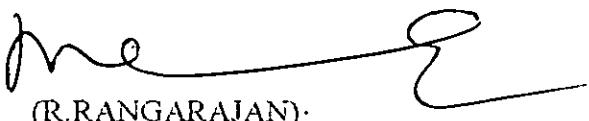
12. Time for compliance is 3 months from the date of receipt of a copy of this order.

13. The OA is ordered accordingly. No costs.


(B.S.JAI PARAMESHWAR)
Member(Judl.)

13.10.99

Dated : 13th October, 1999
(Dictated in Open Court)


(R.RANGARAJAN)
Member(Admn.)

Amj
10/10/99

sd

Hyderabad case
9

1ST AND 2ND COURT

COPY TO :-

1. HONORABLE

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

25/11/99

2. HONORABLE M. (1)

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

3. HONORABLE M. (2)

THE HONORABLE MR. JUSTICE D.H. NASIR.
VICE - CHAIRMAN

4. D.P.R. (A) */*

THE HONORABLE MR. R. RANGARAJAN :
MEMBER (ADMIN.)

5. SPARE */*

THE HONORABLE MR. S. S. BAI PARAMESWAR
MEMBER (JUD.)

6. ADVOCATE

7. STANDING COUNSEL

& copies to DNO

DATE OF ORDER: 13/10/99

MR/RA/CP NO.

IN
No. 1071/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALL QUEN

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

cop 109

