

40

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
HYDERABAD

O.A. No. 1117 of 1999.

DATE OF ORDER: 10-7-2000.

Between:

P.Kashaiah.

...Applicant

and

1. The Superintendent of Post Offices,
Adilabad Postal Division, Adilabad.
2. The Chief Postmaster General,
A.P.Circle, Hyderabad.
3. Director General (Posts),
Ministry of Communications,
Dak Bhawan, New Delhi.
4. J.Mallaiah, ED/BPM, Tungada a/w
Sirpur Kagaznagar, Adilabad District.

....Respondents

COUNSEL FOR THE APPLICANT :: Mr.S.Ramakrishna Rao

COUNSEL FOR THE RESPONDENTS : Mr.P.Phalguna Rao

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

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

: ORDER :

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

Heard Mr.S.Ramakrishna Rao, learned Counsel for the Applicant and Mr.P.Phalguna Rao, learned Standing Counsel for the Official Respondents. Notice has been served on the Private Respondent No.4. Called absent.

.....2



2. The applicant in this OA is working as EDBPM, Tungada Branch Office, SK Nagar SO, with effect from 7-9-1990. Earlier an open notification was issued on 8-4-1994 fixing 12-5-1994 as the last date for receipt of applications for filling up that post regularly. The applicant at that time filed OA.No.1381 of 1994 on the file of this Bench, which was dismissed as premature at the admission stage. However, none could be appointed against that notification for the reasons stated in the reply. Once again the post was re-notified on 2-12-1994 fixing the last date for receipt of applications as 2-1-1995. In that case also none of the candidates could be appointed for the reasons stated in the reply and it is not necessary to reproduce the reasons. Another open notification was issued on 13-3-1999 fixing 14-4-1999 as the last date for receipt of applications for filling up the post reserving the post in favour of SC community in view of under representation of SC community candidates to the posts of BPM in Adilabad Division. That notification was also cancelled as there were only two effective applications. Hence, the 4th notification dated 24-5-1999 enclosed as Annexure.A-I, page 9 to the OA, was issued fixing the last date for receipt of applications as 10-6-1999. In response to that notification, 14 applications were received including the applicant herein. The applicant also belongs to SC community and there were three applications from SC community candidates. Hence, on the basis of the verification of the documents, Respondent No.4 was selected. However, the selection of the Respondent No.4 was set aside by this Tribunal in OA.No.1874 of 1999 and a direction was given to consider all applications received in response to the notification dated 24-5-1999 and select the most meritorious candidate in accordance with the rules.

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3. This OA is filed to set aside the impugned notification No.B3-416, dated 24-5-1999 of the Respondent No.1 in view of the fact that the applicant had put in 9 years of service and for a consequential direction to regularise the services of the applicant in the post of EDBPM, Tungada Branch Office without keeping him in the thrown out ED Agents List.

4. An Interim Order was passed in this OA ordering Status-quo by order dated 29-7-1999.

5. In view of the above interim order even though the direction was given in OA.No.1874 of 1999 to process the applications and select the most meritorious candidate as per the notification dated 24-5-1999, the same could not be processed in view of the Status-quo Order in this OA.

6. The main contention of the applicant is that he had put in over 9 years of service and hence, he should be posted in that post as the post is reserved for SC community to which community he also belongs and regularise his services. If so, it is not understood as to why the applicant applied in response to the notification dated 24-5-1999. He could have easily approached this Tribunal to stay the notification without applying for the same. Alternatively he could have obtained an Order from this Tribunal for applying for the same without prejudice to his case in this OA. He did neither.

.....4



7. Hence, at this juncture having applied for the post, he cannot challenge that notification in view of the Judgment of the Apex Court.

8. Hence, the direction given in OA.No.1874 of 1999 to select the most meritorious candidate in accordance with the Law stands good in this OA also. If the applicant is selected being the most meritorious candidate fulfilling all the conditions, the Order should be issued to the applicant for appointing him regularly in that Post Office as EDBPM, ^{Certified} provided his character and antecedents have been ~~approved~~ by the State Government on reference to the appropriate authorities in the Government. It is stated in the reply that the applicant is involved in a criminal case and was arrested by the Police on 19-1-1999 by booking a case in Crime No.7/99 under Section 324 read with 34 IPC, 3(iii) SC-ST Act and another case was also booked against him in Cr.No.11/99(5) under Section 107 Cr.P.C. and he was released on bail on 3-2-1999.

9. In view of the pending cases against the applicant, it may be possible that the State authorities may not give him approval. However, in case the State authorities refuse to give him the character and antecedents Certificate, the name of the applicant should be kept in the thrown-out ED Agents List till such time the criminal cases pending against the applicant is disposed of. In case in the criminal cases pending against the applicant, the applicant is exonerated, then his name already registered in the thrown-out ED Agents List should be considered and posted as ED Agent in any of the vacancies that are available at that time. In case the

applicant is not exonerated in the criminal charge, then the name of the applicant should be deleted from the thrown-out ED Agents List.

10. The OA is ordered accordingly. No costs.

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(R.RANGARAJAN)
MEMBER(A)

Dan
(D.H.NASIR)
VICE CHAIRMAN

DATED: this the 10th day of July, 2000

Dictated in the Open Court

DSN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD..

COPY TO

1. HONM
2. HRRN (ADMN.) MEMBER
3. HBSJP (JUDL.) MEMBER
4. D.R. (ADMN.)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

~~1ST AND 2ND COURT~~

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

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

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

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

DATE OF ORDER 10/7/2000

MA/RAY/CP.NO.

IN
CA. NO. 1117/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALL CLOSED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

~~ORDER/REJECTED~~

NO ORDER AS TO COSTS

