

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO.1129/99

DATE OF ORDER : 2-9-1999.

Between :-

S.Venkataramana

... Applicant

And

1. Superintendent of Post Offices,  
Adilabad Division, Adilabad.

... Respondent

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Counsel for the Applicant : Shri S.Ramakrsihna Rao

Counsel for the Respondents : Ms. P.Madhavi Devi, CGSC

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CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

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

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J) ) .

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... 2.

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (A) ).

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Heard Sri S.Ramakrishna Rao, counsel for the applicant and Ms.P.Madhavi Devi, Standing Counsel for the Respondents.

2. The Respondent No.1 issued notification dated 22.4.1998 inviting applications to fill up the post of EDBPM, Koratkal village on regular basis. The applicant submitted his application in response to that notification. He submits that in the notification it is stated that the post will be filled by an SC candidate if the "eligible candidates apply and if not, the post will be filled by a candidate belonging to other category.

3. After lapse of 15 months from the date of issue of notification, the Respondent No.1 issued another notification dated 5-7-1999 inviting applications for the said post with the same conditions.

3.A. The applicant being aggrieved by the issue of the second notification dated 5-7-1999 has filed this OA for the following reliefs :-

(a) to declare the notification No.B-3/464 dated 5.7.1999 issued by the Respondent without acting on the earlier notification No.B3/464 dated 22.4.1998 and without cancelling the earlier notification, declaring the action of the Respondent as arbitrary, illegal, un-warranted, mis-conceived, for extraneous consideration and in violation of Articles 14 & 16 of the Constitution;

(b) to direct the Respondent to finalise the selection to the post of ED/BPM, Koratkal, from among the

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applications received pursuant to the notification No.B3/464 dated 22.4.1998, duly selecting the meritorious candidate;

(c) to consider the case of the applicant for the post of ED/BPM, Kortkal, if found eligible, and to appoint him as ED/BPM, with all the consequential benefits.

4. The respondent has filed their reply. It is stated that in response to the first notification 10 applications were received. In para-3 the respondent has given the details of the applications received and has stated that the applicant was getting income from Tailoring that it was considered that he was not possessing the adequate means of livelihood and hence his candidature was rejected. All the 10 applications were found to be not eligible. Hence he has issued a second notification.

5. He submits that as per the DG letter dated 7.1.1994 (Annexure R-1 to the reply affidavit) preference will have to be given to those candidates who derive income from the <sup>landed</sup> property

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or immovable assets.

6. It is the contention of the Respondent that the adequate means of livelihood means the income that is derived from the landed property and immovable property only. It is further stated in the reply that though the applicant mentioned his annual income as Rs.8000/- by his tailoring profession, the respondent states that income is not in consonance with the DG Lr.No.17-104/93 EDA & Trg dated 6-12-1993. Hence the applicant's candidature was rejected.

7. As per the conditions of the notification dated 22.4.1998 the respondent has not stated that the candidates must derive their income only from the landed property. In para-3 sub-para (iii) of the notification it is mentioned that the persons applying for the post must have adequate means of livelihood. He/She must have adequate source of income and must be able to offer suitable space to locate the Branch post Office with a provision for installation of a public call office (PCO). When that was the position, the respondent could not have rejected the candidature of the candidates applied for the post on the premise that the candidate was not deriving the income from the landed property.

8. We feel that the instructions contained in para-3(i) may not be correct. A person may have income from the landed property but after selection and appointment on the ED Post may sell away the land. Hence the income from the landed property, in our view may not be taken as a stable income. Persons having income from other sources are also eligible for consideration

to the ED post. It is not necessary that a person deriving income only from the landed property has to be considered for the ED post. Even sub-para (i) of para-3 of letter dated 7.1.1994 does not de-bar from considering a person for the ED post if he possesses the income from other sources other than the income from the landed property. It is only stated that preference may be given to the persons possessing the income from the landed property.

9. Further it is also to be noted that the post of EDBPM being a part time post, the applicant should be able to earn some livelihood other than the allowances he gets from the ED post. The applicant is an Artisan viz., a Tailor. It appears that he is a better suited person compared to a person possessing the income from the landed property in the sense that owner of the land or immovable property, after his appointment to the post may sell his property but an Artisan's skill remains forever with him to earn some money.

10. But these points are not for consideration in the application. These points may be considered only when Annexure R-1 to the reply is questioned or challenged.

11. The very fact that the notification dated 22.4.1998 does not indicate that the income should be derived from the landed property or from immovable assets, the respondents at the time of considering the applications need not have relied on the letter at Annexure R-1 to the reply affidavit to reject the be case of the applicant. The case of the applicant should be considered as possessing sufficient means of livelihood.

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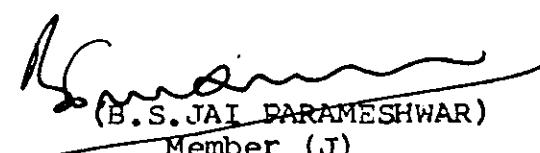
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12. In view of the above appreciation of the case,

(a) the respondent is directed to finalise the selection process on the basis of the applications received in response to the first notification dated 22.4.1998 expeditiously;

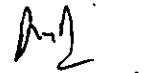
(b) the second notification dated 5.7.1999 is set aside.

13. Original Application is ordered accordingly. No order as to costs.

  
(B.S.JAI PARAMESHWAR)  
Member (J)  
29.9.99

  
(R.RANGARAJAN)  
Member (A)

Dated: 2nd September, 1999.  
Dictated in Open Court.

  
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1ST AND 2ND COURT

COPY TO :-

1. HONMO
2. HRRN M (A)
3. HSSP M (J)
4. D.R. (A)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD.

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

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

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

\* \* \*  
DATE OF ORDER: 29/99

MA/RA/DP.NO.

IN  
CA. No. (129/99

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

CP CLOSED

RA CLOSED

CA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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