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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

HYDERABAD

O.A.No.1203 of 1999.

DATE OF ORDER:24-4-2000.

Between:

Md.Imtiyaz Hussain, s- late Imam Hussain,
Working as Sub-Postmaster, Pathapalamur Town,
S.O. Mahabubnagar-509 001.

...Applicant

and

1. Superintendent of Post Offices,
Mahabubnagar Division, Mahabubnagar.
2. Director of Postal Services,
Office of Postmaster General,
Hyderabad Region, Hyderabad.
3. P.B.Uma, Stamps Treasurer,
Mahabubnagar Head Post Office,
Mahabubnagar-509 001.

...Respondents

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

COUNSEL FOR THE RESPONDENTS :: Mr.K.Narahari

CORAM:

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

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

: O R D E R :

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

Heard Mr.N.Saida Rao, learned Counsel for the Applicant
and Mr.K.Narahari, learned Standing Counsel for the Respondents.
Notice to the Respondent No.3 served. Called absent.

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2. Applications were invited from the willing and eligible officials working at Mahbubnagar Town only to work as Treasurer-II(Stamps), Mahabubnagar HO for a period of two years on tenure basis, vide notification bearing No.B1/Trr/Sel., dated 4-1-1999 (Annexure.A-5, page 14 to the OA). The last date for receipt of applications in the Divisional Office was fixed as 9-1-1999. The applicant and three others applied for that post. The application of the applicant for considering his name for that post is enclosed at Annexure.A-6, page 15 to the OA and it is dated 8-1-1999. In the selection the applicant was not selected and the Respondent No.3 was selected. The applicant was informed by the impugned Order No.B1/Trr/Sel/Dlgs, dated 2-2-1999, (Annexure.A-2, page 10 to the OA) that his request for selection as Stamps Treasurer was not considered since disciplinary case was pending against him, and by the impugned Order No.B1/Trr/Sel/Dlgs, dated 2/3-6-1999, his representation dated 12-4-1999 against his non-posting of Stamps Treasurer at Mahabubnagar Head Office was examined by the D.P.S. and decided that there was no need to interfere with the decision by the SPO's, as his record of service was not satisfactory.

3. This OA is filed to set aside the Proceedings No.B1/Trr/Sel/Dlgs, dated 2-2-1999 and 2/3-6-1999 by holding them as illegal, improper and against Fundamental Rights of the applicant. Further the applicant prays for a declaration that the non-selection of the applicant under the pretext of pendency of disciplinary proceedings and selection of the Respondent No.3, who is most junior to the applicant, is

illegal, improper and against the rules and regulations, and set aside the appointment of Respondent No.3 with a consequential relief to post the applicant as Treasurer-II (Stamps), Mahabubnagar Head Office with all consequential benefits.

4. The post of Treasurer-II(Stamps) is in the same grade as Sub-Postmaster, which the applicant was holding at the time of selection. But the Treasurer-II(Stamps) has got a Special Pay. Hence, it is stated that in the selection the applicant was not found fit to be posted as Treasurer-II(Stamps) and the Respondent No.3 though junior was found ~~to be~~ fit enough to be posted submits the learned Counsel for the Respondents. It is further stated in the reply that there was a disciplinary case pending against the applicant and that was also taken note of for rejecting his case for posting him as Treasurer-II(Stamps).

5. It is stated in the reply that the selection for the post of Treasurer-II(Stamps), Mahabubnagar IIO is to be done governing the procedure of conditions of eligibility and satisfactory record of service. The selection from among the volunteers is made keeping in view the fulfilment of terms and conditions also taking into account the record of service of the aspirants.

6. From the above submission of the respondents, it is clear that the seniority-cum-suitability plays an important part in selecting a candidate for posting as Treasurer-II(Stamps).

It is stated in the reply that the record of service of the applicant is not satisfactory. Further it is stated the applicant is also facing disciplinary proceedings under Rule 16(1)(b) of CCS(CCA) ^{As} Rules, 1965.

7. The applicant himself has enclosed the Annexure.A-I document to show that he was issued with a Charge Sheet for contravening Rule 3(1)(iii) of CCS(Conduct)Rules, 1964. It is stated in that Charge Sheet that the applicant had obstructed with IPO(C) in performing official duty and used unparliamentary words, criticised the Superintendent of Post Offices, Mahabubnagar, and shouted in loud voice not to come to his branch again.

8. The learned Counsel for the Applicant submits that the Charge Sheet was issued long time back and as there was no material available before the respondents, the respondents have not finalised the Charge Sheet and is still pending. But the above statement does not appear to be in order as we have seen the proceedings whereby the applicant has been awarded punishment on the basis of the Charge Sheet. ^{Since} ~~As~~ the date when the ~~Charge Sheet~~ punishment was given ^{is} /later than the date of consideration of his case for selection, it cannot be said that the charge sheet is still pending.

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9. We have also perused the proceedings of the SPOs for rejecting the case of the applicant. It is stated that a disciplinary case under Rule 16(1)(b) is pending against him, which we have already noted and made our observations. It is also stated that his case was rejected due to unsatisfactory record of service.

10. We have perused the Confidential Reports of the applicant for 5 years. In three Confidential Reports, the applicant had been given the grading of Average even though in ^{two} the other/Confidential Reports his grading was higher than Average. It is also seen from one of the Confidential Reports ^{that} the applicant is ^{declared as} not fit for promotion. Considering the remarks made in the Confidential Reports of the applicant, it cannot be said that the applicant has got a satisfactory service without any blemish.

11. The learned Counsel for the Applicant submits that the applicant being an Union Official, his career is spoiled for no reason. He also pleaded that the Postal authorities are in the habit of spoiling the career prospectus of the Union Officials, who raised their voice against them. If so, the applicant has to initiate such proceedings whereby such attitude on the part of the Postal authorities can be questioned and suitable order is passed. In the present case such statements cannot be taken note of as it has no relevancy to the present case.

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12. The applicant possessing unsatisfactory service and also having ^a pending disciplinary case against him, which had been concluded with a punishment, we do not think the applicant can claim ~~promotion~~ ^{for} posting him as Treasurer-II (Stamps) even though he is senior to the Respondent No.3.

13. The very fact that Treasurer-II(Stamps) is having a special pay, the respondents are at liberty to select suitable candidate on the basis of their performance and not on the basis of seniority only.

14. Considering the above facts, we find that no injustice has been done to the applicant in not posting him as Treasurer-II(Stamps).

15. In view of what is stated above, we find no merit in this OA. Hence, the OA is dismissed. No costs.



(R.RANGARAJAN)
MEMBER (A)


(D.H.NASIR)
VICE CHAIRMAN

DATED: this the 24th day of April, 2000

Dictated in the Open Court

DSN


21.4.00

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD

1ST AND IIND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

COPY TO:

1. HOHNJ
2. HRRN(ADMN) MEMBER
3. HBSJP(JUDL)MEMBER
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

24/4/00

MA/RA/CP.NO.

IN

CA.NO.

1203/99

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

7 copies

केन्द्रीय प्रशासनिक न्यायालय Central Administrative Tribunal हैदराबाद स्थायी HYDERABAD BENCH
- 8 MAY 2000
Despatch
RECEIVED
न्याय विभाग/LEGAL SECTION