

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.1279/99

Date of Order : 4.10.99

BETWEEN :

P. Lakshmana Rao

.. Applicant.

AND

1. The Supdt. of Post Offices,
Machilipatnam Division,
Machilipatnam.2. The Director of Postal Services,
AP, Eastern Region, Vijayawada,
Krishna District.

3. V.Nageswara Rao .. Respondents.

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Counsel for the Applicant .. Mr. M. Panduranga Rao

Counsel for the Respondents .. Mr. B.N. Sharma
for R-1 and 2
Mr. M.V.S. Prasad
for R-3

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CORAM :

HON'BLE JUSTICE SHRI D.H.NASIR : VICE CHAIRMAN

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

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O R D E R

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

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Mr. K.Ravi for Mr. M.Panduranga Rao, learned counsel
for the applicant, Mr. M.C.Jacob for Mr. B.N.Sharma, learned
standing counsel for the respondents 1 and 2 and
Mr. M.V.S. Prasad, learned counsel for R-3.

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2. An open notification was issued on 7.6.94 (A-1) calling for applications for filling up the post of EDBPM at Salempalem BO, Avanigadda Head Office on regular basis. The last date for receipt of applications against that notification was 8.7.94. That notification was cancelled as the respondents felt that the income and property certificates of the applicants who responded to that notification were not in their name and because of that the second notification dated 26.10.94 (A-R-3) was issued. Challenging that second notification dated 26.10.94 the applicant herein filed OA.581/95 on the file of this Bench. That OA was disposed of by order dated 26.11.97 directing the respondents that "the selection for that post has to be done on the basis of the applications received in response to the notification dated 7.6.94 in accordance with the law. Till such time the regular selection is made as directed above the present incumbent shall be continued as provisional EDBPM in order to ensure the proper function of the post office".

3. Against that order R-3 in this OA filed W.P.1985/98 on the file of the A.P.High Court which was disposed of by ^{the} order dated 24.7.98 (A-8). The challenge to the order of this Tribunal dated 26.11.97 was dismissed and it was directed for reconsideration of the matter as ordered by this Tribunal in OA.581/95.



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4. In view of the above, the applications received in response to the first notification dated 7.6.94 were considered by the respondents and R-3 was selected.

5. The applicant ^{has} filed this OA challenging the selection of R-3 by ^{the} impugned order dated 7.12.98 by which R-3 was selected and posted as EDBPM of that post office and for a consequential direction to the respondents to appoint him vice R-3 in that post office as EDBPM.

6. Reply has been filed by both the official and the Third respondent.

7. The main point for consideration in this OA is whether the selection has been made in accordance with the notification dated 7.6.94.

8. It is stated for the respondents that both the applicant and R-3 possessed all the requisite qualifications such as income and property certificates and other documents required and both were placed in ~~the~~ equal footing. When both the applicant and R-3 were in equal footing, the only way to select one of them to ^{is} to decide the meritorious candidate ^{is} who obtained more marks in SSC in the first attempt. ~~xxxxxx~~

is on the basis
The learned counsel for the respondents submits that R-3 had secured 347 marks in SSC and the applicant had secured 223 marks. Both had passed the examination in first attempt. Hence R-3 having secured more marks than the applicant in SSC he was considered as meritorious candidate and hence

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he was selected. The applicant had no grievance and hence the OA is liable to be dismissed.

9. The learned counsel for R-3 also submitted a similar reply.

10. The learned counsel for the applicant contends that the property certificate submitted by R-3 is not in his name and also that certificate was submitted after the last date was over for ^{the} first notification namely after 8.7.94. For this, he relies on the minutes recorded by the respondents for issuing the second notification. Relying on that, the learned counsel for the applicant submits that the property certificate was issued later i.e. after 8.7.94.

11. The above recorded minutes were read out in the open court in the presence of the learned counsel for the applicant. Nowhere it is stated in those minutes that the said registered document was received after the last date for receipt of the applications for the first notification dated 7.6.94. We have perused the application of the R-3 which is kept on the file. We find that it is one of the annexures to the application.

12. The learned counsel for the applicant submitted that it should have been manipulated to find a place along with the application. We enquired from him to show any evidence to that contention. Unfortunately no worthwhile



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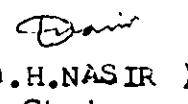
evidence was shown to us. Hence this contention has to be rejected.

13. R-3 has got income and property certificate. Even though the income is in his father's name/he is ~~not~~ possessing the property, ^{it} cannot be said that he ^{will} derive any income from that property. The ^{not} applicant and R-3 possessed all the required documents as mentioned in the ^{and hence both the application are in order for} application ~~is~~ to be treated as a valid submission. In that case the only way to select the meritorious candidate is on the basis of the marks obtained in SSC. The applicant having secured less marks than R-3, ~~is the he cannot be considered~~ as a meritorious candidate.

14. In view of what is stated above, we find ^{that} no irregularity was committed in selecting R-3. In that view, the OA is liable ^{only} to be dismissed and accordingly it is dismissed. No costs.



(R.RANGARAJAN)
Member (Admn.)



D.H. NASIR
Vice Chairman

Dated : 4th October, 1999

Dictated in Open Court

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1ST AND 2ND COURT

29/10/99

COPY TO :-

1. HONM

2. HRRN M (A)

3. HSSCP 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'BLE MR.JUSTICE D.H.NASIR
VICE - CHAIRMAN

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

THE HON'BLE MR.S.S.JAI PARAMESWAR
MEMBER (JUD.)

* * *

DATE OF ORDER: 4/10/99

MA/BA/SP. NO.

IN

CA. No. 1278/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

(7 - copy)

केन्द्रीय प्रशासनिक विविध अधिकार
Central Administrative Tribunal
प्रेषण / DESPATCH

25 OCT 1999

हैदराबाद न्यायपीठ
HYDERABAD BENCH