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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.127 of 1999

DATE OF JUDGMENT: 1st OCTOBER, 1999

BETWEEN:

S.NAGAMALLESWARI.

.. APPLICANT

and

1. The Senior Superintendent of Post Offices,
Prakasam Division,
Ongole,

2. The Post Master General,
Vijayawada,

3. Smt.N.SUJATHA.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.K.VENKATESWARA RAO

COUNSEL FOR THE RESPONDENTS: Mr.P.PHALGUNA RAO, Adl.CGSC

Mr.Krishna Mohan for R-3

CORAM:

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

HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

JUDGMENT

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.K.Venkateswara Rao, learned counsel for the applicant, Mr.P.Phalguna Rao, learned standing counsel for the official respondents and Mr.Krishna Mohan for R-3.

2. The post of EDBPM, Vaidena B.O. Kommalapadu S.O. was to be filled by a regular candidate. For this, a notification dated 19.1.98 (Annexure A-1 at page 6 to the





OA) was issued fixing the last date for receipt of applications as 18.2.98. The post was not reserved for any community. The applicant and R-3 applied for the same.

3. In the mean time, the respondents appointed the applicant as a provisional EDBPM of that B.O. on 3.7.98 after calling for the applications from the village where the post office is located.

4. The applicant was replaced by R-3 as she was selected as a regular candidate some time in December, 1998.

5. This OA is filed to set-aside the appointment of R-3 as EDBPM of that B.O. and for consequential direction to the respondents to appoint her as a regular EDBPM of that post office.

6. The main contention of the applicant in this OA is that on 3.7.88 when she was appointed as a provisional EDBPM of that post office, both she and R-3 were checked for their fitness for posting them as provisional EDBPM and thereafter she was posted as EDBPM on provisional basis. Hence she submits that when she was posted in July 1998, it cannot be said that she was unfit on the basis of the notification dated 19.1.98. If she ^{was} ~~is~~ unfit, then instead of posting her as a provisioal EDBPM in July, 1998, R-3 ^{then itself} could have easily been posted ^{as} she was also a candidate for consideration for posting as provisional EDBPM of that post office.

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7. It is stated for the respondents that the provisional EDBPM was posted due to exigencies of service. On the day whe she was posted as a provisonal EDBPM, she was found to be eligible for posting as such and hence she was posted. It is further stated that comparison of her case with that of those who responded to the notification dated 19.1.98 does not arise and is not called for. Hence the respondents plead that there is no irregularity committed in regularly posting R-3 in that post office as EDBPM.

8. No doubt, we subscribe to the view that when number of candidates had ^{ve} applied for regular post of EDBPM, the respondents ^{can} ~~could~~ have chosen fit candidate among them for posting as EDBPM on provisional basis in case they are not able to finalise that selection for some reason or the other, instead of posting the applicant as provisional EDBPM. But that provisional appointment will not make the applicant eligible for consideration for posting her as a regular EDBPM if she does not fulfil the conditions required for the post as a regular EDBPM as per the notification and the records submitted by her within the last date of receipt of the applications in response to that notification.

9. In this case the notification was issued on 19.1.98 and closed on 18.2.98 i.e, the last date prescribed for receipt of applications. During that period the applicant as well as R-3 had submitted their documents along with their applications. So, the only way to solve this problem is to ^{peruse} ~~peruse~~ the applications received from

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the applicant as well as R-3 and decide whether the selection of R-3 is in order or not.

10. In view of the above, we called for the records. From the records, it is revealed that the applicant had submitted the income certificate with the income worth Rs.10,000/- from labour. It is not from any landed property or any house property. As regards property certificate, she enclosed the documents which stated that she possessed the land in that village. A perusal of the document revealed that the land was gifted to her. But that gifted ^{deed} ~~land~~ was not registered in her name. This point has also been mentioned by the respondents in the reply. Hence ^{an} ~~the~~ unregistered document may not be treated ^{the proof of} ~~as~~ property possessed by her. In that view, it has to be held that the applicant did not fulfil the qualification of possessing property either land or house in her name for consideration of her case for the post of EDBPM in accordance with the notification dated 19.1.98. Even though the applicant is more meritorious on the basis of the marks obtained by her in SSC compared to R-3 she cannot aspire to become a regular EDBPM of that Post Office in view of the fact that she did not possess the necessary property in her name.

11. The applicant submits that the property need not be registered in the name of a lady and if some body observes that the property is in her name, that is more than sufficient. But she accepts that the gift ^{of} ~~land~~ land, only if it is registered, will become ^{the} ~~property~~ property in whose name the property is registered. As regards the first submission,




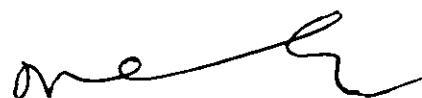
we do not want to observe any thing in this connection as it is an admitted fact that the land was gifted to her by some body. The applicant herself submits that it should be registered property whereas it is not registered. Hence rejection of her case for not possessing the property in accordance with the notification makes her ineligible for consideration for that post even though she is more meritorious than R-3.

12. Before we part with this OA, we once again observe that the respondents should be more careful even while selecting provisional E.D.staff. When a notification ^{is} ~~was~~ issued for regularly posting the ED staff, number of applications will be received. It is preferable that the respondents select one of them ^{who is eligible and likely to be regular} among those who responded to the notification even if they are to be posted as provisional ED staff in the interregnum period before regular filling up that ED post.

13. In view of the foregoing, there is no other alternative except to dismiss this O.A. for the reasons stated above. Accordingly the OA is dismissed. The respondents are advised to be more careful in future under similar circumstances.

14. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL)
1.10.99


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: 1st OCTOBER, 1999
Dictated in the open court.


T. 1000

1ST AND 11ND COURT

25/10/99

COPY TO :-

1. HON'BLE

2. HON'BLE M (A)

3. HON'BLE 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. B.S. JAI PARAMESWAR
MEMBER (JUDL.)

* * *

DATE OF ORDER: 1/10/99

MA/RA/CP.NO.

IN

DA. No. 127/99

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

