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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ; HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.202/99

DATE OF ORDER : 7-1-2000

Between :-

D.V.Krishna Rao

...Applicant

And

1. The Asst. Superintendent of Post Offices, Kandukuru Sub Division, Kandukuru, Prakasam District-523105.
2. The Senior Superintendent of Post Offices, Prakasam Division, Ongole 523 001.
3. The Post Master General, Vijayawada Region, Vijayawada.

...Respondents

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Counsel for the Applicant : Shri K.Venkateshwar Rao

Counsel for the Respondents : Shri B.N.Sarma, Sr.CGSC

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CORAM;

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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...2.



- 2 -

(Order per Hon'ble Shri R.RANGARAJAN, Member (A)).

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Heard Sri K.Venkateshwar Rao, learned counsel for the applicant and Sri B.N.Sharma, learned standing counsel or the Respondents.

2. The applicant in this OA was appointed as ED Packer/EDMC as a substitute in the place of a regular appointee of that post as the regular appointee was promoted and posted as a Postman. Applicant was appointed as a substitute by order dated 25.7.1995 (enclosed to the reply) which was extended from time to time. A notification bearing No.PF/EDMC-DA/S.R.PALLI dated 7.6.1998 was issued for filling the post regularly. The applicant challenges the notification and prays for regularization of his services.

3. The applicant as stated earlier, is reported to have ^{been} working as substitute from 15.5.1995 to 31.1.1997 when the regular candidate was regularly absorbed as a Postman. From 1.2.1997 the applicant was continued as a provisional candidate. The applicant submits that he has completed 3 years service including the reported service as Substitute and prays for regularization of his services in terms of DGs letter dated 18.5.1979. The applicant further contends that treating the period from 15.5.1995 to 31.1.1997 as substitute service and not as provisional services is irregular in view of the fact ~~when~~ the earlier incumbent was selected and posted as Postman for an indefinite period. For this he relies on DGP & T letter dated 25.3.1971, which is reproduced below :-

8.Provisional appointment of substitute till absorption of ED Agent in regular departmental post- In para.4 above, it was made clear that if an ED Agent is appointed against a regular post (departmental) such as Postman, Packer, etc., and the vacancy is of a short duration, he may provide his own substitute subject to the same conditions as in the case of ED Agent proceeding on leave. If, however, an ED Agent is appointed to a regular departmental post for an indefinite period and there is no likelihood of his returning as ED Agent, then the Appointing Authority should make

... 13: Appointing Authority should make arrangements to fill up the post of ED Agent in the normal manner by calling for applications. When appointment of ED Agents are made in such cases, it has to be made clear that the arrangement will continue only so long as the person originally working as ED Agent and now working as Packer, Postman, etc., is not regularly appointed to the departmental post and when he is regularly appointed as Packer, etc., the position will be reviewed. In case the original ED Agent has to revert back for want of vacancy in the departmental post, he will automatically get back for want of vacancy in the departmental post, he will automatically get back his job as ED Agent and his previous service as ED Agent will be taken into account for considering his title to ex gratia gratuity after condoning his absence for the period he worked as Group 'D' or Postman, etc. The provisions of Para.I (5) that if an ED Agent remains on leave for more than 180 days at a stretch he shall cease to be an ED Agent, are not applicable in such cases.

4. In the reply it is stated that the applicant was appointed only as substitute initially but when the regular incumbent was regularly appointed as Postman, applicant's services were made provisional. The provisional service starts from 1.2.1997 and hence the applicant has not completed 3 years of service as on the date of issue of notification dated 7.6.1998. Hence he cannot get the relief as prayed for. The letter dated 25.3.1971 is very clear. It clearly states that the regular candidate is likely to return back from the post of Postman, then only substitute arrangement has to be made. It is also stated in that letter that if the regular incumbent is going to continue in the promoted post indefinitely, then also the substitute arrangement cannot be made. Under those circumstances, the respondents should have gone for filling up of that post regularly. The circumstances in the present case as stated, there is no mention in the order issued to the regular candidate as Postman that it is only for a short period. As a matter



of fact, that regular candidate continued in the grade of Postman from 15.5.1995 to 31.1.1997 without any break. Thereafter he was regularized. Hence it has to be held that the regular candidate was promoted as a Postman and continued there indefinitely till regularization. IN that event, the applicant's appointment as substitute is not correct. He should have been appointed only as a provisional candidate. The Respondents should have resorted to fill up that post regularly. The Respondents cannot escape from the responsibility of treating the applicant from 15.5.1995 to 31.1.1997 as provisional appointee. Hence the whole period from 15.5.1995 till 7.6.1998 should be treated as provisional appointment so far as the applicant is concerned in the post of ED Packer/EDMC of Singarayakonda village and as that period exceeds 3 years, the OA has to be allowed.

5. In the interim order though a permission was given to the respondents to go a head with the selection process but not to declare the results, In view of allowing the OA, the whole process started from issue of the notification has to be set aside. Accordingly, that process has been set aside. The applicant should be considered for regularization ⁱⁿ of that post if that post is going to be filled by the candidates of the community to which the applicant belongs and ~~if~~ he fulfills all the conditions for the post of EDP/EDMC. In case some candidates are available in the thrown out ED Agents list, then the applicant should wait for his turn .

6. With the above direction, the OA is disposed of with no order as to costs.


(R.RANGARAJAN)

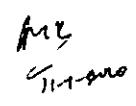

(D.H.NASIR)

MEMBER(A)

VICE-CHAIRMAN

Avl.

Dated: 7th January, 2000.
Dictated in Open Court.







IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

1ST AND 2ND COURT

31/1/2000

COPY TO:

- 1. HDHND
- 2. HRRN M (ADMN.)
- 3. HBSJP M (JUDL.)
- 4. D.R. A (ADMN.)
- 5. SPARE
- 6. ADVOCATE
- 7. STANDING COUNSEL

TYPED BY
COMPILED 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. B.S. JAI PARAMESWAR
MEMBER (JUDL.)

* * *

DATE OF ORDER: 31/1/2000

MA/RA/EP-NO.

IN

OA. NO. 202/00

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

OP. CLOSED

RA. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

7 copies

