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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.426/99.

Dt. of Decision : 3-6-99.

Peyyala Krishna

..Applicant.

Vs

1. The Sub-Divisional Inspector
(Postal), Peddapuram,
East Godavari District.

2. Kemati Anjaneyulu

..Respondents.

Counsel for the applicant : Mr.V.Ajay Kumar

Counsel for the respondents : Mr.P.Phalguna Rao, Addl.CGSC.
for R-1.

Mr.C.Srinivasa Babu for R-2.

CORAM:-

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

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

ORDER

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

Heard Mr.Shastri for Mr.V.Ajay Kumar, learned counsel
for the applicant and Mr.P.Phalguna Rao, learned counsel for
the official respondents and Mr.Lakshminarasimha for
Mr.C.Srinivasa Babu for R-2.

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2. This OA is filed praying for a declaration that the action of R-1 in appointing R-2 as EDDA/MC (Postal Runner) of Ameenabad Village, East Godavari District without conducting any interview or selection process and in removing the applicant from that post is illegal, arbitrary and violative of principles of natural justice and for a consequential direction to the respondents to appoint him as EDDA/MC (Postal Runner) of Ameenabad Village, Rajavommangi Mandal East Godavari District with all consequential benefits.

3. The applicant was working as provisional EDDA/MC at the said post office from 2-4-98 to 14-2-99 when he was terminated and R-2 was appointed.

4. The main contention of the applicant in this OA are
(1) Nowide publicity was given for filling up the post.

(2) The applicant is working as provisional candidate. He is an ST candidate and he fulfilled all the conditions required for posting in that post office regularly. But his case was not considered whereas R-2 was considered. Hence posting of R-2 is irregular.

(3) The R-2 has not submitted all the certificates required as per the notification while scrutinising the applications. He submits that it is evident from the averments made in the reply affidavit of the respondents. The averment on which he relies for the above submission reads as follows:- "The second respondent on being selected was called for scrutiny of his certificates with the originals with him on 16-2-99 which was not at all an Interview and it was only a formality i.e., being observed in any department various appointing authorities."

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(4) The notification was issued by an incompetent authority as can be seen from the caption of the said notification. The caption reads as follows:- "Notification for the post of EDAs other than BPM/EDSPM temporarily issued by sub appointing authorities". Relying on this submits that the notification has been issued without proper approval from the competent authority.

(5) There is a shortage of SC/ST communities in the division. Hence overlooking the claims of SC/ST candidate appointing an OBC is not called for.

5. The above contentions were considered. It is evident that the application was sent to all the authorities concerned, as R-2 came to know of that notification from the Mandal Revenue Officer. Hence, it cannot be said that wide publicity was not given. Hence, this contention is rejected.

6. The notification dated 12-1-99 clearly states in para-3 (vii) that the post is reserved for OBC; if no eligible candidates of OBC is available, eligible candidate of other community will be considered. When there is a shortage in the OBC the department sought to fill up that post offering the post to OBC. It is not for us to say whether the shortage in SC/ST or OBC should be filled first. It is for the department to decide as to which community should be posted first in view of the shortage of that community in that cadre. If the applicant is aggrieved that there are large backlog for SC/ST and hence the OBC should not be considered and SC/ST only to be considered then his affidavit requires see-saw modification. No percentage of SC/ST is indicated in the affidavit. In our

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opinion the Bench cannot make such roving enquiry. Hence, this contention is also rejected and the post has to be filled only by OBC candidate as advertised in the notification dated 12-1-99.

7. The applicant submits that the department follows the procedure of checking certificate before selecting a suitable candidate. But in this case it appears that that procedure has not been followed. The R-2 has been selected even without checking proper certificate that is why later it was verified when he is to be appointed. As the usual procedure is not followed the selection itself is not in order and has to be set aside.


8. To verify the above contentions we called for the records. We have checked the records. The application of R-2 contains three certificates as demanded in the notification dated 12-1-99 which are incorporated in para-3 of that notification. The selecting authority after seeing those certificate had selected the R-2 as he belongs to OBC candidate and meritorious candidate among the OBC candidates. The checking of those records once again before appointment cannot be called as irregular. It is not irregular or incorrect to check ~~before~~ the certificates once again before appointing a candidate. That check was made subsequently. There is no procedural irregularity in this connection. The applicant being an ST candidate cannot aspire to call for even interview when OBC candidates are available for appointment as indicated in the notification. Hence, this contention is also rejected.

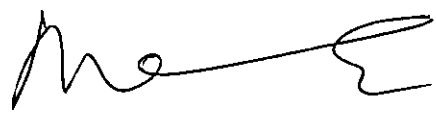
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9. There are no materials to come to the conclusion that the notification was issued by an incompetent authority. The records shows that it was issued with the approval of the competent authority. The applicant has not produced any material to come to the conclusion that it was done without the approval of the competent authority. Hence, this contention is also rejected.

10. The last contention had already been answered in the earlier paragraphs. Hence, no further consideration is necessary.

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


B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
3.6.99


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 3rd Jun 1999.
(Dictated in the Open Court)


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