(1999) 07 AP CK 0158

In the Andhra Pradesh High Court

Case No : Writ Petition No. 10065 of 1999

Union of India, Chief Post Master-General, Hyd. and others APPELLANT

Vs

E. Purushotham Reddy RESPONDENT

Date of Decision : 19-07-1999

Acts Referred:

Citation : (1999) 5 ALD 29 : (1999) 4 ALT 593

Hon'ble Judges : V. Eswaraiah, J;B. Subhashan Reddy, J

Bench : Division Bench

Advocate : Mr. B. Adinarayana Rao, SC for Central Government, for the Appellant;

Judgement

B. Subhashan Reddy, J.—This writ petition has been filed questioning the order dated 9-9-1998 of the Central Administrative Tribunal in OA No.687 of 1998.

2. The matter relates to recruitment to the post of Extra Departmental Branch Post Master, for short ''ED BPM'', at Mominkalan Branch Office, R.R. District. For recruitment to the said post several qualifications are mentioned like age, educational residence etc. The other conditions are that the candidate should have adequate means of livelihood so as to be able to man the post of ED BPM. That is contained in Section IV, Clause (3) of Service Rules for Postal ED Staff, which is as under:

"Income and ownership of property:

The person who takes over the agency (ED SPM/ED BPM) must be one who has an adequate means of livelihood. The person selected for the post of ED SPM/ED BPM must be able to offer space to serve as the agency premises for postal operations. The premises must be such as will serve as a small postal office with provisions for installation of even a PCO (Business premises such as shops etc., may be preferred)."

The respondent herein was not selected, even though found to be meritorious, on the ground that a certificate issued by the concerned Mandal Revenue Officer relating to ownership of property was not filed. That was questioned by the respondent herein in the above OA and the same was allowed on the ground that rejection of the certified copy of the gift deed dated 24-6-1997 filed along with the application stating that the property described in the deed was not mutated in the revenue records in the name of the applicant, is not acceptable.

3. Mr. B. Adinarayana Rao, learned Standing Counsel for Central Government submits that the respondent ought to have filed the certificate of ownership and not merely a registered gift-deed. We do not find any such requirement in the rule relating to solvency of the candidate, which is extracted above. The learned Counsel further submits that on an earlier occasion the Tribunal itself ruled that a certificate from Mandal Revenue Officer is necessary. He has drawn our attention to the order passed by the Central Administrative Tribunal in OA No. 423 of 1994 and submits that the ratio laid down by it therein is in contra distinction to the ratio laid down in the instant case. When a similar case in WP No. 14296 of 1999 came up before us last week, we ruled that a certificate from Mandal Revenue Officer alone cannot be the criteria but any certificate of such type from a competent/satisfying authority also holds good. In the said case also a registered gift-deed was filed but the authorities did not select the candidate on the ground that certificate from Mandal Revenue Officer was not filed. But the Tribunal had ruled otherwise holding that there was sufficient compliance of the condition relating to solvency as registered gift-deed was filed showing ownership and income of the property. Affirming the same we dismissed the above writ petition by an order dated 13-7-1999.

4. We once again reiterate that there being no specific clause that only the certificate of Mandal Revenue Officer is the criteria, the authorities cannot insist that the certificate issued by the Mandal Revenue Officer should be filed. The reasoning given by the Tribunal in the earlier OA, i.e., OA No.423 of 1994 that certificate issued by the Mandal Revenue Officer is necessary, is set aside by us clarifying that the rule, which has been extracted above, warrants only filing of the evidence to the satisfaction of the authority regarding ownership and income of the property to prove solvency of the candidate and it is always preferable to have a primary document like the instant one rather than secondary evidence. Of course, if there is no document of title (deed of conveyance or gift-deed etc., which are documents of title under T.P. Act), then some other mode of proof of solvency can be adopted like certificate from Mandal Revenue Officer. But the certificate from Mandal Revenue Officer can never supersede when there is a document of title.

5. In the circumstances, the writ petition is dismissed holding that Clause (3) of Section IV of the Rules warrants only filing of documentary evidence in proof of title of ownership and income thereof and not particular mode of proof like the certificate from the Mandal Revenue Officer. No costs.

