
(2000) 09 AP CK 0033

In the Andhra Pradesh High Court

Case No : Writ Petition No. 20542 of 1999

Yeddanapalli Aurna Kumari

APPELLANT

Vs

Chief Post Master-General, A.P. Circle, Hyd. and others

RESPONDENT

Date of Decision : 08-09-2000

Acts Referred:

Citation : (2000) 5 ALD 700 : (2000) 5 ALT 593

Hon'ble Judges : N.Y. Hanumanthappa, J; Ghulam Mohammed, J

Bench : Division Bench

Advocate : Mr. C.B. Ram Mohan Reddy, for the Appellant; Mr. L. Narasimha Reddy SC for CG and M/s. K. Manikaj Prabhu and P. Krishna Reddy, for the Respondent

Judgement

N.Y. Hanumanthappa, J.—This writ petition is filed seeking to issue writ, order or direction more particularly one in the nature of writ of certiorari and call for records relating to and connected with OANo.968 of 1999 dated 15-9-1999 on the file of the Central Administrative Tribunal, Hyderabad, and quash the same.

2. It is the case of the petitioner that the 3rd respondent herein filed OA No.968 of 1999 challenging the orders passed by the 2nd respondent dated 22-6-1999 appointing the petitioner as the Extra Departmental Branch Post Master, Katrapadu, Guntur Postal Division. It is further stated that in pursuance of the notification dated 7-1-1999 issued by the 2nd respondent the petitioner and the 3rd respondent along with some others applied for the post of Extra Departmental Branch Post Master. The verification was taken upon on 19-4-1999.

3. Number of applications found suitable for consideration was 11, which includes the petitioner and the 3rd respondent also.

4. Considering the suitability and other requirements, the authorities appointed Smt. Aruna Kumari, petitioner herein, to the said post. The case of the other side i.e., respondent No.3 was rejected on the ground that he did not enclose the property certificate from the Sub-Registrar. Aggrieved by the same, the 3rd

respondent herein challenged the selection of the petitioner before the Central Administrative Tribunal, Hyderabad.

5. The Tribunal on consideration of the matter, set aside the selections with a direction to reconsider all the applications received in response to the notification dated 7-1-1999.

6. Aggrieved by the side order, the present writ petition is filed by the 3rd respondent in the said OA.

7. Learned Counsel for the writ petitioner attacked the order passed by the Tribunal on various grounds. He contented that the Tribunal was not justified in quashing the selection of writ petitioner when she fulfilled all the requisite qualifications and got selected. It was further contended that the Tribunal ought to have noticed that the 3rd respondent herein had not fulfilled the conditions stipulated in the notification, dated 7-2-1999, as such the authority was justified in rejecting his claim. It is further stated that remanding the matter to the authorities setting aside the order of selection was not the remedy but it amounts to refusal to perform the duties conferred on the Tribunal. Thus he sought that the writ petition be allowed and the selection made by the authority be confirmed.

8. As an answer to these contentions, learned Counsel for the 3rd respondent, applicant in the said OA, contended that the order passed by the Tribunal is in accordance with law. According to him, as per the rules, there was no need to enclose the registered documents of property obtained from the Sub-Registrar's office. It was further contended that even on the date of verification, in fact the 3rd respondent had enclosed income and property certificates issued by the Mandal Revenue Officer as required under Regulation No.4 of the conditions stipulated in the notification.

9. In the form of reply, learned Counsel for the petitioner submitted that the certificate issued by the Mandal Revenue Officer does not comply with the conditions. He further submitted that the certificate issued by the Mandal Revenue Officer and alleged to have been enclosed by the 3rd respondent is not a document that was contemplated to be enclosed as per the conditions stipulated in the notification and that the so-called certificate produced by him even admitted it was not related to the candidate but it belonged to his father. He lastly contended that property certificate issued by the Sub-Registrar is different from the property certificate issued by the Mandal Revenue Officer and when once one of conditions was not complied with the 3rd respondent is not qualified on that ground alone and that the writ petitioner was rightly got selected which should not have been disturbed.

10. After hearing both the sides, we once again perused the entire material available on record and also the impugned order.

11. The Tribunal after considering the contentions raised by both the sides found

that production of property document was not mandatory as nowhere it was mentioned that failure to produce such a certificate will disqualify the person seeking selection. The relevant portion of the observations read as under:

"We have checked up the earlier notification issued in connection with the recruitment of EDBPM posts. In no notification the condition of enclosing the registered property document from Sub-Registrar is included. It is not known why that condition was included in this notification dated 7-1-1999 when an MRO issues the certificate, that itself will substantiate regarding the proof of property. If the respondents are not satisfied with the MRO's-certificate they are at liberty to call for the registered property document either at the time of verification of the document or even earlier after receipt of the application. In this case the applicant has reported to have shown his registered property document at the time of verification of the records. Hence, we feel that the rejection of his case on that score cannot be an appropriate rejection.

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It is also felt that calling for the registered property document from the Sub-Registrar at the time of submission of application may result some hardship to the applicant as the time required for production of that registered document from the date of issue of notification before the closure of the notification is only one month. But if he is asked to produce at the time of verification of the documents he will have some more time. In that view also, insistence of inclusion of registered property document at the time of submission of application may not be a proper condition.

12. The Tribunal further observed that a clarification regarding income and ownership of property condition has been circulated to various circles by DG P&T vide letter No.17-1-4/91-ED & TRG dated 18-9-1995. According to the said letter, the enclosure of registered property document from the Sub-Registrar is not a document to be enclosed along with the application. In view of that, insisting on that document for consideration of his case for selection to the post is not borne out by any rule. The Tribunal also found that on the date of the verification the applicant, 3rd respondent herein, produced some documents, which were sufficient for consideration. It was further held that selection of respondent No.3 therein, namely writ petitioner herein ignoring the case of the applicant-3rd respondent herein was bad and accordingly quashed the selection of the petitioner with a direction to the respondents to reconsider all the applications received in response to the notification dated 7-1-1999 and then select most suitable candidates who fulfill all the conditions without insisting upon enclosure of the registered document from the Sub-Registrar at the time of the submission of the application. It was further directed that till a suitable incumbent is selected earlier person (i.e., the writ petitioner herein) be continued as a provisional candidate. Accordingly, the Tribunal rightly so and for valid reasons, found that it is proper once again to reconsider the entire issue. From this we fail to understand how the petitioner is aggrieved when there is a direction to

reconsider the qualifications of both the candidates and their suitability. In our view there is no irregularity in the order passed by the Tribunal. But all that we can say is that it is proper for the authorities to give an opportunity to both the parties viz., the petitioner and the 3rd respondent herein for production of necessary documents to substantiate their case for selection. This order, however, shall not be beneficial to other 9 persons. Their case is rejected as they did not challenge the selection proceedings. The authorities shall conclude selection process within two months from this date. Both the parties are directed to appear before the authority on 21st of September, 2000. The authorities shall consider the merits and demerits of both the candidates on the basis of the material available including the conditions stipulated in the notification and observations made by the Tribunal. All other contentions are kept open. The interim order passed by the Tribunal directing the petitioner to continue in the post shall continue till the conclusion of the selection process and decision made thereon.

13. The writ petition is accordingly dismissed. No costs.