

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THURSDAY, THE TWENTY THIRD DAY OF JUNE TWO THOUSAND AND
SIXTEEN
(23.06.2016)

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

-

WRIT PETITION No.20217 OF 2016

B. Krishna. --- Petitioner.

And

Union of India,
Rep. by the Secretary,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi – 1
and five others.

--- Respondents.

Counsel for the petitioner : Dr. A. Raghu Kumar.

Counsel for the Respondent Nos.1 to 5 : Mr. B. Narayana Reddy,
Assistant Solicitor General.

Counsel for the Respondent No.6 : -----

This Court made the following:

ORDER: (*Per Hon'ble Sri Justice C.V. Nagarjuna Reddy*)

Respondent No.5 issued notification dated 04.05.2010 calling for applications from eligible candidates for filling up vacant posts of Gramin Dak Sevak Mail Carrier-cum-Mail Deliverer (for short, 'GDSMC-MD') Kovilampadu Branch Office, a/w. Chandrasekharapuram Sub-Post Office, fixing 04.06.2010 as the last date for receipt of applications. In response to the said notification, 7 candidates applied for the posts, out of which, 6 candidates including the petitioner were present for verification of the certificates. One Sri B. Bala Krishna, who secured the maximum marks, was selected for the above mentioned post. As he was not willing to join, the 2nd meritorious candidate by name Sri M. Ravindra was selected for the post of GDSMC-MD, Ramagopalapuram Branch Office. Hence, his candidature was not taken into account for Kovilampadu Branch Office. As candidates at serial Nos.3 and 4 also refused to accept appointment, the next meritorious candidate Sri G.V. Madhava Kumar was selected. Accordingly, he joined the said post on 22.06.2010 afternoon.

The petitioner filed a complaint before Respondent No.3 against the selection process made by Respondent No.5. In pursuance of the same, the selection of the said G.V. Madhava Kumar was reviewed and on noticing several irregularities, which included that offering of the post to Sri G.V. Madhava Kumar by going down in the panel up to serial No.5, which is contrary to his selection, respondent No.4 has directed respondent No.5 to terminate the services of Sri G.V. Madhava Kumar, with a further direction that action against respondent No.5 shall be taken for not following the

recruitment rules and guidelines for making irregular selection. Consequently, respondent No.5 terminated the services of Sri G.V. Madhava Kumar on 26.11.2011. Aggrieved by his termination, Sri G.V. Madhava Kumar, filed O.A. No.1280 of 2011 before the Central Administrative Tribunal, Hyderabad Bench at Hyderabad (for short, 'the Tribunal'). The Tribunal has initially directed to maintain *status-quo* and subsequently it has directed the respondents to take back Sri G.V. Madhava Kumar into service with the further observation that his appointment would be subject to the result of the O.A. No.1280 of 2011.

The petitioner came on record in the said O.A. Eventually, the Tribunal dismissed the O.A. and directed the respondents to consider the case of the applicant for selection on merits. Pursuant to the said direction, the respondents have passed order dated 14.02.2014, whereby the claim of the petitioner for appointment in place of Sri G.V. Madhava Kumar was rejected. Assailing the said rejection order, the petitioner filed O.A. No.020/00405/2014.

In the reply statement filed by the respondents, it was averred that when notification inviting applications for the extant post was issued on 04.05.2010, there were no instructions for maintaining a select panel of candidates and for operating the panel for one year in the event of refusal by the meritorious candidates after joining the post. That in the absence of such instructions, as the petitioner has applied in response to the said notification, his application has to be considered as per rules in force as on the date of notification and that instructions for maintaining a select panel were issued only on 25.06.2010; whereas, selection to the extant post was finalized on 12.06.2010/22.06.2010 and that therefore the petitioner cannot insist that he should be appointed in place of the said G.V. Madhava Kumar.

After consideration of the respective pleas of the parties, the

Tribunal, by its order dated 21.01.2016, dismissed the O.A. Feeling aggrieved by the said dismissal order, the petitioner has filed Review Application No.14 of 2016, which was also dismissed by the order dated on 04.04.2016.

We have heard learned counsel, representing Dr. A. Raghu Kumar, and perused the record.

The finding of the Tribunal that by the time notification was issued and the whole selection process was completed, the procedure of maintenance of panel was not in existence is not in dispute. Indeed, that was one of the reasons why the selection and appointment of Sri G.V. Madhava Kumar was set-aside by the respondents as the said G.V. Madhava Kumar was at serial No.5 and that, in the absence of a panel, candidates below the selected candidates are not entitled to be considered for appointment. It is also not in dispute that for the first time the procedure of maintaining a panel was introduced *vide* Ministry of Communications and I.T., Department of Posts *vide* proceedings dated 25.06.2010. Even assuming that the panel system, introduced by the Government of India in the aforementioned proceedings, is applicable to the petitioner's case, the panel could be operated only on the following contingencies:

- “(i) Refusal by the meritorious candidate
- (ii) Resignation by the 1st candidate even after joining within one year
- (iii) Review made by the higher authority within one year.”

It is not the pleaded case of the petitioner that any one of the contingencies mentioned in the above clauses exists in the present case. Therefore, the appointment of respondent No.5, which was made patently contrary to the procedure, was rightly set-aside by the

respondents. The petitioner who is at serial No.6 of the merit list has no right to insist that he should be appointed in the place of candidate at serial No.5. Hence, the Tribunal has rightly dismissed the O.A. No.020/00405/2014 as well as the R.A. No.14 of 2016.

For the aforementioned reasons, we do not find any merit in this writ petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. No.24812 of 2016 stands dismissed as infructuous.

REDDY, J

C.V. NAGARJUNA

G. SHYAM PRASAD, J

Date: 23-06-2016
DSH

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

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WRIT PETITION No.20217 OF 2016

(Order of the Division Bench delivered by
Hon'ble Sri Justice C.V. Nagarjuna Reddy)

Date. 23-06-2016

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