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T. Jayakumar Vs. A. Gopu, the Union of India (Uoi) Represented by the Superintendent of Post Offices and the Registrar, Central Administrative Tribunal

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Overruled by : [T. Jayakumar vs. A. Gopu and Anr. Dated:22.09.2008](#)

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Court : Chennai

Decided On : Feb-01-2005

Judge : P. Sathasivam and S.K. Krishnan, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P. No. 11229 of 2001 and W.M.P. No. 16257 of 2001

Appellant : T. Jayakumar

Respondent : A. Gopu, the Union of India (Uoi) Represented by the Superintendent of Post Offices and the Registrar, Central Administrative Tribunal

Advocate for Pet/Ap. : G. Justin, Adv.

Disposition : Petition dismissed

Judgement :

S.K. Krishnan, J.

1. This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorari calling for the records, pertaining to the order passed in O.A.No.346 of 2000, dated 23.4.2001, on the file of the third respondent Tribunal and quash the same.

2. The petitioner was appointed by the second respondent as EDBPM of Kadambadi Village and he has been working as EDBPM with effect from 12.2.2000.

3. It is seen that the first respondent was also applied for the above said post. Since the application of the first respondent has been received by the second respondent after the expiry of stipulated time, his application was rejected. Even though, the first respondent sent his application in time, since the same was not considered by the second respondent, he approached the Tribunal by filing an application in O.A.No.346 of 2000 to set aside the order of the second respondent, dated 9.2.2000 selecting the petitioner for the post of EDBPM of Kadambadi Village and for a direction to the second respondent to select the first respondent for the said post.

4. The Central Administrative Tribunal, after considering the facts and circumstances of the case, allowed the said application, by its order dated 23.4.2001.

5. Challenging the said order of the Tribunal, the petitioner has come forward with this Writ Petition.

6. Now the only point that arises for consideration is whether the order of the Tribunal dated 23.4.2001 is sustainable under law or not.

7. The learned counsel appearing for the petitioner would submit that even though the first respondent has submitted his application in time, the said application was received by the second respondent only after the expiry of the last date and hence the same was rejected by the second respondent and therefore, nothing is wrong in not considering the application of the first respondent.

8. Further, the learned counsel would submit that in the above circumstances, the order of the Tribunal setting aside the order of the second respondent appointing the petitioner as EDBPM is erroneous and therefore, the same has to be quashed.

9. It is further contended by the learned counsel for the petitioner that when other applications were rejected, including the application of the first respondent, on the ground of late receipt, the order of the Tribunal to consider the application of the first respondent alone without assigning any reason thereof is not proper and justifiable and therefore, the order of the Tribunal has to be quashed.

10. Per contra, the learned counsel appearing for the first respondent would submit that it is not disputed that the first respondent submitted his application to the second respondent on 4.1.2000. However, since the first respondent has sent his application without his signature, he sent another one application on the same day to the second respondent and the same was received by the second respondent after the expiry of stipulated time.

11. Further, the learned counsel appearing for the first respondent would contend that in the office note of the second respondent's file, the names of the applicants, whose applications were rejected, were mentioned, but in which, the name of the first respondent is not found and therefore, it is clear from the office note of the second respondent that the application of the first respondent was not rejected. Considering the above facts and circumstances of the case, the Tribunal has rightly set aside the appointment order of the petitioner and therefore, nothing calls for interference of this Court.

12. For better appreciation of the case, it is pertinent to see what the office note says.

13. A perusal of the file produced by the second respondent, in which, the office note, dated 9.2.2000 at page 123, reveals as follows:

"In response to the local notification 7 applications were received. Among them the applications received from R. Lakshmi(101C). R. Durairaj (104C). T. Selvakumar (105C) and S. Durairaj (106C) after the last date fixed on 5.1.2000 are not

considered.

Only three candidates who have applied for the post within the last date fixed are brought into the tabular statement. "

14. From the above, it is clear that the applications of only three candidates, who have applied in time, were taken into consideration for the above said post. In the above three applications, the first respondent application is also included.

15. Further, the office note reveals that since the first respondent sent his application without his signature, which was received on 4.1.2000, he sent another one application with signature, which was received on 7.1.2000 by the second respondent and therefore, while treating the first application, without the signature of the first respondent, received in time as invalid, the second application dated 4.1.2000 with the signature of the first respondent, which was received on 7.1.2000 by the second respondent, was not considered on the ground of late receipt.

16. There is no dispute that the first application of the first respondent was received in time but without the signature of the first respondent. The first application was sent by the first respondent on 3.1.2000 and the same was received by the second respondent on 4.1.2000. On coming to know that the first respondent sent the application without his signature, he sent another one application with signature and with a requisition to accept the same on 4.1.2000. That was received by the second respondent on 7.1.2000. No doubt, the first application of the petitioner has become invalid as there is no signature, however, when the first respondent came to know of his fault, he sent another one application with signature and with a requisition on 4.1.2000, i.e. within the expiry of the last date, it should have been treated as part and parcel of the first application or added with the first application as the first respondent sent the second application with a requisition to the second respondent within the time stipulated. When that was not done by the second respondent and rejected the application of the first respondent, we are of the view that the first respondent sent his application in time and it cannot be rejected and therefore, the conducting of interview and appointment of the petitioner as EDBPM without the first respondent,

is arbitrary and against the principles of natural justice.

17. In the above circumstances, since the petitioner has come forward with this petition against the order of the Tribunal, it is just and necessary for this Court to refer to the order of the Tribunal.

18. The order of the Tribunal reads as follows:

"The action of the first respondent in not selecting the applicant on the ground of delay in submitting the application is not just and proper under the given circumstances. Admittedly, the applicant fulfils all conditions for appointment as EDBPM and has secured higher marks than the second respondent who has been selected by the first respondent. Hence the selection of the second respondent is illegal and contrary to rules. Under these circumstances, the first respondent is directed to consider the application of the applicant as an application received in time and consider his case for appointment as EDBPM. "

19. Further, the learned Senior Central Government Standing Counsel appearing for the second respondent would submit that considering the reasons found in the office note, the Tribunal rightly concluded that the action of the second respondent is not just and proper. Since the Tribunal set aside the order of the second respondent based on valid reasons, no interference is called for. Moreover, he would point out that the learned counsel appearing for the petitioner has not put forth any valid reasons for interference of this Court. In the above circumstances, the Writ Petition has to be dismissed.

20. For the reasons stated above, we are in agreement with the order of the Tribunal and therefore, we are of the view that no interference is called for. Accordingly, the Writ petition fails and the same is dismissed. No costs.

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