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UNION OF INDIA & ORS

v.

G RAMESH

(Civil Appeal No. 140 Of 2020)

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JANUARY 09, 2020

**[DR. DHANANJAYA Y CHANDRACHUD AND  
HRISHIKESH ROY, JJ.]**

- Service Law – Appointment – 2013 notification inviting applications for conducting departmental examination to the cadre of postman – Candidate selected and duly appointed, but was later dismissed from service for having obtained selection by fraudulent means – Respondent, second in the order of merit, made representation in terms of the direction passed on his Original Application (OA) filed before the Central Administrative Tribunal, Hyderabad*
- C** – *Representation rejected – On being moved afresh, the Tribunal held that upon the dismissal of the candidate who was selected and appointed, the respondent had right to be appointed as postman – Order affirmed by the High Court while dismissing the writ petition of the appellants – On appeal, held: Once a candidate had been selected upon the conclusion of the selection process and was appointed to the post, the Select List stood exhausted – There was one vacancy – Subsequent dismissal from service of the appointed candidate in 2016 would not either revive the Select List or result in the appointment of the respondent – Impugned order of the High Court set aside – Consequently, the OA filed by the respondent seeking appointment to the post of postman also stands dismissed.*
- D** – *Representation rejected – On being moved afresh, the Tribunal held that upon the dismissal of the candidate who was selected and appointed, the respondent had right to be appointed as postman – Order affirmed by the High Court while dismissing the writ petition of the appellants – On appeal, held: Once a candidate had been selected upon the conclusion of the selection process and was appointed to the post, the Select List stood exhausted – There was one vacancy – Subsequent dismissal from service of the appointed candidate in 2016 would not either revive the Select List or result in the appointment of the respondent – Impugned order of the High Court set aside – Consequently, the OA filed by the respondent seeking appointment to the post of postman also stands dismissed.*
- E** – *Representation rejected – On being moved afresh, the Tribunal held that upon the dismissal of the candidate who was selected and appointed, the respondent had right to be appointed as postman – Order affirmed by the High Court while dismissing the writ petition of the appellants – On appeal, held: Once a candidate had been selected upon the conclusion of the selection process and was appointed to the post, the Select List stood exhausted – There was one vacancy – Subsequent dismissal from service of the appointed candidate in 2016 would not either revive the Select List or result in the appointment of the respondent – Impugned order of the High Court set aside – Consequently, the OA filed by the respondent seeking appointment to the post of postman also stands dismissed.*
- F** – *Representation rejected – On being moved afresh, the Tribunal held that upon the dismissal of the candidate who was selected and appointed, the respondent had right to be appointed as postman – Order affirmed by the High Court while dismissing the writ petition of the appellants – On appeal, held: Once a candidate had been selected upon the conclusion of the selection process and was appointed to the post, the Select List stood exhausted – There was one vacancy – Subsequent dismissal from service of the appointed candidate in 2016 would not either revive the Select List or result in the appointment of the respondent – Impugned order of the High Court set aside – Consequently, the OA filed by the respondent seeking appointment to the post of postman also stands dismissed.*

**Allowing the appeal, the Court**

- G** **HELD 1.1** Once a candidate had been selected upon the conclusion of the selection process and was appointed to the post, the Select List stood exhausted. There was one vacancy. The subsequent dismissal from service of the appointed candidate in 2016 would not either revive the Select List or result in the appointment of the respondent. The impugned judgment and order of the High Court is set aside. In consequence, the Original

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**Application filed by the respondent seeking appointment to the post of postman shall stand dismissed. [Paras 7, 9][479-A, D]** A

*Thrissur District Co-operative Bank Limited v Delson Davis P 2002 (2) SLR 410:2002( 2 ) JT 329 – relied on.*

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 140 of 2020. B

From the Judgment and Order dated 08.02.2018 of the High Court of Judicature at Hyderabad, for the State of Telangana and the State of Andhra Pradesh in W.P. No.530 of 2018. C

Vikramjit Banerjee, ASG, Nachiketa Joshi, Ms. Awantika Manohar, Pranay Sanjana, Siddhartha Sinha, Dr. D.V. Rao, Gurmeet Singh Makker, Advs. for the Appellants.

M. Venkanna, M.V. Krishna Mohan, K. Maruthi Rao, Mrs. K. Radha, Mrs. Anjani Aiyagari, Advs. for the Respondent. D

The Judgment of the Court was delivered by

**DR. DHANANJAYA Y CHANDRACHUD, J.**

1. Delay condoned.

2. Leave granted.

3. This appeal arises from a judgment and order of a Division Bench of the High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh dated 8 February 2018.

4. The Superintendent of Post Offices, Hanamkonda issued a notification on 4 November 2013 inviting applications for conducting a departmental examination to the cadre of postman. The result of the examination was declared on 20 December 2013. A candidate by the name of G Vijender was declared to be selected and was posted as a postman. The respondent was second in the order of merit in the Select List. Upon receiving a complaint that G Vijender had obtained selection by adopting fraudulent means, the employee was placed under suspension on 24 January 2014. The respondent moved the Central Administrative Tribunal<sup>1</sup> at Hyderabad seeking a direction for being posted in place of G Vijender. The Tribunal dismissed the Original Application as premature.

<sup>1</sup> Tribunal

- A G Vijender was dismissed from service after a departmental enquiry on 29 April 2016. The respondent filed an Original Application before the Tribunal in which an order was passed on 25 November 2016 to consider his request in accordance with the rules. Following this order, the representation of the respondent to appoint him as a postman was rejected, upon which he moved the Tribunal afresh. The Tribunal, by its order dated 9 November 2017, came to the conclusion that the respondent had a right to be appointed to the post of postman and that upon the dismissal of the candidate who had been duly selected and appointed, the respondent ought to be appointed. This order of the Tribunal has been affirmed by the High Court while dismissing a writ petition filed by the appellants.

5. Mr Vikramjit Banerjee, learned Additional Solicitor General has relied upon a decision of a two-judge Bench of this Court in **Thrissur District Co-operative Bank Limited v Delson Davis P<sup>2</sup>**. The Additional Solicitor General submitted that once the process of selection had been completed with the appointment of G Vijender, the Select List stood exhausted. Hence, the subsequent dismissal of the appointed candidate from service would not result in the revival of the Select List. Hence, it was urged that both the Tribunal and the High Court have erred in coming to the conclusion that the respondent had a vested right to appointment.
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6. On the other hand, it has been urged on behalf of the respondent by Mr M Venkanna, learned counsel, that the candidate who had been appointed had secured his appointment through fraudulent means and, hence, the appointment was void *ab initio*. Learned counsel submitted that it was, strictly speaking, not necessary for the Department to hold a departmental enquiry and a simple order of termination with a notice to show cause would have sufficed. Hence, it was urged that it was the respondent, who was second in the order of merit, who should have been appointed.
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7. The facts, as they have emerged on record indicate that the selection process which was initiated in pursuance of the notification dated 4 November 2013 culminated in the order of appointment of G Vijender. Subsequently, his services came to be terminated following the order of dismissal upon the conclusion of the disciplinary enquiry. Once
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<sup>2</sup> 2002 (2) SLR 410

a candidate had been selected upon the conclusion of the selection process and was appointed to the post, the Select List stood exhausted. There was one vacancy. The subsequent dismissal from service of the appointed candidate in 2016 would not either revive the Select List or result in the appointment of the respondent. A

8. This principle emerges from the judgment of this Court in **Thrissur District Co-operative Bank Limited** where it was held: B

“When once the selection process is complete and appointment had been made, that process comes to an end and if any vacancy arises on the appointee having joined the post leaves the same, it must be treated as a fresh vacancy and fresh steps in accordance with the appropriate rules should be taken. This view is fortified by the judgment of this Court in *State of Punjab v. Raghbir Chand Sharma and Anr.* [JT 2001 (9) SC 266]” C

9. Adopting the above view, we have come to the conclusion that the impugned orders of the Tribunal and the High Court cannot be sustained. We accordingly allow the appeal and set aside the impugned judgment and order of the High Court dated 8 February 2018. In consequence, the Original Application filed by the respondent seeking appointment to the post of postman shall stand dismissed. There shall be no order as to costs. D

Divya Pandey

Appeal allowed.