CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OA/21/749/2020 with
CP/21/108/2017 in OA/21/818/2017

HYDERABAD, this the 14th day of December, 2020

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

OA/21/749/2020

P.S. Prakasa Rao, S/o. Late P. Seshayya,
Aged about 63 years,
Occ: Retd. Civilian Technical Officer (Group-B),
R/o. D.No.5-4-1600/1, Sarada Nagar- Phase-IV,
Plot No.45, Vanasthalipuram, Hyderabad – 500 070.

...Applicant

(By Advocate : Smt. Anita Swain)

Vs.

1. The Union of India rep. by its
Secretary, Ministry of Defence
South Block, New Delhi – 110 011.

2. The Chief of Naval Staff,
Integrated Headquarter, Ministry of Defence (Navy),
Director of Civilian Personnel,
Room No.104, D-II Wing, Sena Bhavan, New Delhi.

3. The Director General of Naval Armament Inspection,
For JDNAI (Admin), Integrated Headquarters,
Ministry of Defence (Navy), West Block-V,
R.K. Puram, New Delhi – 110 066.

4. Flag Officer Commanding-in-chief, (for SO (CP),
Head quarter, Eastern Naval Command,
Visakhapatnam – 530 009.

5. The Principal Inspector of Naval Armament,
Naval Armament Inspectorate,
Kanchanbagh (PO), Hyderabad – 500 058.

....Respondents

(By Advocate : Sri T. Sanjay Reddy for
Sri T. Hanumantha Reddy, Sr. PC for CG)

CP/21/108/2017 in OA/21/818/2017

P.S. Prakasa Rao, S/o. Late P. Seshayya,
Aged about 63 years,
Occ: Retd. Civilian Technical Officer (Group-B),
R/o. D.No.5-4-1600/1, Sarada Nagar- Phase-IV,
Plot No.45, Vanasthalipuram, Hyderabad – 500 070.

...Applicant

(By Advocate : Smt. Anita Swain)

Vs.

1. The Union of India rep. by its
Secretary, Ministry of Defence
South Block, New Delhi – 110 011.

2. Rear Admiral Sanjay Mishra,
The Director General of Naval Armament Inspection,
For JDNAI (Admin), Integrated Headquarters,
Ministry of Defence (Navy), West Block-V,
R.K. Puram, New Delhi – 110 066.

3. Vice Admiral HCS Bisht,
Flag Officer Commanding-in-chief, (for SO (CP),
Head quarter, Eastern Naval Command,
Visakhapatnam – 530 009.

4. Mr. Ajay Mittal,
The Secretary to Government of India,
Ministry of Personnel Public Grievances & Pensions,
Dept. of Personnel and Training,
Ministry of Home affairs,
North Block, New Delhi – 110 011.

5. The Principal Inspector of Naval Armament,
Naval Armament Inspectorate,
Kanchanbagh (PO), Hyderabad – 500 058.

....Respondents

(Respondents 1 & 5 are not necessary parties)

(By Advocate : Sri T. Sanjay Reddy for
Sri T. Hanumantha Reddy, Sr. PC for CG)

ORAL ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)

Through Video Conferencing:

2. The CP 108/2017 has been filed complaining that the judgment rendered in OA 818 of 2017, dt.11.10.2017 has not been implemented.

3. The operative portion of the judgment in OA 818 of 2017 is a follows:

> *"2. It is submitted by the learned counsel appearing for the applicant that the applicant is going to retire this month. The respondents are therefore directed to conduct the Departmental Promotion Committee meeting in respect of the post of Senior Technical Officer and consider the name of the applicant for the said post within a period of 10 days from the date of receipt of a copy of this order. Thereafter, the Respondents are further directed to consider the applicant's case for promotion if he satisfies the eligibility criteria.*
>
> *3. The Original Application is disposed of accordingly. No order as to costs. "*

4. In the reply filed in the CP, respondents have stated that a proposal for conduct of DPC for the year 2016-17 was mooted for one UR vacancy and the UPSC, though it gave a date for holding the DPC, the same had to be postponed due to issuance of DOPT OM dated 30.9.2016. Earlier, vide OM dated 10.8.2010, DOPT permitted SC candidates to be adjusted against UR vacancies on merit, irrespective of the fact as to whether the promotion was based on selection or non selection basis. This OM was quashed by the Hon'ble Punjab and Haryana High Court on 15.7.2011 in CWP No. 13218/2009 and the same was challenged before Hon'ble Supreme Court wherein an Interim order was issued on 3.2.2015 to maintain status quo in respect of promotional matters covered by the impugned judgment till the next date of hearing. CPs were filed against DOPT/Railways for violating

the interim order and during the hearing of the CPs, the Ld. Solicitor General gave an undertaking that no further promotions of reserved category persons to UR posts will be made based on DOPT OM dated 10.8.2010 and Railway Board Circular dated 14.9.2010. Accordingly, DOPT OM dated 30.9.2016 was issued and therefore, promotion of reserved category employees to UR vacancies have been kept in abeyance till further clarification by DOPT.

5. Further, for the DPC to be held for the year 2016-17, there was 1 UR vacancy and the senior most candidate was an SC employee and hence, the DPC was kept in abeyance. The applicant was at Sl. 2 in the Civilian Technical Officer seniority list issued on 4.12.2015 and though the applicant was in the zone of consideration, there being only one vacancy, he could not be considered. In addition, holding of DPC was kept in abeyance by UPSC. Coming to the year 2017-18, applicant could have been at Sl. 1 provided the DPC for the year 2016-17 was finalised and there were 3 vacancies available. Applicant continued to be at Sl.2 of the seniority list as the DPCs were not held for the 2 successive years due to court cases. The contention of the applicant was that he is a UR candidate and there is no order restraining the UR candidate to be promoted to a UR vacancy. True, but in the instant case, an SC candidate, who was senior to the applicant was awaiting promotion and his promotion had to be kept pending due to court cases. Therefore, without deciding the senior SC candidate's promotion, the respondents were not able to proceed with the others, who rank junior. Hence, in the given circumstances, the respondents cannot be found fault with, as they could do what they had to, in terms of

the situation that arose in the context of the interim order of the Hon'ble Supreme Court on 3.2.2015 and the resultant outcome of the issue of DOPT OM dated 30.9.2016. Hence, for the aforesaid reasons, the CP is closed.

6. The applicant has retired on 31.10.2017 and no junior to him was promoted before his retirement, as submitted by the Ld. Counsel for the respondents. Therefore, for reasons narrated in the CP, and since no junior was promoted before the applicant retired, there is nothing that survives in the OA 749 of 2020, wherein the same relief was sought, to be adjudicated upon, and hence, the cited OA stands closed. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/