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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.86 of 2012
Cuttack, this the 7th day of February, 2012

A.C.T.Acharyulu Applicant
Vs
UOI & Others Respondents

C O R A M
THE HON'BLE SHRI C.R.MOHAPATRA, MEMBER (ADMN.)
And
THE HON'BLE SHRI A.K.PATNAIK, MEMBER (JUDL.)

O R D E R

The Applicant who is working as Deputy General Manager (Electrical) in the NALCO has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 seeking to quash the entire process of promotion from E-7 to E-8 grade conducted by the NALCO and direct the Opposite Parties to consider his case along with others for promotion from the post of E-7 to E-8.

2. Applicant's case, in brief, is that the NALCO considered names of officers who are having bad track records and faced 'censure', inferior to the petitioner for promotion from E-7 to E-8 grade. The Applicant even without any adverse remarks was not included in the zone of consideration. He submits that the DPC, has prepared a list of eligible officers to be interviewed for promotion in which the applicant, although was eligible

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and coming within the zone of consideration, did not find place. Further it has been stated that meanwhile the Respondents have issued promotion orders from E-7 to E-8 wherein the name of the Applicant did not find place. Being aggrieved by such action of the NALCO he has approached this Tribunal seeking the reliefs stated above.

3. Mr. Prafulla Kumar Rath, Learned Counsel by filing a Memo of appearance appeared for the Applicant and reiterating the stand taken in this OA, contended that since the exercise undertaken by the Respondents/NALCO in giving promotion from E-7 to E-8 grade de hors the Rules, this OA needs adjudication.

4. We have considered the submissions of the Applicant's Counsel and perused the materials placed on record. The grievance of the applicant is that while others were called to attend the interview, although he was eligible he was not called. In this connection he has annexed sample copy of the call letter issued to others at Annexure-A/7. But in the said letter the names of addressee are conspicuously absent. Though in the pleading nothing has been stated as to when the interview took place, from the letter under Annexure-A/7

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it is seen that the interview date was fixed on 9th January, 2012. No eligibility list said to have been prepared by DPC is on record. According to the Applicant Respondent No.3 though junior to him was promoted. But the applicant has neither produced any copy of the order of promotion of Respondent No.3 nor has he impugned the promotion order of Respondent No.3. Besides, The Applicant's prayer is to quash the entire process of selection whereas he has made only Respondent No.3 as party to this OA. In the absence of the order of promotion not annexed to this OA, we are in the dark as to how many persons were promoted from E-7 to E-8 grade; out of which how many were junior to the Applicant.

As per the provision of the A.T. Act, 1985 an application can be filed against an order. But in the instant OA no such order has been annexed by the Applicant. In this connection it is profitable to quote the relevant portion of Section 19 of the A.T. Act, 1985 which inter alia provides as under:

“19. Applications to Tribunals –

(1) Subject to the other provisions of this Act a **person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may**

make an application to the Tribunal for the redressal of his grievance.

Explanation - For the purposes of this sub-section, "order" means an order made –

(a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation [or society] owned or controlled by the Government ; or

(b) by an officer, committee or other body or agency of the Government or a local or other authority or corporation [or society] referred to in clause (a)"

5. This apart, the prayer of the Applicant in the instant OA is to quash the entire process of promotion conducted by the NALCO for the post of E-7 to E-8 Grade and direct the Opposite Parties to consider the Petitioner's case along with others for promotion from the post of E-7 to E-8. When the Applicant's prayer is to quash the entire process of promotion it was his bounden duty to make all the persons promoted from E-7 to E-8 grade as party to this OA which has not been done.

6. Besides, though opportunity of making representation for his non-consideration was available with the applicant he did not avail of such opportunity prior to approaching this Tribunal in the instant OA. In

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this connection Section 20 of the A.T. Act, 1985 is extracted herein below:

20. Application not to be admitted unless other remedies exhausted -

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances, -

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless

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the applicant had elected to submit such memorial."

7. No such extra ordinary point/material has been brought to our notice by the Applicant's Counsel so as to entertain this OA despite the lacunae pointed out above. Rather we are of the opinion that entertaining this OA would create a wrong precedent for the litigant to file applications for nebulous claims that too without any relevant and supporting documents, as in the instant case. Hence on examination of the case as aforesaid with reference to various provisions of the A.T. Act, 1985, we are of the view that this OA deserves to be dismissed and is accordingly dismissed.


(A.K.PATNAIK)
Member (Judicial)


(C.R.MOHAPATRA)
Member (Admn.)