

, BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 27TH DAY OF APRIL, 1987

Present: Hon'ble Shri Ch. Ramakrishna Rao Member(J)
Hon'ble Shri P. Srinivasan Member(A)

APPLICATION No. 1226/86

L. Ramachandra,
S/o Lingaiah,
Statistical Assistant, Office
of the Director of Census
Operation in Karnataka, No.21/1
Mission road, Bangalore-560027.

Applicant

(Shri Chennaraya Reddy, Advocate)

1. The Director of Census
Operations in Karnataka, No.21/1,
Mission Road, Bangalore-560027.
2. The Registrar General of India,
Mansingh road, Kotah house, Annex,
New Delhi-11.
3. R. Raja Rao, Investigator,
Office of the Assistant Director of
Census operation, No.75, II floor,
Farah Compld, Jayachamarajendra road,
Bangalore-560002.
4. B. Sakaram Shetty, Tabulation Officer,
Office of the Assistant Director of
Census operation, No.75, II floor,
Farah Complex, Jayachamarajendra road,
Bangalore-560002.
5. K. Narayana Bhatt, Tabulation Officer,
Office of the Assistant Director of
Census, Operation, No.75, II floor,
Farah Complex, Jayachamarajendra road,
Bangalore-560002.
6. V. Thippasetty, Tabulation Officer,
Office of the Director of Census,
Operation, No.21/1, Mission road,
Bangalore-560027.
7. Jahangir Pasha, Tabulation Officer,
Office of the Assistant Director of
Census operation, behind Grain
Merchants' co-operative Society,
Pampamahakavi road,
Bangalore-560018.



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8. K.Balakrishna Bhatt, Tabulation Officer,
(DDA System) No.21/1, Mission road,
Bangalore-560027.
9. G.B.Chouglla, Tabulation Officer,
MRS Section, NO.21/1, Mission road,
Bangalore-560027.
10. S.Anjaneyalu, Tabulation Officer,
SRS Section, No.21/1, Mission road,
Bangalore-560027.
11. B.S.Gopalarao, Tabulation Officer, Office
of the Assistant Director of Census
Operation, R.Y.O.-I, No.1, Ali Asker Road,
Bangalore-560001.
12. M.Satyababu, Statistical Assistant
No.21/1, Mission road,
Bangalore-560027.
13. Smt.M.Saraswathi, Tabulation Officer,
No.21/1, Mission road, Bangalore.
14. Shri M.J.Jawaraiah, Statistical Assistant,
SRS Section, No.21/1, Mission road,
Bangalore-560027.

Respondents

(Shri M.Vasudeva Rao, Advocate)

This application has come up before the Court today. Hon'ble Shri P.Srinivasan, Member (A) made the following:

ORDER

This is a transferred application which originated as W.P.No.16805/83 and was subsequently transferred to this Tribunal Under Section 29 of the Administrative Tribunal's Act, 1985.

2. The applicant is now working as Statistical Assistant ('SA') in the Office of the Director of Census Operation, Bangalore. Respondent No.1, the Director of Census Operation, Bangalore, brought out what is called a final gradation list of non-gazetted Group C and D officials

P. Srinivasan

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of the Directorate as on 1.1.1982, which was circulated along with an official Memorandum dated 3.11.1982 issued by respondent No.1 (Annexure-E to the application). The gradation list was in respect of different grades of officials. Respondent No.3, R.Raja Rao ('R-3') appears at Sl.No.4 in the gradation list relating to Tabulation Officers ('TOs'). Respondents 4 to 14 appear at Sl.Nos 2 to 12 in the gradation list as SAs. The applicant's name appears at Sl.No14 in the gradation list of SAs. His grievance is that he should have been placed not only above respondents 4 to 14, in the grade of SAs, but also above R3 in the grade of TO. The prayers in the application are that the gradation lists at Annexure-B be quashed and that respondent 1 and 2 be directed to prepare the seniority list showing the applicant above the respondents 3 to 14 with other incidental reliefs.

3. Shri Chennaraya Reddy, learned counsel for the applicant, took us through the history of the case. The applicant was appointed as a Sorter in the Office of the Director of Census Operation, on 24.7.1961. He was retrenched from service W.e.f.28.2.1966 due to reduction in the sanctioned strength, but was restored as a result of an order passed by the Karnataka High Court ('the High Court') on 11.10.1968 in W.P.No.330/66. The next promotion from the post of Sorter was to that of Computer or Proof Reader, both posts being equal in rank. Persons who were junior to the applicant in the grade of Sorter, were promoted as Computers/Proof Readers, but not the applicant. The applicant once again went to the High Court

P. S. Rao

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contending that he should have been promoted to one of two promotional grades on the same date as a certain Shri M.S.Nagaraj, who was Junior to the applicant in the grade of Sorter. In its Judgement dated 10.3.1984 in W.P.No.6998/76, the High Court directed Respondent No.2 therein, who is Respondent No.1 herein, to consider the case of the applicant for promotion to the grade of Proof Reader or the equivalent post of Computer w.e.f. 9.11.1967, the date on which the said Nagaraj was promoted to that cadre, Accordingly, the applicant's case was considered and he was promoted as Computer with retrospective effect from 9.11.1967. The High Court also ordered that if the applicant was given retrospective promotion, the gradation list should also be suitably amended. In that W.P., none of the respondents 3 to 14 ^{here} were impleaded. Respondent No.1 implemented the Judgment of the High Court dated 10.3.1980 and notified the result thereof by Office Memo dated 1.10.1981 (Annexure-B). By this memo, the applicant was deemed to have been promoted as Computer/Proof reader w.e.f. 9.11.1967 and it was further directed that 'his position in the gradation list of computers be suitably corrected to place him at Sl.No.3 of the said list on 1.3.1975, published vide this office O.M.ADM/286/EST/74 dated 20.12.1975'. Meanwhile, the applicant, a tireless litigant, filed another W.P.No.21039/80 before the High Court seeking promotion to the post of SA from that of Computer. The High Court passed an order on 18.11.1980 rejecting the petition as premature. The Court observed that the applicant had not yet been given his position in the rank of proofreader/ Computer and

P. S. ...

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the list in which the applicant appears relates to a lower post, i.e., that of SA which he is in fact holding now. The question of quashing the impugned gradation list therefore does not arise now.

7. In the result, the application ^{is} ~~has to be~~ dismissed as premature, subject to the observations made above. Parties to bear their own costs.

P. S. ⁴⁰
27/4/87
MEMBER(A)

Chandrasekhar ²¹
30.4.87
MEMBER(J)

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until that was done, his claim for promotion to the next grade of SA was premature. R3 was directly recruited as Computer on 1.5.1968 and was promoted as SA from 20.7.1970. Respondents 4, 11 and 13 were promoted as SAs on 11.5.1970, 13.4.1976 and 13.4.1976 respectively. Respondents 5 to 10, 12 and 14 were directly appointed as SAs on various dates between 24.8.1970 and 8.4.1981. The applicant himself was promoted as SA from 29.10.1981. So far as R3 is concerned, he was given a further promotion to the post of TO w.e.f. 12.9.1980. In view of these dates of promotion of these respondents all prior to the promotion of the applicant as SA, Raja Rao was placed at the bottom of the Gradation list of TOs as on 1.1.1982, while the other respondents appear above the applicant in the grade of SA as on the same date.

4. Shri Chennaraya Reddy contends that as a result of the decision of the Karnataka High Court in W.P.No.6998/76, the applicant was given notional promotion to the post of Proofreader/Computer with effect from 9.11.1967. R3 was appointed as Computer only on 1.5.1968. Thus, R3 was junior to the applicant in the grade of Computer on the principle of continuous officiation. So far as the other respondents are concerned, Shri Reddy does not seriously press his claim as they were all either senior to him in the lower grade or directly appointed as SAs. The contention of Shri Reddy is that while the applicant was busy in litigation, establishing his right of promotion to the post of Computer from an earlier date and for his consequent seniority in the grade of Computer,

P. S. Reddy

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R3, i.e., Raja Rao had obtained two promotions, firstly to the post of SA and then to the post of TO. The applicant's seniority in the grade of Computer based on his notional promotion from 9.11.1967 was finally accorded to him by Order dated 1.10.1981, and when that was done, a revised seniority list of all Computers should have been prepared, and all past promotions of Computers to higher grades should have been reviewed and if that had been done, the applicant would have become TO before Raja Rao. It was on this basis that Shri Reddy contends that the position of the applicant be fixed in the gradation list or TO's at Annexure-E, above Raja Rao.

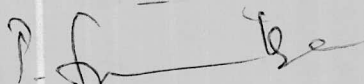
5. Shri M.Vasudeva Rao, learned counsel for the respondents, contends that the applicant cannot straightaway claim a place in the seniority list of TOs, because he was still only a SA. If he wanted that his name should appear in the gradation list of TOs, above the name of Raja Rao, he should have challenged the successive promotion of Raja Rao to the post of SA and then to the post of TO. Not having done so, the applicant cannot now contend that his name should appear in the gradation list of TOs above that of Raja Rao. If the applicant felt that after giving him a notional date of promotion to the post of computer/ Proofreader in obedience to the Judgment of the High Court, and fixing his place in the gradation list in that cadre, he should have been considered for promotion to higher grades on the basis of such revised seniority, and that by not doing so, respondents 1 and 2 had gone against the decision of the High Court, the course of action open to him was to file a contempt petition in the High Court and

P. S. [Signature]

not to come up before this Tribunal with the prayers set out in the application.

6. Having heard counsel on both sides, we must observe that the prayer in the petition to place the applicant above Raja Rao in the post of T0 is premature. First of all, the applicant should represent to the respondents to consider his promotion to the post of SA, according to his proper place of seniority in the grade of Computer, i.e., on the basis of his notional promotion to that post on 9.11.1967, if that has not been done as he now alleges. If he is so considered and found fit for such promotion, and as a result of that exercise, he is given notional promotion as SA from a date prior to that on which he was actually promoted, he could again move the authorities for further promotion to the grade of T0, again on the basis of his revised seniority in the grade of SA. Only if he is so considered and again found fit for promotion as T0, can his claim for seniority in the grade of T0 at all be considered. It cannot be considered now. Therefore, the prayer as it is worded now, has to be rejected as premature. The applicant will be at liberty to represent to the authorities as already mentioned, to get promotion to successive posts, in accordance with his revised seniority in the grade of Computer.

Shri Reddy explains that the prayer is to quash the seniority list at Annexure-E and not for promotion. This is precisely what cannot be done now, because the seniority list at Annexure-E in which Raja Rao appears relates to a post to which the applicant has not so far even be considered for promotion. On the other hand,



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CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

APPLICATION No. 1226 / 86 (T)

(WP. NO. 16805 / 83)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED: 6 MAY 1987

APPLICANT

vs

RESPONDENTS

L. Ramachandra
TO

The Director of Census Operations
Karnataka & ors.

1. L. Ramachandra,
Statistical Assistant,
70 Director of Census
Operations, Karnataka,
No 21/1, Mission Road
Bangalore - 27

3. The Director of
Census Operations,
Karnataka
21/1, Mission Road
Bangalore - 27.

2. Mr. S. Chennarayana Reddy
Advocate
24, Purgal. Mansion Kilari Road,
Bangalore - 53.

4. The Registrar
General of India,
Mansingh Road,
Kotah House
Annex,
New Delhi - 11.

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 1226 / 86 (T)

.... (WP. No. 16805 / 83)

Indu R
7/5/87
Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on

27.4.87.

8. M. V. Rao,

C. C. S. C.
Bangalore - 560001.

ENCL: As above.

Har
DEPUTY REGISTRAR
(JUDICIAL)

(X)

5. Sri R. Raja Rao,
Investigator,
O/o Asst. Director of Census,
Operations, NO. 75, II, Floor,
Forah Complex, Jayachama
Rajendra Road,
Bangalore - 2.
6. B. Sakaram Shetty,
Tabulation ~~Officer~~
Officer,
O/o Asst. Director of Census
Operations, NO. 75, II Floor, Forah
Complex, J. C. Road
Bangalore - 2.
7. K. Narayana Bhatt,
Tabulation Officer,
O/o Asst. Director of Census
Operations, NO. 75, II, Floor, Forah
Complex, J. C. Road
Bangalore - 2.
8. V. Jini Masetty
Tabulation Officer
O/o the Asst. Director of Census
Operations, NO. 75, II Floor
Forah Complex,
Bangalore - 2.
9. Jahangir Parsha
Tabulation Officer,
O/o the Asst. Director of Census
Operations,
Behind Grain Merchants
Co-operative Society, Pampamahakavi
Road, Bangalore - 18.
10. K. Bala Krishna Bhatt
Tabulation Officer
(DDA system)
NO. 21/1, Mission Road
Bangalore - 27.
11. G. B. Chonglla
Tabulation Officer,
MRS Section
NO. 21/1, Mission Road
Bangalore - 27.
12. S. Anjaneyulu,
Tabulation Officer
SRS Section, NO. 21/1
Mission Road,
Bangalore - 1.
13. B. S. Gopal Rao,
Tabulation Officer
O/o the Asst. Director
of Census Operations
R.P.O - I, NO. 1
Ali Askari Road.
Bangalore - 1.
14. M. Satya Babu
Statistical Asst.
NO. 21/1, Mission Road
Bangalore - 27.
15. Smt. M. Saranwath
Tabulation Officer
NO. 21/1, Mission Road
Bangalore.
16. M. J. Jawarajah
Statistical Asst.
SRS Section,
21/1, Mission Road,
Sri. M. V. Rao.
Add. C. G. S. Bangalore
- 17.