

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 5TH SEPTEMBER, 1986

Application No. 1292/86(I)
W.P. No. 14188/84

M. Manoharan,
S/o Muniswamy,
Aged about 35 years,
Draughtsman Grade-I,
Gas Turbine Research Establishment,
Jeevan Bheema Nagar Post,
Bangalore-75.
(By Shri M.V.Shailendra)
V/s.

.... Applicant

- 1) The Union of India
represented by its Secretary,
Ministry of Defence,
South Block,
New Delhi - 11.
- 2) The Scientific Adviser,
Raksha Mantri,
South Block,
New Delhi-11.
- 3) The Director,
Gas Turbine Research Establishment,
Jeevan Bheemanagar Post,
Bangalore.
- 4) The Director,
Aeronautical Development Establishment,
Jeevanbheemanagar Post,
Bangalore - 75.
- 5) P.K.Raja Rao,
Chief Draughtsman,
GTRE Bangalore-75.
- 6) T.B.Devanath,
Draughtsman Grade-I,
GTRE, Bangalore-75.
- 7) Prabhakaran, ADE,
Jeevanbheemanagar Post,
Bangalore-75.
- 8) K.S.John,
Draughtsman, Grade-I,
GTRE, Bangalore-75.
- 9) G.M.Shashikumar,
Draughtsman Grade-I,
ADE, Jeevanbheemanagar Post,
Bangalore-75.
- 10) C.H.Sridharan,
Draughtsman Grade-I,
GTRE, Bangalore-75.
- 11) K.Krishnamurthy,
Draughtsman Grade-I,
GTRE, Bangalore-75.

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- 12) V.Jayavelu Chamy,
Draughtsman Grade-I,
GTRE, Bangalore-75.
- 13) M.S.Nagendranath,
Draughtsman Grade-I,
ADE, Jeevanbheemanagar Post,
Bangalore-75.
- 14) G.Kanan,
Draughtsman Grade-I,
GTRE, Bangalore-75.
- 15) S.S.Nair,
Draughtsman Grade-I,
GTRE, Bangalore-75.
- 16) B.Gangadharaiyah,
Draughtsman, Grade-I,
ADE Jeevanbheemanagar, Post,
Bangalore-75.
- 17) T.K.Balaramu,
Draughtsman, Grade-I,
ADE,
Jeevanbheemanagar Post,
Bangalore-75.
- 18) M.Maridevaru,
Draughtsman, Grade-I,
ADE, Jeevanbheemanagar Post,
Bangalore-75.

(By Shri M.Vasudeva Rao)

.... Respondents

Coram: Member Ch.Ramakrishna Rao
Member (A) P.Srinivasan

JUDGMENT

(Per Srinivasan, Member)

The Applicant filed Writ Petition No. 14188 of 1984 before the Karnataka High Court. This has been transferred to this Bench of the Tribunal and taken on file as Application no. 1292 of 1986. The Karnataka ^{High Court} had not issued rule nisi till the date of transfer. Therefore, the matter came up for admission before this Bench on 28.8.1986. Since the reply on behalf of the main Respondents in this case, namely, the Government of India and its officials had been filed and both the parties were ready to argue the matter, the application was admitted and heard immediately.

2. The Applicant is working as a Draftsman Grade I in the Methods and Tool Designs Group at the Gas Turbine Research Establishment, Bangalore, under the Ministry of Defence. The first prayer in the

application is that his seniority in the grade of Draftsman Grade I had been wrongly fixed and that if his seniority had been fixed according to the rules governing the subject, his name should have appeared between Shri B.K.Balaji and Shri P.K.Raja Rao in the seniority list prepared as on 5.3.1982. After the Writ Petition was filed before the High Court, this grievance of the Applicant was set right by his Department and he was duly accorded seniority above Shri P.K.Raja Rao. In his application dated 28.6.1986 for early hearing, the Applicant says that he received a communication dated 17.12.1985 by which his seniority had been restored to his satisfaction. Therefore, prayer no.(i) in the application does not survive for consideration.

3. In prayer no.(ii), the Applicant wants us to direct the Respondents to consider his case for promotion to the cadre of Chief Draftsman with effect from 15.3.1982 when his junior Shri P.K.Raja Rao was considered and promoted on the recommendations of the Departmental Promotion Committee-II (Aero Group). Learned Counsel for the Applicant pleaded that in the Departmental Promotion Committee meeting held on 15.3.1982 the Applicant was not considered for promotion as, according to the then prevailing seniority list of Draftsman Grade I, he fell outside the zone of consideration, but since after the revision of seniority he falls within the said zone as on 15.3.1982 he should be considered for promotion as on that date. A further contention put forward by Counsel was that according to his revised seniority, the Applicant would become no. 12 in the seniority list of Draftsman Grade I as on 15.3.1982 and the person immediately junior to him, Shri P.K.Raja Rao would, as a consequence, go out of the zone of consideration because the number of vacancies in the promotional post of Chief Draftsman to be filled in on that date was only 4 and the instructions dated 24.12.1980 issued by the Department of Personnel were that only 3 times the number of vacancies

should constitute the zone for promotion. Shri Raja Rao had been selected for promotion by the Departmental Promotion Committee-II meeting held on 15.3.1982 and if Shri Raja Rao was excluded from the zone of consideration, the Applicant would have been promoted instead.

4. Shri Vasudeva Rao, Learned Counsel for the Respondents, clarified that after the Applicant's seniority in the grade of Draftsman Grade I was revised, a Review Departmental Promotion Committee-II was held on 17.3.1986 to reconsider the promotions earlier recommended by DPC's held on 15.3.1982, 15.9.1982, 15.3.1984 and 15.9.1984 and the Applicant's case for promotion to the higher grade was considered on each of those dates. Unfortunately, the Applicant could not be promoted as on any of those dates, because there were adequate number of persons with higher merit than the Applicant or with the same merit but higher seniority who had to be promoted. The records of the Review Departmental Promotion Committee-II meeting held on 17.3.1986 were shown to us. At this stage, Applicant's Counsel re-iterated his contention that for the purpose of the DPC meeting held originally on 15.3.1982, the Applicant would figure at no. 12 and Shri P.K.Raja Rao at no. 13 would go out of the zone of consideration. We, however noticed that in the seniority list of Draftsman Grade I prepared for consideration by the Review Departmental Promotion Committee-II, Shri P.K.Raja Rao fell within the requisite number of 12 to which the zone had to be restricted. There was, thus, a discrepancy between the seniority list of Draftsman Grade I as on 15.3.1982 produced by the Applicant and the corresponding list adopted by the Review Departmental Promotion Committee-II. Neither party was able to clarify this discrepancy even though the seniority list produced by the Applicant is the one brought out by the department itself. However, on going through the proceedings of the Review Departmental Promotion Committee-II, we found that even if the Applicant's contention in

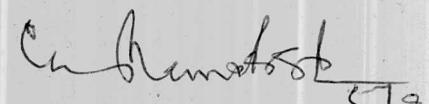
this regard were to be accepted, and Shri Raja Rao taken out of the zone of consideration, it would not advance the case of the Applicant for promotion, because there were still persons senior to him with the same merit rating as he, who would get priority in the matter of promotion over the Applicant. Shri R.Satyanarayana and Shri M.Jagannatha Rao both admittedly senior to the Applicant were also rated as "very good" for the purpose of the Review Departmental Promotion Committee-II, and both had not been selected for promotion in the original Departmental Promotion Committee-II of 15.3.1982 because there were 4 others including Shri P.K.Raja Rao who were rated "outstanding". Therefore, if Shri Raja Rao were to be left out of consideration, it would be Shri Satyanarayana, as the senior-most person with a "very good" rating, who would be eligible for promotion; the Applicant's grading also being "very good" but at a lower position. Another fact which we noticed was that the zone of consideration in the original Departmental Promotion Committee-II held on 15.3.1982 was not 12 but 14 and in this enlarged zone Shri P.K.Raja Rao would, in any case, come up for consideration even after the revision of seniority in the Applicant's favour.

The instructions of the Department of Personnel dated 24.12.1980 to which we have made a reference earlier, are quite categorical namely that where the number of clear regular vacancies is 4 or more, the zone of consideration should be 3 times the number of vacancies. To that extent, there appears to be no justification for enlarging the zone of consideration to 14 in this case, when the clear regular vacancies were 4. However, we leave the matter at that because even if the instructions had been strictly followed, the Applicant stood no chance of being selected for promotion on 15.3.1982 as explained above.

5. The prayer of the Applicant in this application is that his case be considered for promotion to the cadre of Chief Draftsman

with effect from 15.3.1982 in the light of revised seniority accorded to him. That, the Respondents have done, and upon such consideration, found the Applicant still wanting. It is not for us to substitute our judgement for that of the Departmental Promotion Committee. This grievance of the Applicant in this regard having already been remedied by the Respondent by holding a Review Departmental Promotion Committee-II, nothing survives for further consideration by us.

6. In the result, the application is dismissed. No order as to costs.

 5/9/86.  5/9
(P.SRINIVASAN) (CH.RAMAKRISHNA RAO)
MEMBER(AM) MEMBER(JM)