

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

APPLICATION No. 422/87(F)

(WP. NO. —

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

DATED: 6-10-87

APPLICANT M. Ragupathy Vs.

TO

1. Sri M. Ragupathy,
Office Superintendent Grade II,
The Aeronautical Development
Establishment,
Jeevan Bima Nagar,
Bangalore-75.
2. Secretary,
D.R.D.O., Min. of Defence,
New Delhi-110011.
3. The Scientific Adviser to the
Minister of Defence and
Director General (R&D),
Min. of Defence, Connaught Block,
New Delhi-11.
4. The Director,
Aeronautical -
Development Establishment,
D.R.D.O.,
Jeevan Bima Nagar,
Bangalore-75.
5. Sri M. S. Padmajaiah,
Advocate (Cause),
High Court Buildings,
Bangalore-1.

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 422/87(F)

....

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on
24 Sep 87.

ENCL: As above.

R.V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

RECEIVED 5 COPIES 7/10/87.

Diary No. 1239/CR/87

Received Date: 7-10-87 *S*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 24th DAY OF SEPTEMBER, 1987

Present : Hon'ble Sri P.Srinivasan

Member (A)

Hon'ble Sri Ch.Ramakrishna Rao

Member (B)

APPLICATION No.422/87(F)

M.Rajagathy,
Office Superintendent Grade II,
Aeronautical Development Establishment,
Defence Research & Development Organisation,
Jeevanima Nagar,
Bangalore - 75.

... Applicant

vs.

1. Union of India,
represented by its Secretary DRDO,
Ministry of Defence,
New Delhi - 11.
2. The Scientific Adviser to the Minister
of Defence and Director General Research
& Development, Ministry of Defence,
South Block,
New Delhi - 11.

3. The Director,
Aeronautical Development Establishment,
DRDO, J.E.Nagar,
Bangalore - 75.

... Respondents

Sri M.S.Padmarajaiah ... Advocate)

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

ORDER

In this application under Section 19 of the
Administrative Tribunal Act, 1985, the applicant's cri-

cence is that he was not considered for promotion from
the grade of Office Superintendent Gr.II to the grade
of Office Superintendent Gr.I on 25.12.1986, though

there were adequate vacancies likely to arise in the
immediate future in the grade of Office Superintendent Gr.I.



P.Srinivasan

2. The applicant is working as Office Superintendent Gr.II in the office of the Aeronautical Development Establishment in Bangalore. The next promotion for an Office Superintendent Gr.II is to that of Office Superintendent Gr.I. Up to the year 1986 such promotion was being made on the basis of All India Seniority of Superintendents Gr.II. On 26.12.1986, a meeting of the Departmental Promotion Committee(DPC) was held for considering promotions to the post of Office Superintendent Gr.I. The vacancies notified to the DPC were only 4 and the DPC accordingly recommended 4 names. The applicant's seniority in the grade of Office Superintendents Gr.II was at Serial no.18, but the list of 4 approved candidates stopped at serial no.7, 3 persons having been passed over. The applicant's case is that as on the date of the meeting of the DPC there were 4 existing vacancies and 12 more vacancies were to arise as a result of promotions from the grade of Office Superintendent Grade I to the grade of Administrative Officer. In a DPC held on 23.12.86, a panel of 12 Office Superintendents Gr.I had been made for promotion to posts of Administrative Officers. That would have automatically created 12 vacancies in the grade of Office Superintendent Gr.I. Therefore, the DPC which met on 26.12.86 should have made a panel of 16 names for promotion to posts of Office Superintendent Grade I including these 12 anticipated vacancies and if that had been done, the applicant would have been included in the panel and would have got his promotion.

3. The applicant who argued his case himself



contended that the practice in the past had always been that when a DPC met, anticipated vacancies likely to arise in the future were also notified to the DPC which accordingly made a panel to fill up these vacancies also. The DPC II rules notified by the Government from time to time also require that existing vacancies as well as anticipated vacancies should be taken into account when a DPC meets. The DPC rules for promotions to posts of Office Superintendent Gr.I were first notified on 19.9.1964. Rule 7(a) therein laid down that the DPC would determine the field of choice at anything from 3 to 6 times the number of vacancies expected in a year. The same provision was again incorporated when a fresh set of rules was notified on 5.1.1975. With effect from 1987, the method of promotion was changed. Instead of making promotions to the grade of Office Superintendent Gr.I on an All India Basis, it was decided that such promotions should be decentralised. Certain units of the Defence Research Development Organisation located in Bangalore, Mysore and Madras were treated as one centre and promotions to posts of Office Superintendent Gr.I in these units were to be made only from among Office Superintendents Gr.II working in these units for whom there would be a separate seniority list. While conveying the decision in this regard, the Ministry of Defence also issued certain instructions in its letter dated 13.5.1987. It was stated therein that the DPC II should take into account all clear and anticipated vacancies, like retirement vacancies, chain vacancies, on account of promotion etc. upto the date of next meeting of the DPC II. This being the position of the rules, the DPC



which met on 26.12.1986 should have made a panel of 16 names to fill up 16 vacancies. Not doing so was in violation of the rules and therefore illegal. The applicant therefore, submits that a direction should be issued by this Tribunal to the respondents to review the proceedings of the OPC held on 26.12.1986 in order to prepare a panel of 16 names.

4. Sri M.S.Padmarajaiah, learned counsel for the respondents submits that it was not obligatory on the part of the respondents to fill up the actual vacancies as well as all anticipated vacancies. If they choose to fill up only a few vacancies out of actual vacancies as well as anticipated vacancies they were within their right to do so. In this case, the clear vacancies that existed as on 26.12.1986 were only 4. The 12 vacancies mentioned by the applicant were to arise only in 1987 after the persons who had been selected for promotion to post of Administrative Officers were actually promoted and were relieved of their earlier posts of Office Superintendent Gr.I. These 12 vacancies were therefore to arise only in 1987 and therefore they were not notified to the OPC. There was nothing wrong in this, Sri Padmarajaiah contended. The rules for promotion to the grade of Office Superintendent Grade I were changed w.e.f.1987 and that was one reason why the anticipated vacancies likely to arise in 1987 were not notified to the OPC. This was also a matter well within the discretion of the respondents.



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5. Having considered the contentions of both sides we are unable to hold that there was any illegality in the action of respondents in not preparing a panel of 15 names in the DPC which was held on 25.12.1986. It is true, as pointed out by the applicant, that in the past the DPC prepared a panel to cover anticipated vacancies also. The DPC rules of 1964 and 74 referred to by the applicant are mainly concerned with the determination of the zone of consideration vis-a-vis the vacancies expected in a year. There is no mandatory direction to a DPC to necessarily prepare a panel for all existing and anticipated vacancies. In this case, the reasons given for not making a panel of 15 were that in the first place, 12 vacancies would arise only in the next calendar year and it was not certain how many among the persons working as Office Superintendent Gr.I would accept promotion as Administrative Officers and secondly that in view of the change in the method of promotion to posts of Office Superintendent Gr.II which was to come into effect from 1.1.1987 it was not considered proper to prepare a panel of names to cover vacancies likely to arise in 1987. These are policy matters on which the administration was well within its right to take the decision which it did. We do not find any legal infirmity in the decision so taken. Therefore, we have no choice but to dismiss this application.

6. In the result, the application is dismissed.
Parties to bear their own costs.

B. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
MEMBER (A)
G. Venkatesh
an.

Sd/-
MEMBER (J) 24/1/1