

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 0-11-87
/87 (B)

APPLICATION NO 382

W.P.No.

APPLICANT

VS

RESPONDENTS

Shri G. Ullasan Devaraju

To

The Commandant, HQ ASC Centre (South)
Bangalore & 4 Ors

1. Shri G. Ullasan Devaraju
HQ Wing ASC Centre (South)
Agaram Post
Bangalore - 560 007
2. Shri Prasad Subbanna
Advocate
36, 'Vagdevi'
Shankarapuram
Bangalore - 560 004
3. The Commandant
HQ ASC Centre (South)
Agaram Post
Bangalore - 560 007
4. MG ASC
HQ Southern Command
Pune - 411001
5. The Adjutant General
Org 4 (Civ) (b)
Army HQ, DHQ P.O.
New Delhi - 110 011

6. The DGST
OMGs Branch
Army Headquarters
DHQ P.O.
New Delhi - 110 011

7. The Secretary
Ministry of Defence
New Delhi - 110 011

8. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY

~~ORDER~~ passed by this Tribunal in the above said application
on 30-10-87.

RECEIVED 8 copies 10/11/87

Diary No. 1398/CP/87

Signed Date: 10.11.87 AM

Encl: as above.

Section Officer
(JUDICIAL)

Received
for
R. P. Bhat

QC

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE
DATED THIS THE 30th DAY OF OCTOBER, 1987

Present : Hon'ble Sri P.Srinivasan

Member (A)

Hon'ble Sri Ch.Ramakrishna Rao

Member (J)

Application No.382/87

G.Ullasan Devaraju,
HQ Wing ASC Centre(South),
Agram Post,
Bangalore - 7.
(Sri Prasad Subbanna
Vs.

Applicant

... Advocate)

1. Union of India represented by
The Commandant,
HQ ASC Centre(South),
Agram Post,
Bangalore - 7.
2. MG ASC,
HQ Southern Command,
Pune - 1.
3. The Adjutant General
Cir 4 (Civ)(B),
Army HQ, DHQ PG,
New Delhi - 11.
4. The DGST,
QMGs Branch,
Army Headquarters,
Cir PG,
New Delhi - 11.
5. The Secretary,
Ministry of Defence,
Government of India,
New Delhi.
(Sri M.V.Rao
Vs.

Respondents

... Advocate)

This application has come up before the Tribunal today.

Hon'ble Sri Ch.Ramakrishna Rao, Member(J) made the following :

O R D E R

The applicant is currently working as Messenger, a
Group D post, in Army Supply Corps (ASC) Centre South,
Bangalore. His grievance in this application is that
the Major General ASC HQ SC Pune had wrongly rejected



his request for being reclassified in Group C as per letter dated 22.5.1985 at Annexure A-1. He wants us to issue suitable directions to the respondents to reclassify him as LDC from a retrospective date.

2. The applicant joined service in the office of Respondent i viz. ASC Centre South, Bangalore, as a messenger in Group D on 8.11.1963. By 1972 he passed matriculation as well as typing examination, which rendered him eligible for reclassification as LDC in Group C. He made representation from 1973 onwards for such reclassification. In 1983 a test was held for recruitment of LDCs in the office of Respondent 1. Persons sponsored by the Employment Exchange took the test and the applicant was also asked to take the test as the only departmental candidate. The applicant did not pass in that test and so was not selected. In response to further representation by him that he should still be reclassified as LDC, the impugned letter dated 22.5.1985 at Annexure A-1 was issued by Respondent 2. Aggrieved, the applicant has filed this application.

3. Sri Piasad Subbanna, learned counsel for the applicant submitted that the test said to have been held on 18.10.1982 was not a proper test. The applicant was entitled to be appointed as LDC in the 10% quota reserved for Group D employees. He was given notice of the test by a telegram received by him only a day before the test and so he could not prepare himself for the examination. The other candidates who took the test were fresh from

CJ



the market and so were able to tackle the test without much notice but he should have been given some notice to prepare for the examination. In any case, the test was not of the kind that departmental candidates should have been subjected to for promotion in the 10% quota. He, therefore, submitted that this Tribunal should direct the respondents to absorb the applicant as LDC from 1983 itself considering that he had acquired the requisite eligibility by 1972 itself.

4. Sri M.J.Rao, learned counsel for the respondents, asserted that the test held on 18.10.1983 was a valid test. General notice of the test was actually issued in the first week of October itself and as the applicant was working in the office, he cannot complain of want of notice. Records of the respondents did not indicate any telegram having been issued to the applicant a day before the test. But even if it was issued, he cannot voice any grievance on that score, nor can he at this stage challenge the validity of the test as he has not done so in the application. 17 persons in all were appointed as LDCs, as a result of the test held in October 1983. The posts which remained unfilled were declared surplus and were transferred to other units. Therefore, there is no vacancy of LDC available at present in which the applicant could be considered. Even if there were such vacancies the applicant would have to qualify in the test before he could be appointed. Age limit for departmental candidates was 45 years and that was how the applicant was allowed to take the examination in October 1983. But now the applicant has crossed that age having been born on 20.5.1941



[Signature]

and having, therefore, attained the age of 45 years on 20.5.1985.

5. The applicant, who was present in the court, pleaded that some persons junior to him had been absorbed as LDC in other sister units and that he had been stagnating in the same post of 24 years without any promotion. He pleaded that some consideration should be shown to him for this even if he had slightly exceeded the upper age limit.

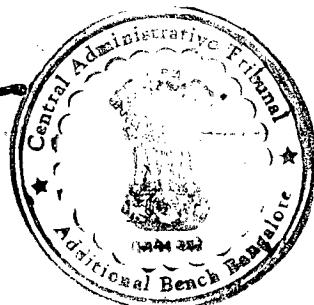
6. Having heard both sides, we are unable to quash the impugned letter dated 22.5.1985 by which the applicant's request for reclassification was rejected. We cannot at this stage entertain any challenge to the validity of the test held in October 1983. Further, that test has not in terms been challenged in the application either. If there is no post of LDC available in the unit of Respondent 1, we cannot direct the respondents to consider the applicant again for appointment as LDC.

7. We, however, consider it appropriate, in the circumstances, to suggest to the respondents to ascertain if there is any vacancy of LDC in the sister units in Bangalore and, if there is one such, allow the applicant to take the test once again and if he qualifies in the test to appoint him to that post. Regarding the age limit, since no vacancy is said to have arisen after 1983 and the vacancies then available for promotion are said to have been surrendered, same will have to be relaxed because it has not been possible to consider the applicant for promotion for no fault of his. To meet the ends of



justice, we would suggest that the upper age limit of 45 years may be relaxed upto 31.12.1988 to enable the respondents to find out a way of accommodating the applicant till then. We hope the respondents will be able to take action suggested by us expeditiously as possible, considering the long years of service rendered by the applicant to the organisation.

3. In the result the application is disposed of on the lines indicated above. Parties to bear their own costs.



Sd/-

MEMBER (A)

Sd/-

MEMBER (J) 30.10.87

an.

- True Copy -

AP 9/11/87
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE