

IN THE HIGH COURT OF JUD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

Thurs DAY THE seventh DAY OF may
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN

: PRESENT :

THE HON'BLE MR. B. N. JAYA SIMHA: VICE-CHAIRMAN
AND
THE HON'BLE MR. D. SURYA RAO: MEMBER.

ORIGINAL APPLICATION NO. 331 "as 87.

BETWEEN:-

A.V.Thomas.

.....APPLICANTS.

AND

- 1) chief of naval staff,
naval HQrs, New Delhi
- 2) flag officer, commanding in chief,
eastern naval command, visakhapatnam -14
- 3) naval armament supply officer,
Naval Armament Depot, visakhapatnam -9.

.....RESPONDENTS.

Application under Section 19 of the Administrative Tribunals Act, 1985, praying that in the circumstances stated therein the Tribunal will be pleased to call for the records relating to and connected with the proceedings VATB:0180 dt. 20-6-87 of the 3rd respondent and quash or set aside the same holding it illegal, arbitrary, unreasonable and unconstitutional.

- (1) declare that the applicant is entitled to be promoted as a store keeper with effect from 11-6-1987, the date on which his junior son Nooka Naider has been promoted as store keeper.
- (2) declare that the petitioner is entitled to all consequential benefits such as seniority, arrears of salary

ORIGINAL APPLICATION NO.331 of 1987.

COUNSEL FOR APPLICANT : MR. N. RAMAMOHANA RAO

COUNSEL FOR RESPONDENTS: MR. K.JAGANNADHA RAO, C.G.S.C.

ORDERS OF THE TRIBUNAL DATED 7-5-1987.

The applicant herein, who is working as Assistant Store Keeper in Naval Armament Depot, Visakhapatnam states that he has been included in the panel of candidates for promotion to the cadre of Store Keeper by a Temporary Depot Order No.32/87 dated 27-3-1987. In making promotions, his junior Mr. P.Nooka Naidu was promoted ignoring the applicant. The applicant submitted a representation dated 20-4-1987 to the Respondent No.3 and he was informed that since disciplinary proceedings were in progress pursuant to Memo. dated 22-12-1986, he could not be promoted. It is this order which is sought to be impugned in this present application.

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- 2. We have heard the Learned Counsel for the Applicant. He contends that since the Departmental Promotion Committee was aware of the charge-sheet drawn up against the applicant and had included him in the select list despite pendency of disciplinary proceedings and that he cannot be denied promotion on the ground that disciplinary proceedings are pending against him. of this Tribunal. This matter is covered by the full bench decision in T.A.849/86 and batch cases dated 7-3-1987.

contd..2

3. The application cannot claim promotion when a charge-sheet has been issued against him and the disciplinary proceedings are pending at the time when he is due to be promoted. It is to be noted that in the event of the applicant being exonerated of the charges, he will get retrospective promotion from the date his junior was promoted with all consequential benefits, of arrears of salary etc. Even in the event of any punishment being awarded to him, the Department would consider his case for promotion taking into consideration the specific charge held to be proved and punishment awarded.

4. *PN* In the circumstances, the application as we find no grounds for admitting it is dismissed ~~at the time of admission itself~~. There will be no order as to costs.

B.N. Jayasimha

(B.N. JAYASIMHA)
VICE-CHAIRMAN

D.Surya Rao

(D.SURYA RAO)
MEMBER (JUDL.)

7-5-1987.

RSR