

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH (21)  
AT : HYDERABAD

O.A.No.349 of 1987

Date of order: 05/03/90

BETWEEN:

1.P.Appala Naidu  
2.K.Narayana Rao

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Applicants

and

1.Flag Officer, Commanding in Chief,  
Eastern Naval Command, Visakhapatnam.

2.Government of India, rep.by its  
Secretary, Ministry of Defence,  
Central Secretariat, New Delhi.

3.P.Satyanarayana

4.K.Kondal Rao

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Respondents

Appearance

For the Applicants : Smt.V.Padma, Advocate, for  
Sri N.V.Ranganatham, Advocate.

For the Respondents 1&2: Sri E.Madanmohan Rao, Additional  
Central Govt.Standing Counsel.

For Respondents 3 & 4 : None of them in person nor  
represented by their Counsel  
was present.

CORAM:

THE HONOURABLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HONOURABLE SHRI D.SURYA RAO, MEMBER(JUDICIAL).

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI D.SURYA RAO:)

MEMBER(JUDL.)

The applicants are working as Fire Fighting Staff, <sup>23</sup>Leading  
Hand Fire in the Naval Dock Yard, Visakhapatnam. They state  
that the staff of Fire Service consists of Engine Drivers  
and the Leading Hand Fire. The qualifications prescribed,  
the training that is given and the strenuous trade tests that  
are conducted are entirely different for these two categories.

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The Leading Hand Fire Staff enter the service as Fireman Grade-II, which is class-IV service. After 8 to 10 years in that grade, they will become Grade-I Firemen. At the time of joining the service, they require Civil Defence Fire Fighting Certificate. The next promotion is to Leading Hand Fire. At that stage the candidates are put to rigorous trade test, which the Engine Drivers are not subjected to similar trade test. Till 1984 the Engine Drivers were not promoted as Supervisors since they do not have the necessary experience in conducting fire fighting operations and only the Leading Hand Fire staff, who have the necessary training, qualification and ability to discharge the functions of Supervisor, were considered. As per the Standing Recruitment Order No.76, dated 15-3-1982, 50% of the vacancies of Supervisors were reserved for Engine Drivers and 50% for the Leading Hand Fire. The applicants' contention is that the Engine Drivers by virtue of their qualifications are not eligible for promotion. The cadre strength of the Engine Drivers is 36 and that of Leading Hand Fire is 72 in number. Hence they contend that the proportion that is fixed for these categories for promotion at 50:50 is arbitrary, illegal and unjust. Therefore a direction is sought <sup>by the applicants</sup> to declare the Standing Order No.76 dated 15-3-1982 by the 2nd respondent as illegal, arbitrary and unconstitutional.

2. On behalf of the respondents a Counter has been filed denying the claim of the applicants. The first ground is that <sup>alleged</sup> the impugned Standing Order No.76 dated 15-3-1982 is being challenged after a lapse of 6 years. It is, therefore, barred by limitation under section 21 of the Administrative Tribunals Act, 1985. In so far as qualifications are concerned, it is stated that though the qualifications prescribed for the two

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posts of Leading Hand(Fire) and Fire Engine Driver are different as per SRO 76/82, the training imparted in both the posts and the knowledge/experience attained thereby, by the individuals is the same. Hence, Leading Hand(Fire) cannot claim for any preferential consideration in the case of further promotion over the Fire Engine Drivers. In so far as 50:50 ratio is concerned, it is stated that while issuing the SRO 76/82, the Government took it into consideration in all aspects. Further, for any amendment in case of any injustice/irregularity/anomaly existing in the Government Rules/SROs, it should have been questioned by way of a representation in the first instance. It is only when all the channels are exhausted viz., individual representations/through Unions/employees representatives in JCM IV, III, II and I level etc., the applicants should approach this Tribunal. The ratio 50% of the Fire Supervisor posts for promotion from Leading Hand(Fire) and 50% from Fire Engine Driver posts is fixed by the Government. It is further contended that the applicants cannot compare themselves to other departments like Railway/Port with Defence Department in which separate set of orders/rules are made basing on the job requirements in Navy and with a view to provide equal promotional avenues to identical posts/grades. It is further contended that SRO 76/82 which lays down the procedure for filling up the post of Fire Supervisor, is based on Government of India, Ministry of Home Affairs, Department of Personnel & Administrative Reforms OM No.22011/3/76-Estt (D), dated 24.12.1980, which lays down the field of choice and other guiding principles for filling up higher posts by selection method. It is stated that these instructions are strictly adhered to while preparing select lists for the posts of Fire Supervisors and other posts.

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3. We have heard Smt.V.Padma, Advocate for Sri N.V.Ranganatham, learned counsel for the applicant and Shri E.Madan Mohan Rao, Addl.Standing Counsel for the Department.

4. The learned counsel for the applicant has<sup>30</sup> raised two main contentions in this application viz., that the Engine Drivers by virtue of their qualifications and duties are not eligible for promotion and they ought not to have been made eligible for the post of Supervisor and secondly that the Engine Drivers ~~who~~<sup>who</sup> are 36 in number~~x~~ whereas LHF/are 72 in number ~~are~~ and they are treated as equal~~1~~ and promotions are made on 50+50 basis. It is contended that giving such high proportion<sup>of</sup> promotion<sup>post</sup> to Engine Drivers is arbitrary, illegal and unjust.

5. It is well established that in the matters relating to promotions<sup>the</sup>, prime criteria in making classification is for the purpose of securing better administration. The applicants nodoubt have stated that totally unqualified persons in 50% quota are made eligible for promotion as Supervisor whereas qualified persons in LHF are being deprived of promotion consequent upon the Engine Drivers being given higher proportions of the promotional vacancies. It is further contended that the ~~excess~~ for direct recruitment as Supervisors, experience as a LHF is a requisite qualification. On this ground it is contended that the Engine Drivers who do not have prescribed qualifications have been promoted in the interest of administration as Supervisors.

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To:

1. The Flag Officer, Commanding in chief, Eastern Naval Command, Visakhapatnam.
2. The Secretary, Government of India, Ministry of Defence, Central Secretariat, New Delhi.
3. One copy to ~~XXXXXX~~ Mrs.V.Padma, Advocate for Sri N.V.Ranganatham, Advocate, H.No.1-3-183/40/51/1, V.V.Giri Nagar, Hyderabad-500 380.
4. One copy to Mr.E.Madan Mohan Rao, Addl.CGSC, CAT, Hyderabad.
5. One spare copy.

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Done  
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6. At this point we have noticed that ~~the~~ amendment was issued in ~~the~~ year 1984. The applicants did not question the same at that time. In the interregnum Engine drivers have been promoted~~xxx~~ It cannot be said at this stage that the Engine Drivers have not discharged the supervisory functions and they are not eligible for promotion as Supervisors. Although it is stated that the applicants' Union made a representation, no copy of the same or the details of the said representation have been furnished. Whether in the facts of the case, the Enginex drivers should not be made eligible at all for promotion and if made eligible <sup>whether</sup> the quota fixed for them should be less are matters that are ~~to~~ be considered by the administration on the basis of such representations which the applicants may wish to make. In the absence of any such grievance before the respondents and the respondents disposing of the same, the Tribunal cannot interfere with this issue. We, therefore, feel that the applicants should make a representation to the respondents and after the disposal of such representation if they still feel aggrieved, it is open to them to approach this Tribunal. The application is accordingly disposed of with the above direction. No costs.

Sd/- x x x x x  
(B.N. JAYASIMHA)  
Vice Chairman

Sd/- x x x x x  
(D. SURYA RAO)  
Member: (J)

// True copy //

*P. S. Ramesh*  
COURT OFFICER.  
13/3/90