

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

WE DNE^S DAY THE TWENTY FIRST DAY OF JUNE
ONE THOUSAND NINE HUNDRED AND EIGHTY NINE

: PRESENT :

THE HONOURABLE MR. B.N. JAYA SIMHA : VICE-CHAIRMAN ✓

~~AND~~
THE HONOURABLE MR. D. SURYA RAO : MEMBER (JUDL)

~~AND~~
THE HONOURABLE MR. D.K. CHAKRAVERTY : MEMBER (ADMIN)

~~AND~~
THE HONOURABLE MR. J. N. RASIMHA MURTHY : MEMBER (JUDL) ✓

ORIGINAL APPLICATION. 557 OF 1987

BETWEEN:-

U.V.R. Hanumantha Rao. ✓ ...Applicants ✓

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- 1) The Union of India, represented
by the Director General,
Telecommunications,
Sanchar Bhavan, New Delhi - 110001. ✓
- 2) The General Manager,
Telecommunications,
Pivani complex, Abids,
Hyderabad - 500 001. ✓

...Respondents

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ORIGINAL APPLICATION NO.557/1987
(ORDERS OF THE TRIBUNAL DELIVERED BY HON'BLE VICE CHAIRMAN
SHRI B.N. JAYASIMHA)

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The applicant herein is an Assistant Engineer working as Assistant Director in the office of the Director Telecommunications, Guntur. He has filed this application seeking that the records relating to departmental ~~promotion~~ ^{Promotion} committee proceedings for the years 1984 and 1987 and direct the respondents to order his promotion as Divisional Engineer, Group 'A' keeping in view his long officiating service as Divisional Engineer w.e.f. the date his junior was promoted.

2. The applicant states that he joined service as a Clerk in the P&T Department in the year 1954 and later he became Engineering Supervisor through direct ~~recruitment~~ recruitment in the year 1957. Later on, he was promoted as ~~Telephone~~ ^{graph} Engineering Service, Group 'B' in the year 1966. He was ~~ex~~ confirmed as Assistant Engineer on 1-3-1977. By virtue of his seniority in the cadre of Assistant Engineers, he became eligible for consideration to the next higher post of Divisional Engineer, Group 'A'. At the DPC which met in the year 1984, he was over-looked and was not, therefore, selected. He submitted a representation on 29-10-1984 and the same was rejected by a memo. dated 5-9-1985 issued by the P&T Board. He was considered once again by the DPC which met on 10-4-1987 and again, he was not selected. The applicant states that he had a very good record of service throughout his career. He also states

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that he worked as Divisional Engineer, Group 'A' on officiating basis from 1-8-1982 to 23-11-1984, 1-3-1985 to 19-4-1985 and 5-10-1985 to 15-12-1985. Thus, he worked for a total period of two years, 7 months and 23 days as Divisional Engineer. He states that according to Rule 188 of P&T Man. Vol.IV, even for local promotions, the most suitable officer in the grade of Assistant Engineer will have to be selected to fill the vacancy. Accordingly, he must have been selected for promotion on the basis of a local arrangement on an assessment of his merit. The DPC should not have ignored his merit which was considered for promotion on local arrangement while considering his name in 1984 and 1987. Hence, he has filed this application.

3. The respondents in their counter state that promotion to Group 'A', is made, 50% by of the posts through direct recruitment and 50% on an selection basis from amongst the Assistant Engineers. The criteria is that a Group 'B' officer is required to have rendered 8 years of approved service in Telegraph Engineering Service, Group 'B'. The promotion is made ^{not} on the basis of seniority-cum-fitness, but on the basis of selection. Selection is

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made by a locally constituted D.P.C. and ^{if an} ~~the~~ officer ~~xxx~~ is not recommended for promotion on the basis of his over-all performance as reflected in the confidential reports, ~~xx~~ it is not ~~xxx~~ discriminatory and violative of Articles 14 and 16 of the Constitution. The DPC after taking into consideration the entire record of service of the officer including the local officiating promotion and made an assessment of the performance of the applicant. The DPC has been constituted as per the departmental rules and regulations and its selection is valid. In regard to local promotion, it is stated that the posts of ~~the~~ Divisional Engineer, Telegraphs are operational posts and they cannot be kept vacant for a long time till an officer approved for promotion to that post by regularly constituted DPC on an All India basis becomes eligible. The heads of ^{circles} ~~xxxxxx~~ have, therefore, been authorised to make purely local and ad hoc officiating arrangement as ~~x~~ a stop-gap arrangement on circle seniority basis. The applicant has officiated in Telegraph Engineering Service, Group 'A' for some time as a stop-gap arrangement and he cannot have any claim for regular promotion on the basis of such ad hoc and stop-gap arrangement. Promotion to T.E.S. Group 'A' is ~~xx~~ as already stated above is on selection basis ~~xx~~ ~~xxxxxxxxxxxx~~ and the DPC makes an assessment of the over-all performance of the officials based on their C.Rs. and gives them a grading, i.e., 'Outstanding', 'Very-good',

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and 'Good'. The panel is drawn thereafter to the extent vacancies available in the grade by placing the officers categorised as above, first those categorised as 'Outstanding', followed by those categorised as 'Very Good' and then, those officers categorised as 'Good'. In this method, supersession of less meritorious officers by those found as meritorious by the DPC on the basis of CRs. is inevitable. Therefore, no one can have any claim for promotion on regular basis simply because he was promoted on officiating basis, based on a local seniority.

4. We have heard the learned counsel for the applicant and Shri E. Madanmohan Rao, Addl. CGSC, who has also placed before us the relevant records. The main contention of the learned counsel for the applicant is that according to Rule 188 of P&T Manual, Volume IV, when a long vacancy occurs and there is no Assistant Divisional Engineer, Telegraphs, qualified to hold that charge, the most suitable officer in the grade of Assistant Engineer, Telephones and Assistant Electrical Engineer will be selected to fill the vacancy and since, the applicant was found suitable and selected as per Rule 188 above cited, in a long vacancy in a Divisional Charge, the DPC could not have overlooked

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him. On the other hand, Shri Madan Mohan Rao contends that since posts of ITS are operational posts, those cannot be kept vacant for a long time till an officer, approved for appointment to this post by a regularly constituted DPC on an All India Level, becomes eligible. Hence, the Heads of Circles have been authorised to make purely local and adhoc officiating arrangement on circle seniority basis. The applicant has officiated in ITS Group 'A' for some time only as a stop gap arrangement and he cannot have any claim for regular promotion on the basis of such adhoc officiating arrangements. The applicant cannot have any claim for promotion on regular basis simply because he was promoted on officiating basis on the basis of his local seniority. ~~since it is a selection post.~~ The selection for regular promotion is done on All India basis considering all eligible officers in the cadre of Assistant Engineers. The DPC has made a comparative assessment of all the eligible Officers and categorised them as 'outstanding', 'Very Good' and 'Good'. ~~THE~~ *The applicant was given the grading "Good".*

6. We have considered these contentions and also perused the records/proceedings of the DPC. The said proceedings show that the applicant was graded only

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'Good' and ^a ~~the~~ number of persons ^{who} ~~was~~ were graded as 'Very Good' were placed above him. In the result, the applicant did not come within the range of promotion and the persons who were graded 'very good' went above him. The Departmental Promotion Committee consisted of Member of Union Public Service Commission as Chairman, ^{Member} Telecommunication ~~Board~~, Ministry of Communications as Member; and Deputy Director General (T) of Department of Telecommunications, Ministry of Telecommunications as Member. In R.S.Das Vs. Union of India and others (AIR 1987 SC 593), the Supreme Court has observed that " ...The machinery designed for preparation of select list under the regulations for promotion to All India Service ensures objective and impartial selection. The Selection Committee is constituted by high ranking responsible officers presided over by Chairman or a member of the Union Public Service Commission. There is no reason to hold that they would not act in fair and impartial manner in making selection. If at all the selection is made in arbitrary manner the Courts have ample power to strike it down and that is an adequate safeguard against arbitrary exercise of power." It was also observed that "...The Committee is not free to categorise officers at its sweet will. Under

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Regn.5 the Committee has to categorise officers on the basis of their service records into four categories. The categorisation is objectively made on the material available in the service records of the officers. There is hardly any scope for applying ~~xx~~ different standards or criteria at different times as the service records namely the character roll entries would indicate the category of the officers as adjudged by the authority recording annual confidential remarks." The procedure adopted in the present case is similar to the procedure envisaged in the selection of State Civil Officers to the Indian Administrative Service. As already mentioned, it is to be noted that in this case also the Departmental Promotion Committee is presided by a Member of the Union Public Service Commission as Chairman. The Selection Committee has categorised all the officers into one or the other grades on a perusal of the annual confidential reports. In these circumstances, and following the decisions in DAS's case, we find no infirmity in the selection made.

7. In the result, the application is dismissed.

The parties shall bear their own costs. (dictated in open court)

B.N. Jayasinha
(B.N. JAYASINHA)
Vice Chairman

J. Narasimha Murthy
(J. NARASIMHA MURTHY)
Member (Judl.)

dt. 21st day of June, 1989.

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S. Venkatar
Deputy Registrar 3/28/89