

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
AT HYDERABAD.

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O.A. No. 184 of 1987.
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Between:

B.K. Nagpal. Applicant.

Vs.

Secretary (Defence Production),
Ministry of Defence, D.H.Q.
Dakghar, New and three others. Respondents.

Sri M.P. Chandramouli, Counsel for the Applicant.

Sri N. Bhaskar Rao, Additional Standing Counsel for
Central Government.

CORAM:

Hon'ble Sri J. Narasimhamurty, Member (Judicial)

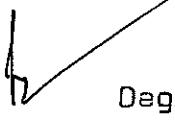
Hon'ble Sri R. Balasubramanian, Member (Administrative).

Judgment of the Bench delivered by
Hon'ble Sri J. Narasimhamurty,
Member (Judicial).

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This Application is filed seeking a declaration
that the Applicant's subject is 'Flight Science'
and that the change of his subject from Flight Science
to Electronics without his knowledge and consent as
illegal and to quash the impugned Order of the
2nd respondent No. 97496/DGI/Adm-6) RTS/Elec.
dated 25---6--1986.

2. The averments in the application are
as follows:

 The applicant is a holder of Engineering
Degree in Aeronautics. He was selected and appointed
as Foreman in C.I.S., in the year 1970 in Chandigarh.
C.I.S., Headquarters has been shifted to Secunderabad

in the year 1972 from Chandigarh. The applicant was transferred from Chandigarh C.I.S., to C.I.S. Wing in Secunderabad just prior to the shifting of C.I.S. Headquarters. Since then the applicant is working in C.I.S., Secunderabad. The applicant while in Chandigarh and after his transfer to Secunderabad was allotted the subject of Flight Science. In C.I.S., Specialists with different subjects viz., Explosives, Electronics etc., are working. For the purpose of seniority, Seniority lists are maintained & subjectwise. The applicant was promoted in the subject of Flight Science in the year 1976 as Junior Scientific Officer by order of Director General of Research and Development, Ministry of Defence in his order No.4062/RD-21(b) dated 20th March, 1976. From this it is evident that promotions are made subjectwise.

Due to a inadvertance or by mistake the 2nd respondent has shown the name of the applicant in the seniority roll of Junior Scientific Officers of Electronics subject. Having come to know of this error, the applicant filed a representation before the 2nd respondent on 22-9-1980; but the error was not rectified, even after repeated representations made by the applicant. While so, the applicant came to know that the 2nd respondent with the approval of the 1st respondent has passed orders d/25-6-1986 transferring the applicant from C.I.S., Secunderabad to C.I.L., Bangalore. C.I.L., is a parallel organisation of C.I.S., which deals exclusively in the Technical functions of electronics equipment.

~~h~~ There is no subject like flight science in C.I.L., Bangalore. The applicant states that he has no

basic knowledge and experience in the field of electronics. If he is compelled to work in an alien field his experience would go waste and his efficiency and progress would also be hampered. He would not be in line with other experts in the subject of electronics and come up to standard of working. This would affect his further promotion chances. This is neither useful to the organisation nor the applicant. The action of the respondents is arbitrary and illegal. The applicant states that in various wings of the respondents' Organisation and in the R & D Organisation the subject of Flight Science is there. The services of the applicant can be utilised in this field. He is willing to go anywhere if he is posted in Flight Science subject. The 2nd respondent has not passed any orders and communicated to him the result on his representations. On 2--3-1987 the 4th respondent informed the applicant that the 2nd respondent has instructed him over phone to relieve him forthwith and that he should not report to the present office after 9--3--1987 but to report to C.I.L., Bangalore. The applicant states that the action of the respondents is illegal, and arbitrary. Hence this application.

The respondents filed their counter contending as follows:

4. Prior to 1979 all the Junior Scientific Officers (JSOS) working with the Directorate General of Inspection (DGI), the Directorate of Technical Development and Production (Air) and the Research & Development Organisation constituted a single service called the 'Defence Science Service'. In 1979, however, the said rank working with the three organisations came to have separate entities. Thus with the constitution of three distinct

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services, recruitment rules for JSOs., were framed by the respective organisations. Each of the aforesaid organisation allowed the JSOs., working with them to choose any one of the services by exercising options in that regard. In so far as the DTO&P(Air) is concerned it had promulgated on 26--1--1980, the recruitment rules in respect of the J.S.Os., and such of the officers working with the DGI and desirous of coming to the former organisations were asked to exercise their options on or before 25--4--1980 so that the same could be processed for purpose of acceptance by the Screening Committee constituted for the purpose within a time bound schedule. The applicant exercised his option on 15--5--1980 after the stipulated time in that regard. The UPSC to which a reference was made in that regard did not accept the belated option with the result the applicant could not be transferred to the service of his choice.

5. The applicant has been serving the Controllorate of Inspection Systems Secunderabad (CIS) an establishment in the Electronic stream since 1970. Obviously, his long stay had helped him in gaining sufficient experience in the electronic discipline. Inasmuch as the electronic discipline is connected with all the branches of Engineering, including Aeronautical Engineering, the applicant with his academic background, qualifications and experience, should fit in at the Controllorate of Inspection Electronics Bangalore (CIL) to which place he now stands transferred. The following disciplines are available in DGI Organisation and the Officers are allotted to each of them keeping in view their qualifications and experience.

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(1) Armament. (2) Electronics. (3) General Stores.
(4) Engineering (5) Explosives. (6) Metallurgy
(7) Instrumentation and (8) Chemistry).

The deployment of officers is decided by the DGI in consultation with the Technical Directors concerned keeping in view the academic background and experience of the officers under consideration. In terms of the SRO 33 dated 26-1-1980, the officers working with the DGI and who wanted their absorption in the DTD & P(Air) were required to exercise their options by 25-4-1980. In the case of the applicant, he has exercised his option after the stipulated time in that regard. The UPSC vide their letter No. F4/33A(1)/82-AU7 dated 19/22-6-82 rejected the request of the applicant. In view of the above position, the Director of Administration, Directorate General of Inspection, Ministry of Defence was left with no choice but to accommodate the applicant in his organisation. Keeping in view the experience of the individual in the field of Electronics and the subject of Flight Science being closer to electronics, he allotted the applicant to the SP subject Electronics.

6. The applicant having exercised ~~in~~ his option after the stipulated time lost his chance. The question of giving him a second chance being ruled out, he had to be accommodated in the DGI only for all purposes and accordingly he was allotted the subject Electronics in the said organisation.

7. The applicant was employed in the Directorate General of Inspector before trifurcation of the Organisation and since he exercised his option for his absorption in the Directorate of Technical Development

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and Production(Air) very late, his case was not considered by the UPSC. Thus the applicant was left with no other choice but to remain with the Directorate General of Inspection and take up the subject that is allotted in the said organisation. Since the subject 'Flight Science' being akin to the Electronics Discipline, he was allotted the latter subject with which he is quite familiar.

8. The respondents have erroneously included the name of the applicant in the SP Roll of Electronics is denied.

9. The apprehension of the petitioner that if he is compelled to work 'in alien field' implying thereby CIL Bangalore to which he now stands posted, his experience will go waste; and that he would not be in line with other experts and that would affect his further promotion chances, are ill founded and baseless. On the contrary, if he is retained in the same establishment i.e., CIS Secunderabad, because of the narrow consideration of his SP subject viz., Flight Science, it will not be possible for him to earn any promotion in future because there is no Flight Science subject in DGI Organisation. Necessarily in his own interest and for enhancing his managerial and technical skills, the applicant should move to the CIL Bangalore. The contention that the action of the respondent in posting the applicant to the CIL Bangalore is arbitrary and illegal is devoid of merit. The job presently handled by the applicant covers electronics subject also and having served in the electronic discipline for over 16 years at the CIS Secunderabad he would be usefully employed in the CIL Bangalore. Unless the applicant is allotted SP subject Electronics he will not be eligible

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For promotion to the Grade of SSO II in Group 'A' service because there is no Flight Science subject Reliability, durability and environmental testing of various equipments of various disciplines, including Flight Science related equipment pertaining to missiles, control engineering etc., are carried out at the CIL Bangalore. The applicant has made a general statement that he be transferred to any establishment having Flight Science SP subject but avoided naming any such establishment within the DGI Organisation. The allocation of SP subject to applicant after rejection of his option by the UPSC as per statutory rules is quite in order. The ~~maximum stay passed by whom~~ Application has no merits and it is liable to be dismissed.

10. The applicant in his reply affidavit ~~was stated~~ denying the averments made in the counter of respondents has stated mainly that he had opted for absorption into DTD&P (Air) first on 5--4--1980 and then on 29th March, 1982. Presumably, the UPSC was consulted belatedly about my second option without reference to the earlier one thus not considering it in the correct perspective. He states that as per the respective SRO, UPSC does not form part of the screening Committee for considering options. He states that when he was told that his application for absorption into DTD&P (Air) has not been agreed to because of late submission of his option, he brought all the facts and figures to the administration notice saying that ~~as~~ his option into DTD&P (Air) was submitted well within the specified time. The CIS Administration having been convinced forwarded the case similarly to

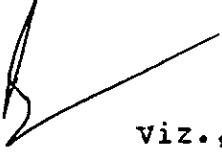
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the HQ DGI in Sep., 1982. After ~~careful~~^{full} consideration by the HQ DGI, they also had taken up the case with DTD& P(Air) and UPSC for consideration of his application in December, 1982. He states that his option into DTD&P (Air) was submitted well within the specified time but no action seems to have been taken in to it. The other averments are almost the same mentioned in the application.

We have heard Sri M.P.Chandra Mouli, learned counsel for the Applicant and Sri N.Bhaskar Rao, learned Additional Standing counsel for the respondents.

The applicant states that for the purpose of appointment or promotion, seniority lists are maintained subjectwise. The applicant was promoted in the subject of Flight science in the year, 1976 as Junior Scientific Officer by order of Director General of Research and Development, Ministry of Defence by his order No.4062/RD-21(b) dated 20th March 1976. His main grievance is that he has no basic knowledge and experience in the field of electronics. If he is compelled to work in an alien field his experience would go waste. His efficiency and further progress would be hampered. He would not be in line with other experts in the subject of electronics and come up to the standard of working. This would affect his further promotion chances. This is neither useful to the Organisation nor the applicant. The action of the respondents is arbitrary and illegal.


The respondents state that the two establishments viz., the Controllorate of Inspection Systems, Secunderabad


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where the applicant is now working since 1970 and the Controllorate of Inspection Electronics, Bangalore to which place he has been posted now ~~came~~ ^{comes} within the purview of the Director of Production and Inspection (Electronics) and as such the applicant should not nourish any feeling like going to an 'alien field'. That both the organisations viz., Controllorate of Inspection Systems and Controllorate of Inspection Electronics officers mostly of Electronics Disciplines are employed. Moreover, unless the applicant is allotted SP subject Electronics, he will not be eligible for promotion to the Grade of SSO.II in Group 'A' service because there is no Flight Science subject.

The Appellant states that

The respondents state that in so far as the Directorate of Technical Development & Production (Air) is concerned, it had promulgated on 26--1--1980 the recruitment rules for the JSOs., and such of the JSOs working with the Directorate General of Inspection Organisation and desirous of going to the Directorate of Technical Development & Production(Air) were asked to exercise their options by 25--4--1980 but the applicant opted belatedly. The applicant states in his reply affidavit that he had opted for absorption into DTD&P(Air) first on 5-4-1980 and then on 29--3--1982. Presumably the UPSC was consulted belatedly about his second option without reference to the earlier one that not considering it in the correct perspective.

He states that when he was informed that his application for absorption into DTD&P(Air) has not been agreed to because of late submission of his option, he brought

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the case similarly to the HQ DGI in September, 1982.
After careful consideration by the HQ DGI, they also had
taken up the case with DTD& P (Air) and UPSC for
consideration of his application in December, 1982.
He states that he submitted his option well within
time as stated above.

From the material on record it is seen that the applicant's request was thrown out because of his submitting the Option belatedly. The applicant states he submitted his option well within time. To judge which version is true, neither party has produced any concrete and material evidence to prove their stand such as Postal Acknowledgments and acknowledgment showing the receipt of the absorption forms from the applicant. The applicant has not filed any postal receipts or acknowledgment by the Department. The respondents in their turn have not filed into court the original option forms submitted by the applicant to judge which of the version is true. In the absence of such material proof, it is difficult to come to conclusion who is correct and who is in incorrect in their pleading.

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applicant to transfer to any of the Establishments in the Ministry of Defence having Flight Science Subject in order to have his promotion in the Flight Science Group.

With this observation we dispose of the Application. There will be no order as to costs.

(J. NARASIMHAMURTY)
Member (Judicial)

(R. BALASUBRAMANIAN)
Member (Admn.)

Date: 1.3.90.

DEPUTY REGISTRAR (J)
2/3/90

SSS.

TO:

1. The Secretary, (Defence production) Ministry of Defence, D.H.Q., Dakghar, New Delhi-110 011.
2. The Directorate General of Inspection, Department of Defence Production, Ministry of Defence, D.H.Q., Dakghar, New Delhi-110 011.
3. The Director, Directorate of production and Inspection Electronics in short, D.P.I.L., B.Block D.H.Q. dakghar, New Delhi-110 011.
4. The Controller, controllerate of Inspection systems, 156, Gough lines, Trimulgherry post office, Sec'bad-15.
5. One copy to Mr. M.P. Chandramouli, Advocate, 1-1-380/20, Ashoknagar Ectn., Hyderabad-500 020.
6. One copy to Mr. N. Bhaskara Rao, Addl. CGSC, CAT, Hyderabad.
7. One spare copy.

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