

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT

HYDERABAD

TRANSFERRED/ORIGINAL APPLICATION NO. 564 of 1987

DATE OF ORDER: 21st December, 1989

BETWEEN:

Mr. B.R.Sekhar

APPLICANT(S)

and

The Chief Executive Officer,
National Sample Survey Organisation,
New Delhi and 2 others

RESPONDENT(S)

FOR APPLICANT(S): Mr. J.V.Lakshmana Rao, Advocate

FOR RESPONDENT(S): Mr. E.Madan Mohan Rao, Addl. CGSC

CORAM: Hon'ble Shri D.Surya Rao, Member (Judl.)
Hon'ble Shri R.Balasubramanian, Member (Admn.)

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment? p 0
4. Whether it needs to be circulated to other Bench of the Tribunal?
5. Remarks of Vice-Chairman on columns 1,2,4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

HDSR
M(J)

HRBS
M(A)

60

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

ORIGINAL APPLICATION No. 564 of 1987

DATE OF ORDER: 21st December, 1989.

Between:-

Mr.B.R.Sekhar.

...Applicant(s)

and

The Chief Executive Officer,
National Sample Survey Organisation,
New Delhi and 2 others.

...Respondent(s)

FOR APPLICANT(S): Mr.J.V.LakshmanaRao, Advocate.

FOR THE RESPONDENT(S): Mr.E.Madan Mohan Rao, Addl.CGSC.

C O R A M :- Hon'ble Shri D.Surya Rao, Member:(Jud1)
Hon'ble Shri R.Balasubramanian:Member:(Admn.)

THE TRIBUNAL MADE THE FOLLOWING ORDER:-

contd..

61

ORIGINAL APPLICATION NO.564 of 1987

JUDGMENT OF THE BENCH DELIVERED BY HON'BLE SHRI D.SURYA RAO,
MEMBER (JUDL.)

The applicant herein is an employee of the National Sample Survey Organisation. He has filed this application praying for a direction to promote him as Assistant Superintendent from the date his juniors were promoted in 1983 with all consequential benefits including seniority. The appointment to the post of Assistant Superintendent was governed by the Recruitment Rules of 1973. Under these rules, 80% of the posts of Assistant Superintendent were to be filled by promotion and 20% by direct recruitment. Of the promotion posts, 85% were reserved for Investigators, 10% for Computers and 5% for Graduate UDCs. In 1984, ^{the} rules were amended whereby promotion to the post of Assistant Superintendent was limited to the category of Investigators. Thus, computers and UDCs were ineligible under the amended rules viz., Assistant Superintendents (Field Operations Division), National Sample Survey Organisation, Recruitment Rules, 1974 (as amended in 1984) for promotion as Assistant Superintendent. The applicant had submitted ~~in his representation stamp~~ application that six of his juniors were promoted on three different occasions viz., 5.1.1983, 12.10.1983 and 30.11.1983. He submitted his request for promotion as Assistant Superintendent but it was rejected on 1.1.1985 on the ground that the rules ~~not provided for promotion of graduates~~ had been amended and he was not eligible to the appointment as Assistant Superintendent under the amended rules of 1984. The applicant questions this order on various grounds. He states that he fulfilled the condition viz., graduate qualification in 1980 and communicated the same

8

to the 2nd respondent in 1983. Hence, at the time when his juniors were promoted as Assistant Superintendent, he was also eligible to the said post. At that time, in the year 1983, UDCs were eligible for promotion as Assistant Superintendent. The applicant was promoted as Investigator from 16.2.1985 applying the amended rules. He contends that application of amended rules in his case is discriminatory and he ought to have been promoted on the basis of his seniority in the year 1983 itself. It is in these circumstances that he seeks a direction that he should be promoted as Assistant Superintendent from 1983.

2. On behalf of the respondents, a counter has been filed denying the claims of the applicant. It is stated that the applicant had sent an intimation that he had obtained the graduate qualification ⁱⁿ ~~and~~ an undated letter was sent to the 2nd respondent which was received on 31.12.1983. Along with this letter, he attached a copy of the Degree certificate. The certificate was sent for verification and in the meanwhile, ^{the} amended rules of 1984 came into force. Under these amended rules, there is no provision ~~or~~ for any quota for the graduate UDCs for promotion to the post of Assistant Superintendent but 10% quota was reserved for UDCs only for appointment to the posts of Investigators. It is in these circumstances that the applicant was informed by the Memo dated 1.1.1985 that he is not eligible for promotion under the amended rules. Insofar as the earlier promotions made till 31.12.1983 are concerned, it is stated that the applicant could not be considered due to the fact of his late submission of the particulars that he had obtained his degree certificate. Other contentions raised are that the application is time-barred under Section 21 of the Administrative Tribunals Act since he is seeking to question the impugned memo dated 1.1.1985 only in September 1987 and that he cannot assail the promotion made in 1983 in the year 1987. It is

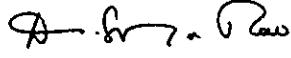
specifically stated that no promotions were made to the post of Assistant Superintendent from the graduate UDCs for the period from 31.12.1983 to 4.4.1984 when the amended rules came into force. It is in these circumstances, it is prayed in the counter that the application may be dismissed.

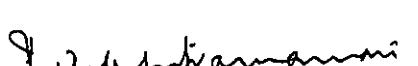
3. We have heard the learned counsel for the applicant, Shri J.V.Lakshmana Rao and the learned counsel for the respondents, Shri E.Madan Mohan Rao, Addl. CGSC. From the averments made in the application and the counter, it is clear that the applicant cannot complain that his juniors were promoted in the year 1983 as he did not intimate the department till 31.12.1983 that he had acquired the graduate qualification. This was the requisite qualification under the old rules before he ~~can~~ be considered ^{could} for appointment as Assistant Superintendent. Thereafter, after intimation, no junior to him had been appointed till the new rules came into force. After introduction of the new rules, no UDC could be appointed as the rules did away with the reservation for the UDCs. Shri Lakshmana Rao on behalf of the applicant sought to contend that a large number of vacancies which had accrued prior to 4.4.1984 were sought to be filled up in accordance with new rules. However, he made no such allegation or the averment in the present application. The said contention now made orally cannot, therefore, be entertained. It is sought to be contended that even after the introduction of the new rules, a UDC was appointed as Assistant Superintendent directly. He sought to rely upon an order No.A.32016/1/83-Estt.II dated 25.3.1986 issued by the 2nd respondent. A perusal of this order disclosed that it is not ~~the~~ ^a case of a fresh appointment from the category of UDC to that of Assistant Superintendent. It is, on the other hand, the disposal of a representation made by a graduate UDC who had been appointed as Assistant Superintendent on adhoc basis in November 1983. Subsequently, she was

reverted. On her representation, it was held that the reversion was irregular in that she should have been appointed on regular basis as Assistant Superintendent in October 1983 itself. It cannot, therefore, be held that ~~this is the case of a fresh~~ ^{it was a} ~~that of~~ appointment from the category of UDC to Assistant Superintendent in the year 1986.

4. We, therefore, see no merits in the contentions raised by the learned counsel for the applicant. The application is accordingly dismissed. In the circumstances of the case, there will be no order as to costs.

(Dictated in the open Court).


(D. SURYA RAO)
Member (Judl.)


(R. BALASUBRAMANIAN)
Member (Admn.)


Dated: 21st December, 1989.

DEPUTY REGISTRAR (J.)

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TO:

1. The Chief Executive Officer, National Sample Survey Organisation, Department of Statistics, Sardar Patel Bhavan, Sansad Marg, New Delhi-110 001.
2. The Director of National Sample Survey Organisation, Department of Statistics, West Block No.8, Wing No.6, R.K.Puram, New Delhi-110 086.
3. The Asst. Director, National Sample Survey Organisation, A.P. North Region, Saifabad Lines, A.C.Guards, Hyderabad-500 004.
4. One copy to Mr. J.V. Lakshmana Rao, Advocate, Flat No.3, Ground Floor, Andhra Bank Towers, New Bakaram, Hyderabad-500 380.
5. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyderabad.
6. One spare copy.

vsn

kJ.

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31/12/20