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CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: AT HYDERABAD.

O.A. No. 126/89

Date of Decision:

T.A. No.

B. Narsing Rao,

Petitioner.

Sri V.R. Bhadraiah,

Advocate for  
the Petitioner(s)

Versus

Union of India, rep. by Secretary, Min. of  
Defence, Govt. of India, New Delhi, ' another,

Respondent.

Sri N.V. Ramana,

Advocate for  
the Respondent  
(s)

CORAM:

THE HON'BLE MR. R. BALASUBRAMANIAN : MEMBER (A)

THE HON'BLE MR. C. J. ROY : MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
  2. To be referred to the Reporters or not ?
  3. whether their lordships wish to see the fair copy of the Judgment ?
  4. Whether it needs to be circulated to other Benches 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.)
- yes

HRBS  
M(A)

HCJR  
M(J)

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

O.A.No.126/89.

Date of Judgment: 20.7.1992.

Between:

B. Narsing Rao

..

.. Applicant

Vs.

1. Union of India, rep. by Secretary,  
Min. of Defence, Govt. of India,  
New Delhi.

2. The Director, Defence Electronics  
Research Laboratory, Chandrayan-  
gutta Lines, Hyderabad.

.. Respondents

For the applicant : Sri V.R. Bhadraiah, Advocate.

For the respondents : Sri N.V.Ramana, Addl.CGSC

CORAM:

THE HON'BLE SRI R. BALASUBRAMANIAN, MEMBER (ADMN.)

THE HON'BLE SRI C.J. ROY, MEMBER (JUDL.)

.....

X JUDGMENT OF THE BENCH AS PER HON'BLE SRI C.J. ROY, MEMBER(J) X

This application is filed under sec. 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents to limit the selection to the candidates entitled under notification dt. 20.7.1988 for appointment as Tradesman 'A' (HS Grade.I) by declaring the further notification dt. 27.8.1988 issued by respondent No.2 relaxing the age conditions as illegal, arbitrary, malafide and without jurisdiction.

2. The facts of the case are that the applicant was appointed as Tradesman 'E' in Sep., 1977, promoted as Tradesman 'C' in 1980 and is continuing as such in the respondents organisation.

...2.

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P.R.

It is stated that the applicant possess technical qualification viz. passed ITI in Fitter trade as well as S.S.C. (X Class) and was fully qualified prior to his appointment. While so, a notification was issued on 20.7.1988 by the Respondent calling for application to fill the vacant post in the category of Tradesman 'A' (HS Grade.I) in the scale of Rs.1320-2040. In the said notification the prescribed qualifications for the said post, age, etc. are given and that the last date for submission of application was 5.8.1988. The applicant made an application for the said notified post and state that he fulfil all the required qualifications, experience, age etc. The applicant is also shown at Sl.No.46 in the seniority list of Tradesman 'C' and placed at Sl.No.3 in the trade of Fitter. He was called for interview by a letter dt. 10.8.1988 and accordingly attended the interview on the said date. It is alleged that only oral interview was conducted on 10.8.1988 and practical test on 11.8.1988. The applicant also stated that 4 out of total 6 candidates were selected in oral interview and they were declared entitled to participate in the practical test proposed. It is alleged that one, out of the four selected in oral interview was not qualified for the notified post, as he did not possess the required qualifications as notified and to facilitate the said candidate, the respondent issued a further notification on 28.7.1988 wherein upper age limit was relaxed by 5 years in respect of departmental candidates. It is alleged that the respondents arbitrary acted in issuing the subsequent notification etc. and aggrieved by the said action, the applicant filed the present O.A. It is further alleged that the respondent was under the influence of the Union and as such issued the said notification relaxing upper age limit subsequently on 28.7.1988.

...3.

3. On behalf of respondents, a counter is filed opposing the application. The respondents admit the facts averred by the applicant with regard to his service, notification etc. but state that they came to know about the instructions of relaxation of upper age limit for Departmental candidates to Group 'C' posts issued by the Ministry of Personnel, Public Grievances and pensions, Deptt. of Personnel & Training bearing O.M.No.15012/1/88-Estt(D) dt. 20.5.1988 and were published in the JCM Bulletin in the month of July, 1988, but the same was not received by them originally at the time of original notification. However, based on the said O.M. by notification dt. 28.7.1988, an addition was made to the earlier notification dt. 20.7.1988. The respondents deny the allegations of malafides and showing interest to any particular individual etc. in this regard. The respondents also deny the allegation that the said notification relaxing the upper age limit is given to facilitate one of the candidate etc., and also that they are under the influence of Union. The respondents also state that the post of Tradesman 'A' is a non-selection post but not a selection post as contended by the applicant. It is stated that that in the matter of direct recruitment, the merit alone is to be taken into account for selection and that the selection board has followed the principle of merit only in selecting the candidates. Therefore, they deny the allegation that the merit and efficiency were overlooked. It is averred by the respondents, though the board proceedings are finalised by the Board and submitted to the Director with its recommendations, the same has not been approved by the competent authority viz. Director and also that the same was cancelled due to administrative reasons. The respondents also aver that as per rules, the select list pertaining to industrial staff after trade testing is valid only for six months and since in the instant matter the proceedings were cancelled by the competent authority

due to administrative reasons, no injustice has been done to the applicant. It is alleged that the application is not maintainable and desire the O.A. be dismissed.

4. We heard Sri V.R.Bhadraiah, learned counsel for applicant and Sri V.Rajeshwara Rao, for Sri N.V.Ramana, learned counsel for respondents and perused the records carefully.

5. It can be seen from the records, that the respondents had issued notifications calling for applications to the post of Tradesman 'A' on 20.7.1988 wherein the eligibility conditions, age, qualifications required for the said post were all given. It is also not in dispute that the applicant herein was one of the applicants in response to the said advertisement and also was interviewed along with other eligible candidates who were also called for oral interview. We have also perused the subsequent notification dt. 28.7.1988 issued by the respondents relaxing the upper age limit prescribed for the post notified on 20.7.1988 for departmental candidates. Therefore, the short point involved, in this case is whether any injustice is done to the applicant <sup>or</sup> as well as <sup>whether</sup> respondents acted arbitrarily.

6. During the course of arguments, the learned counsel for respondents produced the original records before the Bench wherein the panel of candidates etc. were all there with regard to appointment to the post of Tradesman 'A'. We have seen the said records. The learned counsel for respondents also contend that subsequent notification was issued soon after they came to know about the instructions issued by the Government in the matter of relaxation of upper age limit for departmental candidates and therefore, the said amendment was issued by subsequent notification on 28.7.1988 and deny the allegations of malafides, arbitrariness

The learned counsel for respondents argues that the interviews were conducted for eligible candidates and also that four out of six who had attended the oral interview were declared successful in the said oral test. It is admitted that the selection board has followed the principles of merit in selecting the candidates, and that the recommendations of the Board were submitted to the Director, who is the competent authority to approve the said recommendations. Since, the recommendations of the Board were not accepted by the Director due to administrative reasons and were cancelled, the applicant was informed accordingly. The Hon'ble Supreme Court in a case between Shankarsan Dash Vs. Union of India ( 1991 (2) SLR 779 ) Their Lordships observed in para-7 that -

"It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefensible right to be appointed which cannot be legitimately denied. Ordinarily, the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies....."

Taking the analogy from Their Lordships' observations, we feel and fortified to come to the following decision.

7. The records produced before us do show that the applicant is empanelled. But mere empanelment does not give any right for appointment to the applicant and more so, when the competent authority has not approved the said panel. We are satisfied on verifying the records that the competent authority has not approved the panel. Since the panel is not approved by the competent authority and that the same was cancelled due to administrative reasons, non selection etc. will not result in

any arbitrariness. If the panel is approved by the competent authority and in that case if the appointment is not offered overlooking the merit of the eligible candidates only, then it amounts to arbitrariness.

8. Under the circumstances, the O.A. is dismissed. No order as to costs.

*R. Balasubramanian*  
( R.Balasubramanian )  
Member (A)

*C.J. Roy*  
( C.J.Roy )  
Member(J)

Date 20<sup>th</sup> July, 1992.

*8-21/7/92*  
Deputy Registrar(J)

grh.

To

1. The Secretary, Union of India, Min. of Defence, Govt. of India, New Delhi.
2. The Director, Defence Electronics Research Laboratory, Chandrayangutta Lines, Hyderabad.
3. One copy to Mr.V.R.Bhadraiah, Advocate 1-4-880/1/A, Bank of Barada Colony, New Bakaram, Hyderabad-380
4. One copy to Mr.N.V.Ramana, SC for Rlys, CAT.Hyd.
5. One copy to Hon'ble Mr.R.Balasubramanian, M(A)CA T.Hyd.
6. One copy to Hon'ble Mr.C.J.Roy, Member(J)CAT.Hyd.
7. Copy to All Benches and Reporters as per standard list of CAT.Hyd.
8. One copy to Deputy Registrar(J)CAT.Hyd.
9. One spare copy.

+3

pvm.

*btw JSP*  
*Ques*  
*21/7/92*

Sm  
2/7/92  
TYPED BY

COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BUNAL : HYDERABAD BENCH.

THE HON'BLE MR.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY :  
MEMBER (J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (J)

Dated: 20-7 -1992

~~ORDER~~ / JUDGMENT

~~R.A./C.A./M.A.~~ NO.

in

O.A.No. 126/89.

~~T.A.~~ No.

(W.P.No. )

Admitted and interim directions  
issued

Allowed

Disposed of with directions

Dismissed

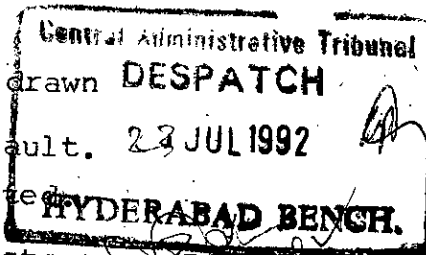
Dismissed as withdrawn

Dismissed for default. 23 JUL 1992

M.A. Ordered/Rejected

No order as to costs.

pvm.



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23/7/92