

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

AT HYDERABAD

O.A. NO. 240/89.

Dt. of Decision 30.3.93

T.A. NO.

B.Radhakrishna Rao

Petitioner

Shri K.Mangachary

Advocate for
the petitioner
(s)

Versus

Sr. Supdt., Telegraph Traffic, Vijaywada Division, Respondent.
Vijaywada & 2 others

Shri N.R.Devaraj, Sr. CGSC

Advocate for
the Respondent
(s)

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THE HON'BLE MR. Justice V.Neeladri Rao : Vice Chairman

THE HON'BLE MR. R.Balasubramanian : Member(A)

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
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.)

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M(A).

2. When the applicant was working as Telegraph Master I/c, Departmental Telegraph Office, Tanuku, a post of identified Telegraph Master fell vacant consequent to the promotion ~~of~~ one Shri V.Raghavachari as A.S.T.T. The post of identified Telegraph Master involves supervisory duties and carries a special allowance of Rs.35/- p.m. Volunteers were called for and the applicant volunteered while Respondent No.3 who is senior to the applicant declined. Thereafter, the applicant was sent as T.M.(S) on an adhoc basis. This adhoc arrangement continued till 15.4.87. Again, the applicant was sent as T.M.(S) in the post vacated by one Shri M.Surya Rao who retired. This arrangement against the regular vacancy was from 17.9.87 onwards. While so, the applicant was reverted to his original post of T.M.(O) w.e.f. 27.2.88 and the 3rd respondent was posted in his place vide the impugned order. In the meantime, a fresh list of volunteers was called for, for filling up the post of T.M.(S). The applicant is aggrieved that he who had volunteered on an earlier occasion is not being considered. He wants that his adhoc service for the period from 1.2.87 to 15.4.87 and the regular service between 17.9.87 and 23.2.88 in the cadre of T.M.(S) against a clear vacancy should be given due weightage while selecting ^{officials} people for the post of T.M.(S). The applicant represented on 20.5.88 and not getting any reply has come up with this O.A.

3. The respondents have filed a counter affidavit and oppose the application. The facts of the case are not disputed. It is stated that when a senior person declines the post of T.M.(S) as was the case ~~of~~ in respect of Respondent No.3, such persons are not considered for posting as T.M.(S) for a period of one year. Respondent No.3 declined such an offer on 19.2.87. Since Respondent No.3, who was senior, declined, the applicant who volunteered was posted as T.M.(S). It is contended that such an arrangement is only adhoc because in the earlier spell from 1.2.87 to 15.4.87 the applicant got the opportunity

because of non availability of Shri M.Surya Rao who was quite senior to him and was on leave at that time. Later, in the second spell the applicant got the opportunity to function as T.M.(S) due to the retirement of Shri M.Surya Rao as T.M.(S). It is admitted that fresh volunteers were called for, for filling up the posts of T.M.(S) but orders have not yet been issued so far because clarifications regarding divisionalisation of LSG cadres as well as filling up of supervisory allowance posts are pending with the department. It is also submitted that the 3rd respondent, admittedly a senior to the applicant, has passed the stage of disqualification on 19.2.1988 itself. Hence, they issued the orders posting the 3rd respondent as T.M.(S) reverting the applicant. It is contended that posting to supervisory duty is not a promotion and persons can be interchanged from T.M.(O) to T.M.(S) and vice-versa.

4. We have examined the case and heard the rival sides. In the course of the hearing, Shri K.Mangachary, learned counsel for the applicant also conceded that the posting as T.M.(S) is not a promotion in the usual sense that the term connotes. The cadre is one of T.Ms and whether it is supervisory or operative, the scale is the same and the promotion to the next stage above the T.Ms is to be done only according to the recruitment rule for that particular cadre. The learned counsel for the respondents also categorically stated that whether one is posted as T.M.(S) or T.M.(O) that is not going to make any difference for the purpose of promotion to higher grade. The only difference is that the T.M.(S) carries a special allowance of Rs.35/- for the duration that a person holds the post and there is nothing more about the T.M.(S). Shri K.Mangachary, however, expressed apprehension about an indication in letter No.TA/TFC/26-2/LSG/Div. dt. 29.9.1988 calling for fresh volunteers. We have seen this letter. The letter calls for volunteers for the post of T.M.(S) and in that it has been stated that "All the officials in LSG cadres may please be apprised that the

To

1. The Senior Superintendent Telegraph Traffic, Vijayawada Division, Vijayawada.
2. The Chief General Manager, Telecommunications, A.P.Circle, Hyderabad.
3. One copy to Mr. K. Mangachary, Advocate, 1-9-626 Adigmet, Hyderabad.
4. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
5. One spare copy

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Directorate is contemplating to prescribe 5 years service in supervisory capacity as condition for promotion to the grade of Sr. Telegraph Master/Sr. Section Supervisor". It is this stipulation that worried Shri K. Mangachary who contended that when the applicant has been appointed as T.M. (S) based on his earlier volunteering he should not be shifted from that post as otherwise he would be adversely affected by the stipulation to give weightage to the service in T.M. (S) cadre for the purpose of promotion to the higher grade. It is also his case that he does not have to be reverted to make room for the 3rd respondent on the completion of his period of disqualification arising from his earlier declining the post of T.M. (S). The anxiety of the learned counsel for the applicant is that the applicant should not suffer later for want of the contemplated 5 years service in the T.M. (S) cadre. On this specific point, the learned counsel for the respondents emphatically stated that there is no difference between T.M. (O) and T.M. (S) for the purpose of promotion to the next higher cadre. For that matter, the ~~posting~~ ^{posting} promotion of a T.M. (O) as T.M. (S) is not a promotion and the posting of T.M. (S) as T.M. (O) is not a reversion either. He also stated that no decision as such has been taken on this proposal. In view of the categorical assurance of the learned counsel for the respondents on behalf of the respondent department that as of now there is no difference between a T.M. (O) and T.M. (S) for the purpose of promotion to the next higher grade, we feel that there is no case for us to interfere. We, therefore, dismiss the application as unnecessary giving liberty to the applicant to approach us as and when ~~the~~ ^{any} grievance is caused to him on this score. No order as to costs.

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(V. Neeladri Rao)
Vice Chairman

Dated: 3rd March, 1993.

R. Balasubramanian
(R. Balasubramanian)
Member (Admn.).

Deputy Regt 3/3

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CHECKED BY (S) APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. K. BALASUBRAMANIAN :
MEMBER (ADMN)

AND

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

DATED: 30 - 3 - 1993

ORDER/JUDGMENT

R.P./C.P/M.A.No.

in

O.A.No. 240/89

T.A.No. (W.P.No)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions
Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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