

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 256/89
T.A.No.

Date of Decision : 17-6-92

Sri S. Janardhana Rao Petitioner.

Sri I. Dakshinamurthy Advocate for the
petitioner (s)

Versus

The Accountant General(A&E) and
three others Respondent.

Sri G. Parameshwara Rao Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR.P.C. Jain, Member(Admn.), Principal Bench

THE HON'BLE MR. T. Chandrasekhara Reddy, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgment? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*
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)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : : HYDERABAD BENCH
AT HYDERABAD

OA.256/89

Date of the order : 17/1 June, 92

Between

S. Janardhana Rao

.. Applicant

and

1. The Accountant General (A&E)
AP, Hyderabad 500 463
2. The Accountant General (Audit I)
AP, Hyderabad, 500 463
3. The Comptroller & Auditor General of India
10, Bahadur Shah Jafar Marg
New Delhi 110 002
4. Govt. of India, represented by
The Secretary
Min. of Finance (Deptt. of Expenditure)
New Delhi 110 001

.. Respondents

Counsel for the applicant

: Sri I. Dakshinamurthy
Advocate

Counsel for the respondents

: Sri G. Parameshwar Rao
Standing counsel for AG

CORAM :

HON. Mr. P.C. JAIN, MEMBER(ADMN.), PRINCIPAL BENCH

HON. Mr. T. CHANDRASEKHAR REDDY, MEMBER(JUDL.)

(Order of the Division Bench delivered by Hon. P.C.Jain,
Member(Admn.)

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In this application under Section 19 of the Administrative
Tribunals Act, 1985, the applicant, who is an Accounts Officer
in the Office of the Accountant General (A&E), Andhra Pradesh,

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Hyderabad, has assailed the order dated 16-11-1988, by which he was communicated the reply of the Department on his representation dated 17-6-1988 on his alleged grievance of his position in the eligibility list for promotion to the cadre of Indian Audit & Accounts Service, not being shown correctly.

2). He has prayed for the following relief :-

"The Hon. Tribunal may be pleased to direct the respondents No.3 to fix the placement of the applicant in the combined eligibility list as on 1-7-87 above the persons who became section officers after 16-6-1973 irrespective of the fact that they are belonging to Audit or Accounts wing after arriving at the deemed date of promotion to section officer cadre on 15-10-1963 a.n. with reference to Sri R. Ramachandran, who is his junior in the Accounts officer cadre."

3). It is ~~xxx~~ common ground between the parties that the applicant belongs to the Scheduled Tribe category and was promoted as Section officer on 16-6-1973 and later ^{on} as Accounts Officer on 17-4-1980. In accordance with the Indian Audit & Accounts Service (Recruitment) Rules, 1983, a copy of which has been filed by the respondents as Annexure-I, the recruitment to the junior scale of the Indian Audit & Accounts Service is made from two sources :-

- 1) By direct recruitment on the results of the competitive examination conducted by the Union Public Service Commission and,
- 2) By promotion by selection on merit from the Group-B posts of
 - i) Accounts Officers,
 - ii) Audit Officers, and
 - iii) Administrative Officers.

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4. The applicant being an Accounts Officer, is also eligible in terms of the rules for the promotion posts in the junior scale of the Indian Audit & Accounts Service. Schedule-3 to the rules ibid contains provisions about eligibility and manner of preparing select list for appointment on promotion. Paras 2,3 and 4 of the aforesaid schedule are relevant and those are extracted as below :-

(2) A combined eligibility list shall be prepared from among departmental officers borne on the Group 'B' cadres of Audit Officers, Accounts Officers and Administrative officers in the Indian Audit and Accounts Department who have completed 5 years regular continuous service in the grade on the first day of July of the year to which the promotions pertain. Officers who have attained the age of 53 years on the above date shall not be eligible.

(3) The names of eligible Accounts Officers/Audit Officers shall for the purpose of combined eligibility list to be arranged in the order of date of their appointments as Section Officers (or corresponding posts) without, however, affecting the inter-se seniority as Accounts Officer/Audit Officer in a particular cadre.

(4) If an officer is considered for promotion, all persons senior to him under sub-para(3) above shall also be considered notwithstanding that they may not have rendered the requisite number of years of service in Group 'B'. "

5. From a perusal of the above, it can be seen that a combined eligibility list of Audit Officers, Accounts Officers and Administrative Officers, in the Department all over the country has to be prepared. Those who have put in 5 years regular continuous service in any of these three grades on the 1st of July of the year to which promotion pertains but ~~not~~ have ^{not} crossed the age of 53 years on that date are eligible for inclusion in the combined eligibility list. Further, XX the cut off date for determining inter-se seniority in the combined eligibility list is the date on which these persons were appointed as Section Officers, but while doing so their inter-se seniority as Accounts Officer/ Audit Officers in a

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particular cadre will not be affected. With a view to harmonis^{-ing} these two prima facie conflicting requirements of the rules, the concept of 'deemed date' of appointment as Section Officer has become a part of the scheme. In other words, if two eligible persons in one cadre were appointed as Section Officers and then promoted as accounts officers but on different dates on both the occasions, with a view to maintaining their inter-se seniority on the higher post of Accounts Officer, the person promoted as Accounts Officer earlier will be given the same deemed date of appointment as Section Officer as is given to his senior in the cadre of Section Officer if the senior was promoted as Accounts Officer subsequent to the promotion of a junior in the Section Officers cadre.

6. The applicant has assailed this concept of 'deemed date' but surprisingly he has also sought the relief on the basis of such a concept as will be clear from the relief prayed for by him, which has already been extracted above. This problem of harmonising the two obviously conflicting requirements of the rules had come up for discussion before a Full Bench of the Central Administrative Tribunal in OA.967/87, OA.968/87 and OA.83/88 between Sri K. Ranganathan and two others versus Union of India and others, which was decided on 9-9-1988. A copy of the judgement had been filed as annexure R-2 to their reply by the respondents. The full Bench in that case upheld the validity of sub paras 2 & 3 of the rules in Schedule-III. We also do not find anything illegal, irregular, or arbitrary in adopting the concept of 'deemed date' as it is an inevitable consequence of the requirements of the rules which provide for basic seniority from the date of appointment as Section Officer without disturbing inter-se seniority in the cadre of higher posts of the Accounts Officer/Audit Officer.

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7. Another contention of the applicant is that while preparing the combined eligibility list, his seniority as Section Officer should have been considered keeping in view his position in the composite cadre of Accounts Officers and Audit Officers. ~~It~~ It is pertinent to mention that prior to 1-3-1984, Accounts and Audit wings of the office of the Comptroller and Auditor General formed part of a composite cadre. However, with effect from 1-3-1984, these two cadres were separated into i) Audit Department, and ii) Accounts and Entitlement Department. Staff of Group 'D' & 'C' categories were asked to exercise their option. The applicant opted for the Audit Department. But with effect from 5-1-1985, he sought change to Accounts side, which was permitted. After the bifurcation of the department into two and after the applicant on his own volition came over to the Accounts & Entitlement Department, his connections with the earlier composite department will be deemed to have been severed and he cannot be allowed to claim any benefit on the basis of his inter-se seniority in the cadre before bifurcation.

8. The applicant has mentioned certain names in sub para-4 of para-3 of his OA with the purpose of showing that his juniors as Section Officers have been shown as senior in the combined eligibility list. The respondents have taken the stand in their counter affidavit that these persons do not belong to the Accounts Department and that they were of the Audit Department. The applicant has not been able ~~to~~ to rebut the statement. In view of what we have said above, about the bifurcation of the cadres, we see no force in this contention of the applicant.

9. The last contention of the applicant urged before us is that one Shri R. Ramachandran in his own cadre was junior to him as an Accounts Officer in as much as he was promoted as Accounts Officer on 13-2-1981 A.N., while the applicant was promoted on 17-4-1980, though Shri Ramachandran was promoted as Section Officer on 15-10-1963, while the applicant had been appointed as Section Officer only on 16-6-1973. It was, therefore,

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To

1. The Accountant General (A&E) A.P. Hyderabad-463.
 2. The Accountant General (Audit-I) A.P. Hyderabad-463.
 3. The Comptroller & Auditor General of India,
10, Bahadur Shah Jafar Marg, New Delhi-2.
 4. The Secretary, Govt. of India,
Min. of Finance (Dept. of Expenditure) New Delhi-1.
 5. One copy to Mr. I. Dakshinamurthy, Advocate,
10-1-18/25, Shyamnagar, Hyderabad.
 6. One copy to Mr. G. Parameswar Rao, SC for AG. CAT. Hyd.
 7. One copy to Hon'ble Mr. P. C. Jain, Member (A) (Prl. Bench) CAT. Hyd.
 8. One copy to Hon'ble Mr. T. Chandrasekhar Reddy, Member (J) CAT. Hyd.
 9. One copy to Deputy Registrar (J) CAT. Hyd.
 10. One spare copy
 11. Copy to All Reporters as per standard list of CAT. Hyd.
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argued that on the basis of the concept of the 'deemed date', the date of appointment of the applicant as Section Officer should be deemed as 15-10-1963 and his seniority in the combined eligibility list should have been worked out on that basis.

10. The stand taken by the respondents in their reply is that Shri Ramachandran had become ineligible by July, 1986, on account of having crossed 53 years of age for the purpose of consideration for promotion to the junior scale of the Indian Audit & Accounts Service. The learned counsel for the respondents also submitted that accordingly in the list for 1987, the name of Shri Ramachandran did not appear, and that being the position, the applicant could not claim any 'deemed date' of seniority with reference to the case of Shri Ramachandran. We find force in this contention of the respondents. We say so because as per the rules, the combined eligibility list is to be prepared each year and it is with reference to the date of 1st July of that year. If for the list of 1987, Shri Ramachandran was not eligible for inclusion in the list and was not so included, the applicant cannot claim any benefit in the list of 1987, with reference to the case of Shri Ramachandran.

11. In the light of foregoing discussion, we find that the OA is devoid of merit and the same is accordingly dismissed leaving the parties to bear their own costs.

T. Chandrasekhara Reddy
(T. CHANDRASEKHARA REDDY)
Member (Judl)

C. Jain
(P.C. JAIN)
Member (Admn.)

Dated 17th June, 1992
Dictated in the Open Court

8/30/92
Deputy Registrar (S)

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TYPED BY

COMPARED BY

Checked by Ramesh

APPROVED BY

16/7/92
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.

THE HON'BLE MR. P.C. Jain - M(A)

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: 17-6-1992

~~ORDER~~ / JUDGMENT

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

O.A.No.

in

256/89

T.A.No.

(W.P.No.)

Admitted and interim directions
issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

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30/6/92
Central Administrative Tribunal
DESPATCH

17/7/92

HYDERABAD BENCH.