

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD B

AT HYDERABAD

OA.257/89 &  
MA.709/92

date of decision : 22-4-1993

Between

1. M. Sathyanarayan Reddy
2. S.A. Nageshwara Rao
3. K.G. Vishwanathan Pillai
4. P.V. Bhaskara Sarma

: Applicants

and

1. The Director General of EME  
O/o Director General of EME  
Army Headquarters  
New Delhi 110011

2. Officer-in-Charge  
EME Records  
Trimulgherry Post Office  
Secunderabad 500021

3. Rajinder Nath Arora  
Stenographer Gr.II  
HQ Technical Group EME  
Chitral Lines  
Delhi Cantonment 110010

4. C. Mohan Das  
Stenographer Gr.II, FIET  
Military College of EME  
Trimulgherry Post Office  
Secunderabad 500015

5. M.T. Kunhi Kannan  
6. O. Phillipose  
7. Ziaul Hasan Ansari  
8. Laxman Ganpat Jadhav

R-5 to R-8 are working at  
O/o the MCEME,  
Trimulgherry  
Secunderabad 500015

: Respondents

Counsel for the Applicants

: N. Raghavan  
Advocate

Counsel for the Respondents

: N.V. Ramana, SC for  
Central Government

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMN.)

Judgement

( As per Hon. Mr. Justice V. Neeladri Rao, Vice-Chairman )

Heard Sri N. Raghavan, learned counsel for the applicants and Sri V. Rajeswara Rao, for Sri N.V. Ramana, learned counsel for the respondents.

2. The applicant is working as Stenographer Grade III. He joined service in 1961 as Clerk which was later redesignated as Steno-typist. That post carries a special pay of Rs.20/-.

By OM No.2(13)74/D(Civ.1), dated 8-8-75, ~~ordered that~~ all the posts of stenotypists were upgraded with effect from 1-1-1973. It also stipulated that such of those steno-typists who passed a test in stenography at 80 w.p.m. were eligible to the scale of pay applicable to the Stenographer Grade III w.e.f.1-1-1973. As the applicant satisfied the said condition, he was given pay scale of Stenographer Grade III w.e.f.1-1-1973 and he was also paid arrears. But the said memo was silent in regard to the seniority of such of those steno-typists who were given the pay scale of Stenographer Grade III w.e.f.1-1-1973 vis-a-vis <sup>appointed as</sup> direct recruits ~~to the post of~~ Stenographer Grade III appointed on or after 1-1-1973 and prior to 8-8-1975. It was stated in OM. No.8(1)/76/D(Aptts) dated 1-3-1977 that those stenotypists who were appointed as stenographer in accordance with the memo dated 8-8-1975 will be treated as enbloc juniors to the existing stenographers in the scale of Rs.130-300 which was revised as Rs.330-560. Then the concerned authority felt that on the basis of the said memo that the steno-typists who were given the benefits of pay of Grade III from 1-1-1973 as per memo dated 8-8-1975 should be treated as juniors to the Stenographers who ~~were~~ appointed as direct recruits prior to 1st March, 1977. The seniority list was prepared on that basis and it was published in 1977 and it was also circulated to all including the applicant.

*Concl.....*

Thus R-3 and R-4 the direct recruits to the posts of Stenographer Grade III, who were appointed on 17-2-1973 and on 1-12-1976 respectively are shown as seniors to the applicant. On the basis of the said seniority, R-3 and R-4 ~~are~~ <sup>were</sup> promoted to the posts of Stenographer Grade II on 31-8-1987 and 31-10-1987 respectively when their ~~terms~~ <sup>turn</sup> had come.

3. Then the applicant submitted representation dated 19-3-88 claiming seniority over R-3 and R-4 by alleging that his service in the grade III had to be reckoned from 1-1-1973 for reckoning seniority. Therein it was also stated by the applicant that in 1985 ~~they were~~ <sup>he was</sup> given selection grade in the category of Stenographer Grade III and R-3 and R-4 were not given the Selection Grade, and he fails to understand as to how R-3 and R-4 the juniors were promoted in preference to him. General reply was given on 19 May, 1988 by Army Headquarters vide No.24460/Steno/EME/Civ-3 to the effect that the seniority was fixed in pursuance of the OM dated 1-3-1977 and hence there were no circumstances to alter the seniority which ~~were~~ <sup>were</sup> already fixed.

4. This OA was filed praying for declaration that the applicant was senior to R-3 and R-4 in the category of Stenographer Grade III. The applicant who was promoted on 22-2-1988 to the post of Grade II had not accepted the promotion and <sup>is</sup> still continued <sup>ing</sup> in the post of Stenographer Grade III. The applicant had not prayed for setting aside the promotion of even R-4. The applicant had also not asked for promotion with effect from the date on which R-3 was promoted.

5. In claiming relief in this OA the applicant is challenging the seniority list that was prepared in 1977. Such a stale claim cannot be considered.

Cont.

6. It is stated for the respondents that one should ~~have~~ service for a minimum period of 14 years and it need not necessarily be in the same category so as to be eligible for consideration for Selection Grade and as by 1985 R-3 and R-4 ~~were~~ were eligible for consideration for Selection Grade, they were not given the Selection Grade even though they were seniors to the applicant and the latter, being ~~eligible~~, was given the selection grade.

7. The contention for the applicant that all those who were in Selection Grade in a particular category are seniors to those who are in the ordinary grade in that category is not tenable for in view of the eligibility conditions prescribed for confirmation of Selection Grade, a junior promotee may be eligible over the senior direct recruit, and where there is no specific ~~prohibition~~, ~~provision~~ the authority ~~may~~ proceed on the basis that even the juniors may be considered for Selection Grade when the senior direct recruit is not eligible. Hence the contention for the applicant that ~~after~~ <sup>when</sup> he was taken to Selection Grade and when R-3 and R-4 were not given the Selection Grade, the applicant was under the impression that the seniority list was again <sup>shown as</sup> revised whereby he was senior to R-3 and R-4 cannot be accepted.

MA.709/92 in OA.257/89

The applicant also filed MA.709/92 praying for quashing the Memo dated 1-3-1977. The applicant prays for quashing the said memo dated 1-3-1977 in order to claim alteration of the seniority list that was published in 1977. When the applicant's challenge to the said seniority list of 1977 can be held as stale and belated, ~~as~~ <sup>he</sup> it cannot be permitted to challenge the memo dated 1-3-1977 at this late stage.

<sup>to have the prayer for quashing (or dated 1-3-77)</sup>  
Hence the MA.709/92 praying for amendment is dismissed.

*contd*

*W.B.G.*

8. For the reasons stated the OA is dismissed. No costs.

P.T.T.G.  
(P.T. Thiruvengadam)  
Member (Admn.)

*V.N.Rao*  
(V. Neeladri Rao)  
Vice-Chairman

Dated : April 22, 93  
Dictated in the Open Court

*8294/93*  
Deputy Registrar (J)

sk

To

1. The Director General of EME  
O/o Director General of EME  
Army Headquarters, New Delhi-11.
2. The Officer-in-charge, EME Records  
Trimulgherry Post Office, Secunderabad-21.
3. One copy to Mr.N.Raghavan, Advocate, 113, Jeera Compound,  
Secunderabad.
4. One copy to Mr.N.V.Ramana, Addl.CGSC. CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

pvm

*stamped  
P.V.M.*

TYPED BY (S) COMPARED BY  
CHECKED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

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

AND  
P.T.Tiruvenkader  
THE HON'BLE MR. L.BALASUBRAMANIAN :  
MEMBER(ADMN)

AND  
THE HON'BLE M.R.T.CHANDRASEKHAR  
REDDY : MEMBER(JUL)

DATED: 22-4-1993.

ORDER/JUDGMENT

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

in

O.A.No. 257/89 & MA 709/92

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.

