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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH AT : HYDERABAD

O.A. No. 292/89

Date of Order: 20th July, 1990

BETWEEN

G. Radhakrishnan,
Asst. Surveyor of Works, CPWD,
Sultan Bazaar PO,
Hyderabad.

.. Applicant

Versus

1. The Director General (Works),
CPWD, Nirman Bhavan,
New Delhi.

2. The Secretary,
UPSC, Shajahan Road,
New Delhi.

3. The Secretary,
Railway Board,
Rail Bhavan, New Delhi.

.. Respondents

APPEARANCE

For the Applicant : Sri Y. Suryanarayana, Advocate

For the Respondents : Sri E. Madan Mohan Rao, Addl.
Standing Counsel for Respondents

-- Sri N. R. Devaraj, sc for Railways

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THE HON'BLE SHRI B. N. JAYASIMHA, VICE CHAIRMAN

THE HON'BLE SHRI J. NARASIMHAMURTHY, MEMBER (JUDICIAL)

(Judgement of the bench delivered by Hon'ble Shri B.N. Jayasimha)
Vice Chairman

The applicant herein is an Assistant Surveyor of Works, CPWD. He has filed this application being aggrieved by the inaction of the respondents in not appointing him as Assistant Executive Engineer in the CPWD.

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2. The applicant states that he was initially appointed as Junior Engineer in the CPWD during March, 1977. The Union Public Service Commission had issued a notification for conducting examinations for recruitment of the Engineering Services in the year 1982. In pursuance to the notification he applied for the examination as a departmental candidate availing of the age concession. The examination was conducted in August, 1982 and the results were announced in December, 1982. He was declared to have been passed the Written Examination and he appeared for the interview and medical examinations during January, 1983. The final results were announced in May, 1983 and he was placed at S.No. 141 out of 289 candidates selected in the final list published by the UPSC. As he was admitted for only Central Engineering Services Group A, he was expecting appointment order from the CPWD.

3. While this was so, another notification for Engineering Services Examinations 1983 were announced during Feb. 1983. According to the notification candidates who had appeared for Engineering Services Examinations, 1982 and awaiting the final results may also apply to the examinations 1983 but in the event of their being selected in the final results of 1982 examinations they need not appear for the examinations and the examination fee paid shall be refunded. As he was already selected in 1982 examination he did not prepare for the Engineering Services Examinations of 1983. When he did not receive any appointment order he approached the Railway Board which is the authority to allot candidates for various departments, the Railway Board informed him that allotments for various departments were made based on the U.P.S.C.

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recommendations and merit position of candidates in the examinations. They also informed the applicant that his merit position was low and he could not be accommodated in any service. Thereafter, the applicant personally enquired in the office of UPSC and he was informed that the UPSC is not concerned with the allotment of candidates. Thereafter he approached the Director General of CPWD who stated that the Railway Board did not recommend his name within the vacancies announced. He also brought to the notice of the CPWD that a person whose rank was 289, was appointed whereas he with the rank 141 was not appointed. He therefore requested the Railway Board to recommend him to any other department of their choice if it is not possible to post a candidate to a Department of his second preference for the sake of accommodating him in the CPWD list. The Railway Board declined to do so.

4. The applicant further states that a Limited Departmental Examinations for the post of Asst. Engineers in CPWD was conducted by the UPSC during April, 82 for which 50 vacancies were announced. 179 candidates were recommended by the UPSC in Nov. 83 and the appointment orders were issued during Dec. 83 for the first 50 ranking candidates. The remaining 129 candidates were not immediately appointed by the Department. However, based on the Home Ministry Personnel Department's order the last candidate was appointed in Jan. 1988. In case of Engineering Services Examinations, 82 only 11 candidates were appointed as against 34 vacancies announced at the time of notification. The applicant made a representation in Sept. '88 to the Director General of CPWD stating that he came to know that only 11 candidates were appointed as against 34 vacancies and sought clarification in regard to the candidate appointed in the CPWD. In his

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reply dt.24.10.'88 the Director General informed him that his name was not accommodated by the UPSC and did not clarify the actual number of candidates appointed notwithstanding several representations to the UPSC/Director General, CPWD, his grievance has not been redressed. Hence he has filed this application.

5. Respondent No.1 Director General, CPWD in his counter states that the candidates nominated to Central Engineering Service Gr.A on the basis of 1982 examination have already been appointed during 1984. The applicant appeared in the Departmental Examination under age relaxation and in the case of Govt. Servants, if they are employed in Govt. Departments/ Offices, they are eligible for admission to Examinations for the corresponding service/posts under whom they were serving. The contention of the applicant that 34 posts were allotted to CPWD is not correct. The tentative requirement intimated to UPSC in Dec.81 was 34 and out of which 5 were for SCs and 3 for STs. At the time of intimating final requirement in Feb.83, the requirement was intimated only for 20 vacancies out of which 5 were reserved for SC and 5 for ST and only 10 were required for general candidates. The rank of the applicant was 143 and not 141 as contended. As per the final requirement of this department viz., 20 vacancies, the Railway Board which is the coordinating authority nominated 20 candidates out of which 10 candidates belonged to general category 5 candidates to SC category, and 5 candidates to ST category. The last candidate nominated from the general category was of rank No.79. The allotment of candidates is strictly by rank/merit of the candidates and the preference of the candidates. The turn of the applicant did not come for allotment to CPWD as he was at S.No.143 of the merit list.

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According to the rules he could not be nominated to any other service he being departmental candidate belonging to C.P.W.D.

6. In regard to the Limited Departmental Examination conducted by UPSC in 1983 that relates to Gr.'B' post and not to Gr.'A' post which is the subject matter of this application. The two examinations are totally different and what was done in that case does not apply to this case. Out of 20 candidates nominated, 13 have already reported for duty and not 11 as contended by the applicant. The offer of appointment of 6 candidates was cancelled after keeping it open for a long time and when the candidates did not join. The remaining one candidate has joined the Dept., on the basis of 1981 examination. For these reasons Respondent No.1 contends that the application has no merits.

7. Respondent No.3 (Railway Board) in his counter states that the applicant attended the selection in 1982 and his rank was declared in 1983 itself. The appointments were made in 1984. The application is therefore barred by limitation. The respondent also denies that the applicant makes any representation to the respondent No.3 and that he made several enquiries are false and baseless and made for the purpose of this application. The respondent further states that only 20 vacancies were in access and not 34 as stated by the applicant and as he secured 143 rank his name could not be recommended to the CPWD. The last candidate allotted to the C.E.S.Group 'A' was Shri Anil Kumar Pandit whose rank was 79th. As the applicant could be allotted only to the department where he was working his name could not be recommended for any other department.

8. We have heard Shri Y. Suryanarayana, learned counsel for the applicant, Shri E. Madanmohan Rao, Addl. Standing Counsel for the CPWD, and Shri N.R. Dev Raj, Standing Counsel

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for the Railways. The main point raised by Sri Suryanarayana is that the applicant had a right to be considered to one of the post announced even if it is accepted that 34 posts were not available but only 20. The offer of appointment of 6 candidates was cancelled after keeping it open for a long time. One candidate who had passed the 1981 examination was appointed. He contends that when a candidate on the basis of 1981 examination could be appointed there was no reason as to why the applicant should not have been appointed on the basis of 1982 examination. He contends that the denial of appointment was arbitrary and not in accordance with the requirements of the procedure.

9. We have given our careful consideration to the points urged by Shri Suryanarayana in relation to the facts of the case. Admittedly there existed 20 vacancies which were to be filled on the basis of the results of 1982 examinations. It is also clear that the applicant could be considered only for one of the 20 vacancies in accordance with his rank. According to the respondents statement the last candidate recommended by the UPSC for the CPWD was a person holding rank No.79th. It is also clear that for all the services put together appointment offers were issued to persons securing rank far below that of the applicant.. Out of 289 candidates who were declared successful from the 1982 examination, candida-

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To

1. The Secretary, UPSC, Shaheedan Road, New Delhi.
2. The Secretary, UPSC, Shaheedan Road, New Delhi.
3. The Secretary, Railway Board, Rail Bhavan, New Delhi.
4. One copy to Mr. Y. Suryanarayana, Advocate.
40, MGH Housing Board Colony, Mehidipatnam, Hyderabad.
5. One copy to Mr. E. Madanmohan Rao, Addl. CGSC. CAT. Hyd. Bench.
6. One copy to Mr. J. Narasimha Murty, Member (J) CAT. Hyd. Bench.
7. One ~~spare~~ copy to Mr. N. R. Devaraj, Sec for Rlys CAT. Hyderabad
8. one spare copy.

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tes ranking below the applicant were appointed in various other engineering services. The applicant's name could not be recommended to any other service as he was eligible for consideration only to the C.P.W.D. In the CPWD six vacancies remained unfilled due to the candidates sponsored by the Railway Board not accepting the offer. The applicant and other departmental (CPWD in-service) candidates like the applicant had a right to be considered for these six vacancies in the order of ^{their} ~~the~~ rank in the select list, ~~They~~ ^{They} should have been offered the appointments ~~order~~ in accordance with their ranks till 6 vacancies are filled. This has not been done. When these candidates to whom appointment offer were made declined the offer, other eligible candidates were not offered the appointment. The applicant cannot be denied his right for appointment to one of the vacant posts. In this view of the matter we find that the applicant succeeds in his claim. We accordingly direct the respondent to promote the applicant to one of the vacancies of the year 1982 with effect from the date the junior most joined the post with consequential benefits.

10. The application is allowed. No order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
Vice-Chairman

M.S.
(J.N. MURTHY)
Member (J)

Dated: 20 July 1990 *for* *Rajesh Kumar*
Dy. Registrar (Judl)

MVS/AVL.

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CHECKED BY

APPROVED BY

TEMPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA : V.C.

AND

~~THE HON'BLE MR. D. SURYA RAO: MEMBER (J)~~

AND

THE HON'BLE MR. J. NARASIMHA MURTY: M(J)

AND

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

DATE: 20/7/90

~~ORDER/JUDGMENT:~~

A.A./ R.A/C?A/No.

in

T.A.No.

W.P.No.

O.A.No. 292/89

~~Admitted and Interim directions issued~~
Allowed. ✓

Dismissed for Default.

Dismissed as withdrawn

Dismissed.

Disposed of with directions

M.A. Ordered/Rejected.

No order as to costs.

