

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

WEDNESDAY THE FIFTH DAY OF JULY.

ONE THOUSAND NINE HUNDRED AND EIGHTY NINE

:PRESENT:

~~THE HON'BLE MR. B. N. JAYASIMHA: VICE-CHAIRMAN.~~

AND

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

AND

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

AND

~~THE HON'BLE MR. S. NARASIMHA MURTHY: MEMBER (JUDL).~~

TRANSFERRED / ORIGINAL/MISCELLANEOUS/CONTEMPT/APPLICATION
NO 504 OF 1989.

BETWEEN:-

D. P. Gupta and.

.....Applicants

(Applicants in F.A.O.A
No. 504 OF 1989,
on the file of the
Tribunal).

AND

1) Government of India,
ministry of Science & Technology,
Department of Science & Technology represented
by its secretary, Technology Bhawan, New Mehandi Road
New Delhi - 110 016.

2) ministry of defence, Govt. of India rep. by
its secretary, DHB Po,
New Delhi - 110 011.

3) Surveyor General of India, (Respondents in -dp).
Survey of India,
Hathikarbhala Estate,
Dehra Dun. 248001 (U.P.)

4) Engineer in chief, Army Head Quarters,
Engineer in chief's Branch,
DHQ Po, New Delhi - 110 011.

Respondents

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Interim orders prepared by
Sri D.surya Rao, M(J)I, is sub-
mitted for perusal of Sri D.K.
Chakravorty, M(A), please.

D.K. Chakravorty

Sri DKC

*OK. Received
- 5/7/85*

Counsel for Applicant : Mr.V.R.Reddy, Advocate

Counsel for Respondents : Mr.E.Madan Mohan Rao, Addl. SE
P. Ramakrishna Rao, Standing Counsel
for Central Govt

...
This is an application filed by Commissioned Officers of the Corps of Engineers of Army who have been seconded subsequently to Survey of India, which is a department under the Department of Science and Technology, Govt. of India. In this application, ~~the~~ ^{introduction of} Survey of India (Group A posts) Service Rules, 1989 has been questioned. These rules have been issued in supersession of (i) Survey of India Class-I Recruitment Rules 1960, (ii) Survey of India (Recruitment from Corps of Engineer Officers) Rules, 1950, and (iii) Surveyor of India (Survey of India) Recruitment Rules, 1974. Under ^{the} ~~these~~ rules, the civilian officers and the officers drawn from the Corps of Engineers have been split up into two independent streams. The posts available to defence officers and civilians have been clearly demarcated and right to promotion is accorded to ~~is dependent on the number of~~ ^{in accordance} the two streams depending upon the posts allotted ~~the two categories of officers were coalesced~~ to each stream. Prior to these rules, under the ~~the two categories of officers were coalesced and~~ old rules, there was a common seniority list.

It is the case of the applicants that in the said common seniority list, they were much senior\$ to many of the civilians, that consequent on the issue of revised seniority ^{rules} list, hitherto senior officers would stand superseded for purpose of promotion to higher grades by their juniors and as such the revised rules are ultra vires the rights guaranteed to the applicants under the Constitution, under Articles 14 and 16.

2. In our view, a prima-facie case has been made out for admission of the case. However, an objection has been taken by the Central Government's Standing Counsel that the application is not maintainable as the applicants are Army Officers governed by the Indian Army Act and, that, consequently Section 2 of the Administrative Tribunals Act which lays down that the provisions of the Act do not apply to any member of the Naval, Military or Air Force or of any other Armed Forces of the Union would be a bar to filing of the present application. In the circumstances, we direct notice before admission to the Respondents on the preliminary objection as to maintainability of the application. However, as ^{the applicants} have sought interim suspension of rules 3, 6, 7, 8 and 9 a prima-facie case has been made out for admission. ^{of the Survey of India Group 'A' service rules 1984 partly disposed of the main case}

To:

- 1) Secretary (Government of India)
Department of Science & Technology,
Ministry of Science & Technology,
Technology Bhawan,
New Mathura Road, New Delhi - 110 016.
- 2) Secretary, (Govt. of India)
Ministry of Defence,
DHQ PO, New Delhi - 110 011.
- 3) Surveyor General of India,
Survey of India,
Haldiram Karol Bagh, New Delhi 248001. (U.P.)
- 4) Engineer in chief,
Army Head Quarters,
Engineer in chief's Branch,
DHQ PO, New Delhi - 110 011.
- 5) One copy to Mr. V. R. Reddy, Advocate,
15, Lawyer Chambers, High Court of A.P. Hyderabad.
- 6) One copy to Mr. P. Ramakrishna Raju, Mr. C.G.S.C.,
CAT, Hyderabad.
- 7) One copy to ~~Mr.~~ D.K. Chakravarty, Member(A), CAT,
Hyderabad.
- 8) One spare copy.

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It has been argued by the Central Government's Standing Counsel that it is unlikely that the new rules be given effect immediately since it takes considerable time to implement the said rules. In that event, granting of interim stay or direction would cause no harm or loss to anyone. In any event since the applicants have made out a *prima facie* case, we would direct interim suspension of the provisions of Rules 3, 6, 7, 8 and 9 of the new rules namely Survey of India (Group A Posts) Service Rules, 1989 in so far as they affect the rights of the applicants herein to promotion in the event of their being superseded by their erstwhile juniors under the old rules. This interim order will continue till further orders in regard to the admission of the case.

Post for orders as to maintainability on 18-7-1989.

D. Surya Rao
(D. Surya Rao)
Member (J)

D. K. Chakravorty
(D. K. Chakravorty)
Member (A)

Dated: 5th July, 1989.

S. Venk
DEPUTY REGISTRAR (J)
WPA/SP
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Wire at
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④ Post on
18/7/89 for maintenance
of links. Stenest
6/7/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

HON'BLE MR. B. N. JAYASIMHA: (V.C.)
AND
HON'BLE MR. D. SURYA RAO: MEMBER (JUDL)
AND
HON'BLE MR. D. K. CHAKRAVORTY: MEMBER (A).
AND
HON'BLE MR. J. NARASIMHAMURTHY: MEMBER (J)

DATED: 5.7.89

ORDER / JUDGMENT

T.A. / O.A. 504/89
(W.P. No.)

Interim directions issued.

