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CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD.

O.A.No. 513/89

Date of Decision: 16.10.92

~~T.A.No.~~

P. L. Mareddy

Petitioner.

Mr. M. R. K. Chowdary

Advocate for
the Petitioner(s)

Versus

The Govt. of A.P., rep. by its Chief Secretary
Hyderabad and 3 others.

Respondent.

Mr. N. R. Devraj and Mr. D. Panduranga Reddy

Advocate for
the Respondent
(s)

CORAM:

THE HON'BLE MR. A. B. GORTHY, MEMBER (ADMN.)

THE HON'BLE MR. T. CHANDRASEKHARA REDDY, MEMBER (JUD L.)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
 2. To be referred to the Reporters or not ?
 3. whether their Lordships wish to see the fair copy of the Judgment ?
 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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(HABG)
M(A)

T. C. R.
(HTCSR)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.513/89

Date of Order: 16.10.92

BETWEEN:

P.L.Mareddy

.. Applicant.

A N D

1. The Govt. of A.P., rep. by its Chief Secretary, Secretariat Buildings, Hyderabad.
2. The Secretary to Govt., Energy, Forests, Environment, Science & Technology Dept., Govt. of A.P., Secretariat Buildings, Hyderabad.
3. The Principal Chief Conservator of Forests, A.P., Saifabad, Hyderabad.
4. Mr.T.C.N.Singh, I.F.S., Additional Chief Conservator of Forests, AP, Office of the Principal CCF, Saifabad, Hyderabad.
5. Union of India, represented by Secretary, Department of Forest and wild life, Ministry of Forest and Environment - Kirti Bhawan, New Delhi.

Counsel for the Applicant

.. Mr.M.R.K.Chowdary, not present.

Counsel for the Respondents

.. Mr.N.R.Devraj and

Mr.D.Panduranga Reddy,
for State of A.P.

CORAM:

HON'BLE SHRI A.B.GORTHI, MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUDL.)

--- T.C.N ---

Order of the Division Bench delivered by the
Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.).

This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents 1-3 to include the name of the applicant in the panel and to promote him as Addl. C.C.F. from the day on which the fourth respondent was promoted.

2. The facts that are relevant to decide this O.A. in brief may be stated as follows:

3. The applicant herein was promoted to the super-time scale of Conservator of Forests w.e.f. 16-12-1978. From then onwards the applicant is holding the said post of Conservator of Forests. In the year 1983, a charge-sheet was issued as against the applicant. An enquiry officer was appointed and a regular departmental enquiry was conducted as against the applicant. The charges framed against the applicant were held proved. The Union Public Service Commission was addressed for its consent, in December 1987 by the Government of Andhra Pradesh. The UPSC in its letter dated 31-3-1989 received by the State Government on 11-4-1989, advised that a penalty of withholding of one increment without cumulative effect be imposed on the applicant. While the matter stood so, the Departmental Promotion Committee met on 3-3-1989 to consider the claims of all the officers including the applicant herein, that were eligible for promotion to the post of Additional Chief Conservator of Forests. As the departmental enquiry was pending as against the applicant, sealed cover procedure was followed and

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the recommendations of the departmental promotion Committee were kept in a sealed cover. Subject to the result of the disciplinary proceedings as against the applicant, the fourth respondent herein was ~~not~~ promoted. Aggrieved by the promotion of the fourth respondent, the applicant had filed this O.A. for the relief to declare the promotion of the fourth respondent as illegal and to direct the respondents to promote the applicant as Additional Chief Conservator of Forests with effect from the date the fourth respondent was promoted.

4. Counter is filed by the respondents opposing the O.A.

5. This O.A. was listed for hearing on 12-10-1992. On the said day, none for the applicant was present. There was no representation on behalf of the applicant. The learned Special Counsel for the State of Andhra Pradesh, Mr.D.Panduranga Reddy was present and reported ready. So this O.A. was ordered to be listed for orders of rejection on 14-10-1992. On 14-10-1992, the position was the same as on 12-10-1992 and the O.A. was adjourned to 16-10-92. Today (16-10-92) also none are present on behalf of the applicant. Mr.N.R.Devaraj and Mr.D.Panduranga Reddy for the respondents were present. As the applicant is not evincing any interest in this O.A. and as the material placed before us is sufficient to dispose of this O.A., we proceed to dispose of this O.A. after hearing the counsel for Respondents 1 to 4.

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6. In view of the ~~fact that~~ disciplinary proceedings ~~were~~ pending as against the applicant the sealed cover procedure had been followed and ~~due to the pendency of the disciplinary proceedings~~ the applicant was not promoted and the fourth respondent, junior to the applicant, had been promoted to the post as Additional Chief Conservator. The applicant could not be promoted ~~after completion of disciplinary proceedings~~ due to to the post as Additional Chief Conservator. ~~In view of~~ the fact that the disciplinary case was concluded with punishment. In AIR 1992 SC 1898 in the case of Union of India and Others V. K. Krishan, it is held as follows:

"4... .. The view that a Government servant for the reason that he is suffering a penalty or a disciplinary proceeding cannot ~~be~~ at the same time be promoted to a higher cadre is a logical one and no exception can be taken to Rule 157. It is not correct to assume that Rule 157 by including the afore-mentioned provision is subjecting the Govt. servant concerned to double jeopardy. We do not find any merit in the argument that there is no justification or rationale behind the policy; nor do we see any reason to condemn it as unjustified, arbitrary and violative of Articles 14 and 16 of the Constitution of India. On the other hand, to punish a servant and at the same time to promote him during the currency of the punishment may justifiably be termed as self-contradictory."

The above said observations were made by the Supreme Court while dealing the case of a Postal Assistant cadre for promotion. The said observations apply on all fours to the facts of this case. The applicant has no right to be promoted in view of the said penalty imposed on him. As the applicant has no right to be promoted, the action of the respondents is justified in promoting the fourth respondent to the said post of Addl. Chief Conservator. The action of the respondents in view of the facts and

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contd...

(T. Chandrasekhara Reddy)
Member (J)

~~18/11/92~~
Deputy Registrar (Judl.)

- 5th Contd
9/11/42

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O.A. 513/89

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR A-B-Goswami, Am.

AND

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

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
M(JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 16/10/1992

ORDER/JUDGMENT:

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

in

O.A. No.

513/89

T.A. No.

(wp. No.)

Admitted and interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No orders as to costs.

pvm

Central Administrative Tribunal
DESPATCH
 19 NOV 1992
HYDERABAD BENCH