

(56)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

D.A.No.697/89

Date of Order:12.10.93

P.Thirupathaiah

.. Applicant

Vs.

- 1.The Secretary, Department
of Statistics, Ministry of Planning
Government of India, NEW DELHI.
- 2.Director N.S.S.O., (Field Operation
Division) West, Block No.8,
Wing No.6, R.K.Puram, NEW DELHI - 110 066.
- 3.The Regional Asst. Director, N.S.S.O.
(Field Operation Division) 293/7
Mahaveer Marg, HYDERABAD - 500 001. .. Respondents.

Counsel for the Applicant : Mr.J.V.Lakshmana Rao,

Counsel for the Respondents : Mr.N.V.Ramana.

CORAM:

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

THE HON'BLE MR.T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

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(37)

(Order of the Division Bench delivered by Hon'ble
Shri A.B.Gorthi, Member (Admn.).

The applicant joined the National Sample Survey Organisation as an Investigator on 1.11.1972. Vide office order dated 7.9.78, he was promoted to the post of Assistant Superintendent on ~~an~~ ^{vide} ² adhoc-basis. Thereafter, another order dated 5.11.81, his promotion to the post of Assistant Superintendent was declared to be on regular basis. The claim of the applicant is that his seniority ~~should reckon with~~ ^{effect from the seniority} in the grade of Assistant Superintendent should reckon from 30.9.78, on which date he assumed the appointment of Assistant Superintendent. His name therefore should have appeared above that of Sri U.N.Sinha whose name is shown at Sr.No.838 in the impugned seniority list dated 9.12.88.

2. The respondents in their counter affidavit have stated that the applicant's promotion to the post of Assistant Superintendent as ordered vide office order dated 7.9.78 was purely temporary and was made on an adhoc-basis. Hence, ^{the} same cannot count for the purpose of his seniority, ^{which} ~~of the~~ ² applicant would reckon only from the date on which he was regularly absorbed as an Assistant Superintendent, i.e., 5.11.81.

3. ^{have} We heard learned counsel for both the parties. Mr.J.V.Laxmana Rao, learned counsel for the applicant has urged that ^{when} in 1978 the applicant was initially promoted to the post of Assistant Superintendent, ² there were large number of vacancies and it was against such of the vacancies that the applicant was promoted. The applicant's promotion

cannot therefore be treated as adhoc, so contended applicants' counsel.

4. ~~As~~ The main question that is before us for determination is whether the promotion of the applicant as Assistant Superintendent in 1978 was on adhoc basis or ~~on~~ regular basis. With a view to ascertain the correct factual situation we have called for the ~~irrelevant~~ ^{relevant} DPC proceedings and perused the same. From the ^{minutes} ~~merits~~ of the meeting of the DPC held on 28.7.78 and 31.7.78, the following facts emerge:-

- (a) The total number of posts for the grade of Assistant Superintendent to ^{be} filled up was 265.
- (b) 80% of the posts were to be filled up by promotion.
- (c) The percentage earmarked for Investigators ~~is~~ ^{was} 65% of the promotees.
- (d) Out of total 212 posts to be filled up by promotion, 173 posts were to be filled up by promoting from the category of Investigators.
- (e) Out of the total of 173 posts to be filled up by promoting Investigators, 134 were from unreserved category, where-as 26 posts were reserved for SC and 13 for ST.

We have also been ^{shown} ~~seen~~ the consolidated list of Investigators, in order of seniority, selected for promotion to the post of Assistant Superintendent based on the recommendations of the DPC. In the said consolidated list, the name of the applicant appears at Srl.No.161 of the selected candidates. It would thus be apparent that the applicant was undoubtedly a candidate selected by the DPC. But, his position in the consolidated list of Investigators in order of seniority was not high enough for the inclusion of ^{his} ~~the~~ name in the ^{list of} ~~the~~ regularly selected candidates. Keeping in view the fact that there were only 134 posts to be filled up by the candidates of the community, there would not be no scope for ~~the~~ regular promoting the applicant whose name appears at Sr.No.161 of the list. From this we are satisfied that the initial promotion of the applicant, as ordered by the respondents

To

1. The Secretary, Department of Statistics,
Ministry of Planning Govt.of India, New Delhi.
2. The Director N.S.S.O., (Field Operation Division)
West, Block No.8, Wing No.6, R.K.Puram, New Delhi-66.
3. The Regional Asst.Director, N.S.S.O.(Field Operation Division)
293/7, Mahaveer Marg, Hyderabad-1.
4. One copy to Mr.J.v.Lakshmana Rao, Advocate, plot 391
Balaji Towers, New Bakaram, Hyderabad.
5. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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vide their office order dated 7.9.78 was on an adhoc-basis. This fact was ^{stated} ~~said~~ categorically in the promotion order itself, para 2 of the promotion reads as under:-

"The above appointments are purely, temporary and adhoc in nature and will not confer on them any rights or privileges for continued retention in the post. The adhoc service rendered in the grade of Assistant Superintendent will not count for the purpose of seniority."


5. Subsequently, on the availability of vacancies against regular posts, the applicant was regularly absorbed as an Assistant Superintendent from 5.11.81. The applicant's seniority ^{has} ~~is~~ therefore been correctly fixed with effect from 5.11.81 in the post of Assistant Superintendent. The contention of the applicant ^{is} ~~is~~ that his name should figure above that of the U.N.Sinha in the impugned seniority list is untenable because of the fact that U.N.Sinha was regularly appointed to the post of Assistant Superintendent on 16.10.78 whereas the date of the applicant's regular promotion to the post of Assistant Superintendent was 5.11.81.

6. In the aforesaid circumstances, we find that the respondents have committed no irregularity or ~~as~~ illegality in reflecting the name of the applicant at Sr.No.1164 in the impugned seniority list of Assistant Superintendent. The application is therefore dismissed without any order as to costs.

T - 
(T.CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B.GORTHI)
Member (Admn.)

Date: 12th October, 1993.
Dictated in Open Court


Deputy Registrar (3).