

30

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD  
BENCH : AT HYDERABAD :

D.A.No.767/89.

Date of Judgment : 21-12-89.

K.Eshwar & 4 others

...Applicants

Versus

The Secretary,  
Ministry of Defence,  
New Delhi & 2 others.

...Respondents

-----  
Counsel for the Applicants : M/s. Y.Suryanarayana  
Meharchand Nori &  
P.Naveen Rao

Counsel for the Respondents : Shri Naram Bhaskar Rao, <sup>Adl</sup>  
<sup>CASE</sup>

CORAM:

HONOURABLE SHRI D.SURYA RAO : MEMBER (J) (I)

HONOURABLE SHRI R.BALA SUBRAMANIAN : MEMBER (A)

-----  
(Judgment of the Bench dictated by Hon'ble  
Shri D.Surya Rao, Member (J) ).

-----  
The applicants herein seeking a direction to call  
for the records containing letter No.09122/Admin/Ofpm dated  
6-4-1989 and to quash the said letter as illegal and arbitrary  
and to direct the respondents to appoint the applicants as  
Canteen Vendors in the 5 vacancies existing in 1985 and 3  
vacancies <sup>which</sup> arose after 1985 in the 3rd respondents organisation.

2. It is contended on behalf of the applicants that the  
3rd respondent had prepared a panel of eligible persons for  
appointment to the post of Canteen Vendors in his organisa-  
tion. This panel was prepared by the 3rd respondent after  
  
*✓*

contd...2.

100  
SV

(31)

duly notifying the vacancies to the District Employment Officer, Medak District requesting him to sponsor the list of eligible candidates for selection. The 3rd respondent <sup>after</sup> holding a written test and oral test and <sup>by</sup> ~~after~~ completion of all formalities <sup>the</sup> ~~by~~ the selected candidates on the basis of their performance in the written and oral tests prepared a panel. The fact that they were selected and included in the panel was also intimated to the District Employment Officer, Medak District. This panel was in force till the issuance of the impugned orders dated 6-4-1989 by the 3rd respondent. It is contended that this cancellation was done without any intimation and without any reason. It is further contended that on 27-2-1989 the 3rd respondent notified 8 vacancies of Canteen Vendors to District Employment Officer, Medak District requesting him to sponsor the list of eligible candidates for filling-up of the said posts without exhausting the earlier panel, <sup>and</sup> ~~which is~~ subsequently ~~and~~ ~~the~~ cancelled by the order dated 6-4-1989.

3. On behalf of the respondents a counter has been filed stating that the earlier panel was not operated though 13 persons were selected and placed in the ~~panel or waiting~~ list. ~~No reasons were given why the applicants were not appointed against the notified vacancies.~~ However it is stated that in February, 1989 the question of certain land displaced persons was reviewed by the District Civil Authorities. Since a large number of LDPs have still not been provided appointment in the factory, although, at the

ANB

32

time of the acquisition of the land the Central Government had agreed to consider the possibility of providing employment opportunity to atleast one member of each ~~family~~ <sup>family</sup> ~~parta~~ <sup>at the time of preparation of the panel in 1985 it was deemed</sup> ~~they~~ assumed that the Industrial Canteen, for running of which the Canteen Vendors were required, would start functioning by the end of 1985. However, the canteen could not be started till June, 1989. It was ~~for~~ <sup>the reason that</sup> ~~view of this~~ none of the candidates who were selected for the post of Canteen Vendor in 1985 could be appointed.

4. We have heard the learned counsel for the applicant Shri P.Naveen Rao and the learned standing counsel for the Department Shri N.Bhaskar Rao. The counsel for the applicant relies upon the instructions contended in O.M.No. 22011/2/79-Estt(D) dated 8-2-1982. Para-3 of the said O.M. reads as follows :-

3. The matter has been carefully considered. Normally recruitment whether from the open market or through a Departmental Competitive Examination should take place only when there are no ~~candidates~~ candidates available from an earlier

A

contd..4.

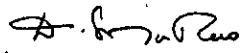
(33)

list of selected candidates. However, there is a likelihood of vacancies arising in future; in case, names of selected candidates are already available, there should either no further recruitment till the available selected candidates are absorbed or the declared vacancies for the next examination should take into account the number of persons already on the list of selected candidates awaiting appointment. Thus there would be no limit on the period of validity of the list of selected candidates prepared to the extent of declared vacancies, either by the method of direct recruitment or through a Departmental Competitive Examination."

The scope of this Government of India instruction was considered in an earlier case viz., O.A.No.327 of 1989 relating to the same organisation but with reference to the posts of LDCs.

5. It is clear that the Government of India instructions specifically directs that if once a panel was prepared, there would be no limit on the period of validity of the panel to the selected candidates and no fresh panel would be prepared unless all the persons in the existing panel have been exhausted. Therefore the applicants who were included in the panel prepared in the year 1985 are entitled to appointment and unless their panel is exhausted, the respondents should not induct fresh employees as Canteen Vendors. It is represented by Shri Bhaskar Rao that some canteen vendors from among LDPs/ have already been appointed even before receipt of interim

orders of the Tribunal. In view thereof we do not propose that the appointments of the LDPs which already made should be revoked. We however set aside the order of the 3rd respondent dated 6-4-1989 cancelling the earlier appointments of the applicants. The respondents are directed to fill up all existing and future vacancies in the cadre of Canteen Vendors from the 1985 panel to which the applicants belong and only thereafter make recruitments from subsequent panels. In the circumstances the application is allowed without costs.

  
(D. SURYA RAO)  
Member (J)

  
(R. BALA SUBRAMANIAN)  
Member (A)

Dt. 21st December, 1989.  
Dictated in open court.

avl.

  
S. Venkateswaran  
DEPUTY REGISTRAR (J)  
8/11/89

To:

1. The Secretary, to the Government, ( Government of India) Ministry of Defence, Department of Productions, New Delhi-11.
2. The Secretary, Ordnance Factory Board, 10/A, Auckland Road, Calcutta-700 001.
3. The General Manager, Ordnance Factory project, Jeddumailaram, Medak Dist., A.P., pin-502 205.
4. One copy to Mr. Y. Suryanarayana, Advocate, 40, M.I.G.H., Housing Board colony, Mehdipatnam, Hyderabad-28.
5. One copy to Mr. N. Bhaskara Rao, Addl. CGSC, CAT, Hyd.
6. One spare copy.

...  
kj.

