

(25)

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

O.A.NO.913 of 1989.

Date of order 19.12.89

K.Balaram

.. Applicant

Versus

The Secretary,
Government of India,
Department of posts, New Delhi & 2 others.

.. Respondents:

Counsel for the Applicant : Shri K.S.R.Anjaneyulu

Counsel for the Respondents : Shri J.Ashok Kumar, S.C. FOR POSTAL
DEPARTMENT.

CORAM:

HON'BLE SHRI B.N.JAYASIMHA : VICE CHAIRMAN

HON'BLE SHRI J.N.MURTHY : MEMBER (JUDL) (II)

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

This is an application from an H.S.G. Grade-I
against the notice issued to him on 12-9-1989 proposing
to revert him to the post of HSG Gr.II.

2. The applicant states that after due consideration
by the Departmental Promotion Committee, he was selected
for promotion to the post of HSG Gr.I. Orders were issued
promoting him on 6-9-1988. In pursuance to the orders
issued on 6-9-1988, orders were issued on 13-9-1988
posting him as Deputy Post Master, Khairatabad. He has
been working in the post till 30-9-1989. A show cause

notice was issued to him on 12-9-1989 by the Director of Postal Services, Andhra Pradesh, Northern Region.

Stating that it was proposed to cancel the selection and the subsequent appointment given to him on the ground that the instructions contained in O.M.No.22011/3/76-Estt(D) dated 24-12-1980 issued by the Department of Personnel has not been followed. In reply to the show-cause notice applicant submitted a representation dated 15-9-1989 asking for the details of the 20 candidates duly considered by the DPC and their seniority. He also submitted that the post against which he was promoted is a reserved vacancy for SC candidate and his selection was in accordance with the rules. After the Department gave the information asked for by him he submitted a further reply dated 11-10-1989, In that he contended that his promotion made is proper. However the Director of Postal Service in his order dated 17-11-1989 directed the reversion of the applicant to the post of HSG Gr.II. Aggrieved by this order he has filed this application.

3. We have heard Shri J.Ashok Kumar, learned Standing counsel for the Department and Shri K.S.R.Anjaneyulu, learned counsel for the applicant. The arguments of the learned counsel for the applicant and the standing counsel centred on the interpretation of the Office Memorandum issued by the Department of Personnel & Administrative Reforms. We may

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therefore first notice the contents of the office
Memorandum:-

(a) The Departmental Promotion Committee shall for the purpose of determining the number of officers who should be considered from out of those eligible officers in the feeder grade(s) restricted the field of choice as under, with reference to the number of clear regular vacancies proposed to be filled in the year.

No. of vacancies	No. of officers to be considered.
(1)	(2)
1	5
2	8
3	10
4 or more	three times the number of vacancies.

(b) Where, however, the number of eligible officers in the feeder grade(s) is less than the number in column (2) above all the officers so eligible should be considered.

(c) Where adequate number of SC/ST candidates are not available within the normal field of choice as above, the field of choice may be extended to 5 times the number of vacancies and the SC/ST candidates (and not any other) coming within the extended field of choice, should also be considered against the vacancies reserved for them.

Officers belonging to SC/ST selected for promotion against vacancies reserved for them from out of the extended field of choice under sub-para (c) above, however, be selected from within the placed en bloc below all the other officers

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selected from within the normal field of choice."

4. The number of vacancies available in this case are four. Out of four vacancies one is reserved for SC candidate. As per the office Memorandum referred to above the number of candidates to be considered is 12. Amongst the 12 candidates in the order of seniority only 2 SC candidates are available.

5. The learned counsel for the applicant says that according to the O.M. referred to above, at least 5 SC candidates are to be considered and for that purpose, the zone of consideration should be extended until ~~there are~~ at least 5 SC candidates are available for consideration. On the other hand, the learned standing counsel for the Department, contends that for four vacancies the number of candidates to be considered is 12. The question of ^{considering} counting 5 times the number of vacancies arises only when ^eadequate SC/ST candidates are not available. As two SC candidates are available for consideration, the question of going down the seniority list does not arise. We have considered these submissions. Para (a) of the O.M. lays down ^{the} ~~true~~ method for determining the number of officers to be considered. Para (c) relates to cases where ^eadequate SC/ST's are not available within the number of candidates as determined under para (a). The

To:

1. The Secretary to Government department post,
Union of India, New Delhi.
2. The Chief Post Master General, Hyderabad.
3. The Director, Postal services AP NR Hyderabad.
4. One copy to Mr.K.S.R.Anjaneyulu, Advocate, 1-1-365/A,
Jawaharnagar, Bakaram, Hyderabad.
5. One copy to Mr.J.Ashok Kumar, SC for postal department,
CAT, Hyderabad.
6. One spare copy.

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object of the circular is to see that seniority is not altogether over looked and hence a limit is placed on the number of candidates to be considered as per Para (a). This limit would ensure that candidates far junior do not supercede the senior employees. Keeping this in view, para (c) has to be understood as to mean that only when no SC candidates are available, within the limit as at Para (a) that one has to go up to 5 times to see that SC quota is filled.

6. If the contention of the learned counsel of the applicant, viz, that a separate list of eligible SC candidates to the extent of the numbers indicated in Para (a) is to be prepared for consideration, then there would be no need for Para (c) at all. Para (c) would then be redundant. That cannot be a correct view. As said earlier, the entire purpose of the OM. is to see that candidates ^{very much} ~~far~~ junior in the seniority list do not supercede the senior employees.

7. In this view of the matter, we are unable to find any merit in this application. It is accordingly dismissed. No order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
VICE CHAIRMAN

NS
(J.N. MURTHY)
MEMBER (JUDL)

Dt. 19th December, 1989.

vcr.

S. Sankar
DEPUTY REGISTRAR (J)

21/12/89

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Draft by: Checked by: Approved by
D.R.(J)

Typed by: --- Compared by:

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.NARASIMHA MURTHY: MEMBER (J) ✓

DATED: 19.12.88

ORDER/JUDGMENT

~~M.A./R.A./C.A./No.~~ in

~~T.A.No.~~ (W.P.No.)

C.A.No. 913/88

Admitted and Interim directions
issued.

Allowed.

Dismissed. ✓

Disposed of with direction.

M.A. Ordered.

No order as to costs.

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