

(28)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 942/89

Date of Decision : 26-6-92

T.A.No.

P.A.Pramoda Rao

Petitioner.

Advocate for the
petitioner (s)

Versus

Respondent.

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. P.C.Jain, Member (Admn.)

THE HON'BLE MR. T.Chandrasekhara Reddy, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter 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)

T. C. R.
(TCR)
HM/J

C.
(DCJ)
HM/A

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A. No. 942 of 1989

Date of order: 26-6-1992.

Between

P.A.Pramoda Rao

... Applicant

and

1. Union of India, rep. by the
Secretary, Min. of Labour,
New Delhi-1.
2. Director General,
ESI Corporation, New Delhi-1.
3. Dy.Regional Director,
ESI Corporation,
Andhra Pradesh, Hyderabad-463.

... Respondents.

Appearance:

For the applicant : Mr. T.Jayant, Advocate

For the Respondents : Mr. N.Bhaskara Rao, Addl.CGSC

CORAM

The Hon'ble Mr. P.C. Jain, Member (Administration)

The Hon'ble Mr. T.Chandrasekhara Reddy, Member (Judicial)

contd...2.

(JUDGMENT OF THE BENCH DELIVERED BY THE HON'BLE SHRI P.C.JAIN, MEMBER (A)).

In this application under Section 19 of the Administrative Tribunals Act, 1985, ^③ ~~filed~~ by the applicant who was an U.D.C. in the E.S.I. Corporation, Andhra Pradesh, Hyderabad, is aggrieved against his non-promotion to the post of Assistant/Head Clerk as per his seniority under the ESIC (Staff and Conditions of Service) Regulations, 1959. He has prayed for a direction to the Respondents to promote him to the aforesaid post with effect from the date from which his immediate junior was promoted by the office order dated 23-3-1989.

2. The Respondents have contested the O.A. by filing a counter to which no rejoinder is filed by the applicant.

3. We have perused the material on record. We have ^③ ~~heard~~ the learned counsel for the parties ^{③ on} ~~from~~ 23-6-92. This case was adjourned to today for the purpose of perusing the minutes of the D.P.C. which has considered the case of the promotion of the applicant in its meeting on 11-5-1989. These minutes have been perused as placed before us. It is not in dispute that the applicant was eligible for consideration for promotion against the additional 62 posts of Assistant cadre which became available on 16-3-1989. Due to implementation of the revised norms of staff in the E.S.I. Corporation. The applicant was considered for the said promotion by the D.P.C. which met on 11-5-89 along with others. However, as the applicant was undergoing the penalty of withholding of two increments.

contd...3.

falling due on 1-4-88 and 1-4-89 imposed on him by order dated 29-12-87 in pursuance of disciplinary proceedings initiated against him. In the orders issued for promotion of U.D.Cs., his name was not included. After the perusal of the minutes of the D.P.C. which considered the case of the applicant, we find that the Respondents did not issue the promotion order of the applicant strictly in accordance with the recommendations of the D.P.C. in ~~its~~ ^{this matter} meetings. The relevant portion of the minutes of the D.P.C. in regard to the applicant is extracted below:

"Para 8:- The D.P.C. has also examined the case of Sri P.A.Pramod Rao (Sl.No.7 of para 4 above) who was awarded the penalty of withholding 2 increments with cumulative effect falling due on 1-4-88 and 1-4-89, and found him fit for promotion in the light of his general service record. However, his promotion order will be issued on completion of penalty period."

In view of the recommendations of the D.P.C. as above, it cannot be said that the action of the respondents is either arbitrary or illegal. The applicant had a right to be considered as he was eligible for the said promotion and he was considered. He has also been found fit for promotion but his promotion is to be issued only after the penalty which he was undergoing at that time has been completed. The contention of the applicant that promoting his junior without promoting him is violative of Articles 14 and 16 of the Constitution, cannot be upheld, in the facts of this case, as those who have been promoted and the applicant who was not promoted for the aforesaid reason cannot be said to be equally placed. It is also not the case of double.

jeopardy as it is sought to be made out by the applicant (Ch.Venkata Reddy & Ors. Vs. U.O.I. & Ors./ 1987(2) SLJ 117 (CAT)).

4. In the light of the foregoing, we see no merit in this O.A. and the same is accordingly dismissed leaving the parties to bear their own costs.

T. Chandrasekhara Reddy
(T.Chandrasekhara Reddy)
Member (Judl.)

P.C. Jain
(P.C.Jain)
Member (Admn.)

(dictated in open court) Deputy Registrar (J)

mhb/
To

1. The Secretary, Union of India,
Min. of Labour, New Delhi-1.
2. The Director General, ESI Corporation, New Delhi-1.
3. The Deputy Regional Director, ESI Corporation,
A.P.Hydrabad-463.
4. One copy to Mr.T.Jayant, Advocate, CAT.Hyd.
5. One copy to Mr.N.Bhaskar Rao, Addl. CGSC. CAT.Hyd.
6. One copy to Hon'ble Mr.T.Chandrasekhar Reddy, M(J)CAT.Hyd
7. One spare copy

pvm

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.

THE HON'BLE

AND

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

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY : MEMBER (J)

AND

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

Dated: 26-6-1992

~~ORDER~~ / JUDGMENT

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

in

O.A.No.

T.A.No.

(W.P.No.

Admitted and interim directions issued

Allowed

Disposed of with directions

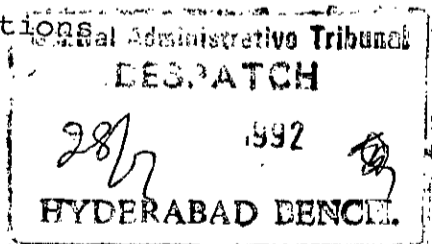
Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.



pvm.

17/9/92