

(CJ)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.991/89.

Date of Judgement : 20.1.91.

1. S.V.Ramana
2. P.V.Raghavulu
3. B.H.E.Prasada Rao

:: Applicants

Vs.

1. Union of India, Rep. by
the Secretary,
Ministry of Defence,
New Delhi-1.
2. Chief of Naval Staff,
Naval Headquarters,
New Delhi-1.
3. Flag Officer Commanding-in-
Chief, Headquarters,
Visakhapatnam-16.
4. General Manager,
Naval Armament Depot,
Visakhapatnam-530009. :: Respondents

Counsel for the Applicants :: Shri N.Ram Mohan Rao

Counsel for the Respondents :: Shri N.V.Ramana, Addl. CGSC

C O R A M

Hon'ble Shri A.B.Gorthi : Member (A)

Hon'ble Shri T.Chandrasekhar Reddy : Member (J)

J u d g e m e n t

[As per Hon'ble Shri A.B.Gorthi : Member (A)]

Applicants No.1 and 2 were promoted from the post of Senior Chargeman (Factory) (SCM(F) for short) to Foreman (Factory) on 10.4.87 and 10.8.87 respectively. Applicant was similarly promoted on 24.6.88. Their grievance is that the Respondents improperly and without notice reverted them to the post of Senior Chargeman (Factory) w.e.f. 11.12.89 by means of the impugned order dt. 15.12.89.

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SCM

2. There is no dispute as to the fact that the Applicants were promoted as Foreman (Factory) on the dates averred in the application. The short explanation offered by the Respondents is that the seniority list of SCM(F) had to be revised because two employees viz: Shri Mohammed Afroz and Shri K.S.Padma Kumar filed an application (O.A.No.632/87) before the New Bombay Bench of the Tribunal which allowed the same. Consequent to the revision of the seniority list review DPCs were held for reconsidering and reviewing the earlier DPC proceedings held in the years 1986, 1987, 1988 and 1989. As the Applicants, though selected by the earlier DPCs, were not selected by the review DPCs, they had to be reverted to make room for the candidates selected by the review DPCs held in compliance with the judgement of the Tribunal (New Bombay Bench).

3. The Respondents have made available the proceedings of all the relevant DPCs. Shri N.Ram Mohan Rao, learned couns for the Applicants has taken us through each of the DPC proceedings. After extensive examination of the same we find that so far as Shri P.V.Raghavulu (Applicant No.2) concerned, the review DPC committed no irregularity in not including his name in the panel of selected candidates. Learned Counsel for the Applicants has been fair enough not to dispute this aspect of the case so far as it pertains to Applicant No.2.

4. As regards the case of Applicant No.1 (Shri S.V.Raman) we find that the D.P.C. that was originally held in 1987 empanelled 10 candidates as against 9 vacancies which then existed. The reason for empanelling an extra candidate was that Shri G.K.Das, one of the selected candidates was consistently refusing promotion eversince 1986. In the pa

of selected candidates the name of Shri S.V.Ramana (Applicant No.1) figured at Serial 8. Consequently he was promoted w.e.f. 10.4.87. The review D.P.C., however, having re-examined the merits of all the eligible candidates, prepared a select panel of only 9 candidates including Shri G.K.Das. Learned Counsel for the Applicants rightly pointed out that the review D.P.C. also should have prepared a select panel of 10 candidates as was done by the original D.P.C. Admittedly, in the year 1987 also Shri G.K.Das declined promotion. As there were 9 vacancies in 1987, the review D.P.C. should have finalised a select panel of 10 candidates including Shri G.K.Das. Had this been done by the review D.P.C., the name of Applicant No.1 would have figured as the 10th candidate in the select panel and would have thus been promoted against one of the 9 vacancies which then existed. In other words, the review D.P.C. was not justified in not including the name of Applicant No.1 in the select panel and that consequently the reversion of Applicant No.1 w.e.f. 11.12.89 is not warranted. This would be abundantly clear from a careful comparative examination of the D.P.C. held in 1987 and the review D.P.C. for the same year held subsequently. In these circumstances, we quash the impugned order No.184/89 dt. 15.12.89 so far as it pertains to the reversion of Shri S.V.Ramana w.e.f. 11.12.89.

5. The D.P.C. for the year 1988 considered 12 candidates for filling up 4 vacancies in the grade of Foreman (Factory). As Shri G.K.Das continued to decline promotion, a select panel of 5 candidates including Shri G.K.Das was prepared. Shri B.H.E.Prasada Rao (Applicant No.3) figured as the 5th candidate to be included in the select panel. Consequently, he was promoted to the post of Foreman (Factory) w.e.f. 24.6.88. The review D.P.C. which was held subsequently once again considered 12 eligible candidates including Shri S.V.Ramana (A)

As already discussed, Shri S.V.Ramana ought to have been included in the select panel for 1987. There was, therefore, no justification to consider him for inclusion in the 1988 panel. Had his name been deleted from the list of eligible candidates, as it should have been done, the name of Shri B.H.E.Prasada Rao would have figured as one of the eligible candidates for consideration for promotion to the post of Foreman (Factory). Due to non-inclusion of the name of Shri B.H.E.Prasada Rao, the name of Shri J.R.Dias came to be included in the select panel although he was graded by the D.P.C. and the review D.P.C. as only "Good" whereas Shri B.H.E.Prasada Rao was consistently graded as "Very Good". Consequently, had Shri B.H.E.Prasada Rao been considered by the review D.P.C. he would have been selected in preference to Shri J.R.Dias. The manner in which the review D.P.C. did not consider the name of Shri B.H.E.Prasada Rao cannot be justified. It will, therefore, be proper to uphold the result of the original D.P.C. held in 1988 which selected Shri B.H.E.Prasada Rao for promotion to the post of Foreman (Factory). Consequently we have no hesitation in setting aside the impugned order No.184/89 dt. 15.12.89 so far as it pertains to the reversion of Shri B.H.E.Prasada Rao to the lower post of Senior Chargeman (Factory) w.e.f. 11.12.89.

6. In the result, the Respondents are directed not to give effect to the order No.184/89 dt. 15.12.89 reverting the Applicants No.1 and 3 to the post of Senior Chargeman (Factory). The Applicants No.1 and 3 shall be entitled to consequential benefits including monetary benefits. In conclusion we may observe that the scope of the review D.P.C. is limited. It has to merely review the minutes of the original D.P.C. keeping in view the new circumstances

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which prompted the constitution of the review D.P.C.

In the instant case, the review D.P.Cs were constituted because of the revised seniority of 2 candidates viz:

Shri K.S.Padma Kumar and Shri Mohammed Afroz. The review D.P.C. exceeded its scope by curtailing the number of candidates to be empanelled in the year 1987. Accordingly this O.A. is ordered as above.

7. The application is dismissed so far as Applicant No.2 is concerned.

8. No order as to costs.

T. Chandrasekhar Reddy
(T.Chandrasekhar Reddy)
Member(J).

A.B.Gorthi
(A.B.Gorthi)
Member(A).

Dated: 26 January, 1994.

br.

824/194
Deputy Registrar(Judl.)

Copy to:-

1. Secretary, Ministry of Defence, Union of India, New Delhi-1.
2. Chief of Naval Staff, Naval Headquarters, New Delhi-1.
3. Flag Officer Commanding-in-Chief, Headquarters, Visakhapatnam-16.
4. General Manager, Naval Armament Depot, Visakhapatnam-8.
5. One copy to Sri. N.Ram Mohan Rao, advocate, CAT, Hyd.
6. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

Suresh Reddy
26/1/94

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MK
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

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

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER (A)

Dated: 20/1/1994

ORDER/JUDGMENT:

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

O.A.No.

in
99189

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm

