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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.10/90

Date of Order: 29.6.1993

BETWEEN :

Sugali Kodanda Rama Naick

.. Applicant.

A N D

1. The Regional Provident Fund
Commissioner, A.P.Region,
Barkat Pura, Hyderabad.
2. A.Somaiah, Head Clerk,
Sub-Regional Office,
employees Provident Fund Organisation,
Warangal.

.. Respondents.

Counsel for the Applicant

.. Mr.N.Rammohan Rao

Counsel for the Respondents

.. Mr.Vilas V Afzulpurkar

Mr. S. Lavana Reddy Jkr2

CORAM:

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMN.)

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

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

The grievance of the applicant is that the respondents, by overlooking his seniority, have promoted Sri A.Sommaiah respondent No.2 to the post of Head Clerk vide impugned order dated 1.12.1989. His prayer is that the impugned order be quashed and that the applicant should rank senior to the respondent No.2 and promoted as Head Clerk w.e.f. the date on which respondent No. 2 was promoted.

2. The applicant states that he was appointed as L.D.C. on 16.2.1978, whereas respondent No.2 was appointed to that post on 13.3.1978. The applicant was further promoted as U.D.C. on 25.2.1981. At that time respondent No.2 did not complete 3 years of service, which was required for such promotion. Respondent No.2 was promoted as U.D.C. ~~only~~ on 7.3.1981, as in the meantime the policy has been revised reducing the minimum period of service from 3 years to 2 years for becoming eligible for promotion to the post of U.D.C. The short contention of the applicant is that as respondent No.2 was not only appointed as L.D.C. on a later date but was also promoted to the post of U.D.C. subsequent to the date when the applicant was promoted, the applicant should be treated as senior to respondent No.2.

3. Respondent No.1 (Regional Provident Fund Commissioner) in his reply affidavit, has clarified that both the applicant and respondent No.2 appeared for the same selection in 1978. The ranking assigned to the applicant was 26, whereas the respondent No.2 was ranked at 25. The applicant joined duty as soon as the job was offered to him. But respondent No.2

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was given extension of time for joining duty, as a result of which he joined duty on 13.3.1978. As per the respondents the general principles governing the determination of seniority in respect of persons employed in the Employees Provident Fund Organisation, ^{lay down that} the relative seniority of all direct recruits shall be in the order of merit in which they are selected for such appointment. Thus although respondent No.2 joined service a few days later he would continue to be senior to the applicant by virtue of their inter-se ranking in the selection. As regards their promotion to the post of U.D.C., there was a stipulation initially that such promotion could be given only after completion of 3 years service in the post of L.D.C. The applicant was promoted to the post of U.D.C. on 25.2.1981 on completion of 3 years as L.D.C. With the introduction of the revised policy vide the letter dated 27.2.1981, L.D.Cs with 2 years service became eligible for promotion to the post of U.D.C. Consequently respondent No.2 was promoted to the post of U.D.C. on 07.3.1981 on adhoc basis.

4. Respondent No.2 (A.Sammaiah) in his counter affidavit has reiterated the facts stated by respondent No.1 and has further contended that he was all along senior to the applicant. His contention is that a seniority list of U.D.Cs was published on 18.1.1983, wherein respondent No.2 was shown at serial No.314 whereas the applicant's name figured at serial No.316. Further, in the seniority list of L.D.Cs published on 9.12.1983 respondent No.2 was shown at serial No.35(3), whereas the applicant's name was shown

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To 1. The Regional Provident Fund Commissioner,

A.P. Region, Barkatpura, Hyderabad.

2. One copy to Mr. N. Rammohan Rao, Advocate, CAT. Hyd.

3. One copy to Mr. Vilas V. Afzulpurkar, SC for P.F. CAT Hyd.

4. One copy to Mr. S. Lakshma Reddy, Advocate, CAT. Hyd.

5. One copy to Library, CAT. Hyd.

6. One spare copy.

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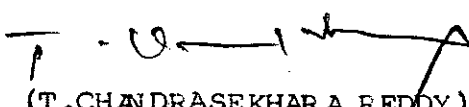
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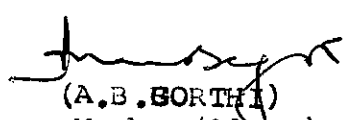
at serial No.35(4). Thus in both the seniority lists the applicant was shown as junior to respondent No.2. Despite the same the applicant did not raise any protest.

5. We have heard Mr.Subba Rao for Mr.N.Rammohan Rao, Advocate for the applicant and Mr.Jessi Francis for Mr.Vilas V Afzulpurkar, Standing Counsel for the respondents. From the facts averred in the application as also in the counter affidavit, it is apparent that although respondent No.2 joined service a few days later, he was in fact senior to the applicant by virtue of his higher merit position in the list of selected candidates. In the seniority lists published in 1983 the respondent No.2 was shown as senior to the applicant and this position, in our opinion, had been correctly indicated. As regards the promotion of the applicant prior to the date when respondent No.2 was promoted, it seems that the said promotions were made on an adhoc basis and would not therefore be relevant in determining their inter-se seniority.

6. In the light of the facts as afore-stated, we find, that the respondent No.1 correctly treated respondent No.2 as senior to the applicant. The promotion of respondent No.2 vide the impugned order dated 1.12.89 cannot be said to be irregular or illegal, as would warrant our interference.

7. The application is dismissed without any order as to costs.


(T.CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B.SORTHI)
Member (Admn.)

Dated: 29th June, 1993

(Dictated in Open Court)

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Deputy Registrar (1)

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

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

AND

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

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated : 29-6-1993

~~ORDER~~/JUDGMENT:

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

in

O.A.No. 10/90

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.

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