

(21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.184/90

Date of Order: 13.7.93

BETWEEN:

Smt.Usha Uddhao

.. Applicant.

A N D

1. Union of India, represented by  
Secretary to Government of India,  
Ministry of Steel and Mines  
Department of Mines,  
Sastri Bhavan, New Delhi - 110 001.
2. The Director General,  
Geological Survey of India  
4, Chowringhee lane,  
Calcutta - 700 016.
3. The Deputy Director General,  
Geological Survey of India,  
Training Institute,  
2nd Floor, Chandra Vihar Bldg,  
Mukaramjahi Road, Hyderabad - 1. .. Respondents.

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Counsel for the Applicant

.. Mr.V.Venkateswara Rao  
~~Attreate~~

Counsel for the Respondents

.. Mr.N.R.Deva Raj  
~~SK S.C~~

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CORAM:

HON'BLE SHRI A.B.GORTHY : 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.).

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The applicant who was working as an Assistant under the Deputy Director General, Geological Survey of India, Hyderabad was considered for promotion to the post of Office Superintendent by a duly constituted Departmental Promotions Committee on 28.4.1989. The D.P.C. recommended her case for promotion but the respondents fail to take suitable action ~~with a view~~ to implement the D.P.C. recommendation. The post of Office Superintendent fell vacant in October 1985 and at that time there was none eligible in the category of Assistant who had put in 4 years regular service. In the month of February 1989 the applicant alone became eligible for promotion to the post of Office Superintendent. As the applicant was eligible and was duly recommended by D.P.C. the respondents were not justified in denying her the benefit of promotion.

3. The respondents in their counter affidavit while admitting the essential facts averred in the application, have clarified that the vacancy for which the applicant was considered for promotion was actually to be filled up by a candidate belonging to SC as the said vacancy was reserved against SC quota. Consequently, the D.P.C. categorically mentioned that the orders for dereservation should be obtained from the competent authority before any offer is made to the applicant. The department took up the matter with the higher authority for dereservation of the vacancy, so that the applicant could be promoted. However, sanction

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of the competent authority was not received for such dereservation. Mr.N.R.Devraj, Standing Counsel for the respondents added that a candidate belonging to SC community became ~~x~~ available and was found suitable for promotion and consequently he was promoted ~~as~~ Office Superintendent w.e.f. 18.3.1991.

4. Mr.V.Venkateswara Rao, Learned Counsel for the applicant stated that there was nothing to show that the vacancy was ~~infact~~ meant to be filled up by an SC candidate. In view of the categorical averments made in the counter affidavit we are satisfied that the vacancy was to be filled up by an SC candidate as otherwise there was no reason why the respondents would have denied promotion to the applicant particularly when there is no allegation ~~of mala-fide~~<sup>s</sup> against the respondents.

5. The second point agitated by the applicant's counsel is that the applicant was considered for promotion to a single post obtaining in the department. <sup>support of his</sup> In ~~2~~ contention, he placed reliance on the statment in the reply affidavit that 'as the applicant was considered for promotion against the only post of Office Superintendent which belonged to SC category, she was not promoted.' The reference to 'only post' in the counter affidavit, according to the counsel for the applicant would clearly indicate that <sup>there</sup> ~~2~~ was only one post of Office Superintendent under the respondents organisation. According to applicant's own showing there <sup>were</sup> 2 posts of Office Superintendent in the GSI Training Institute under the control of the respondent No.3. In view of this

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it cannot be accepted that the applicant was considered for promotion to the single post of Office Superintendent in the respondents organisation. There can be no doubt that there can be no reservation in respect of a "single post". But here in the instant case the applicant was considered, as is obvious from the pleadings, for filling up the "single vacancy" that occurred as early as in 1985 but could not be filled up for want of suitable candidates.

6. Admittedly the D.P.C. that was held in 1989 recommended the applicant for promotion, <sup>but</sup> that by itself does not give any prescriptive right to the applicant to claim to be promoted even if there is no vacancy. We are satisfied that the vacancy that existed at the relevant time was meant to be filled up by an SC candidate. It is infact the case of the respondents that the respondents themselves took up the case with the higher authorities for dereserving the said vacancy so that it could be filled up by the applicant.

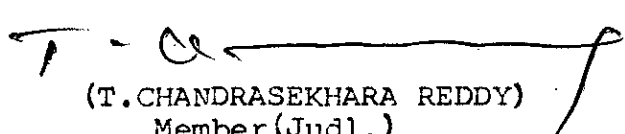
7. Last but not the least, the applicant's counsel pleaded that the respondents should have promoted the applicant even on adhoc basis to fill up the vacancy as the applicant was found suitable for promotion by D.P.C. There is no doubt that the respondents could have as well appointed the applicant on adhoc basis to work in the vacant post of Office Superintendent. At the same time, it is not for the Tribunal to give any direction to the respondents to confer such benefit upon an employee. It is entire for the respondents organisation to order such adhoc promotions as they consider necessary in the interest of organisational efficiency.

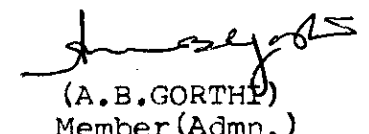
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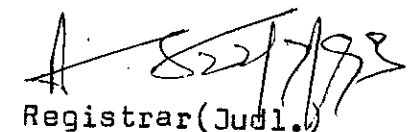
8. In view of what is stated above the application cannot succeed and it is therefore dismissed. There shall be no order as to costs.

  
(T. CHANDRASEKHARA REDDY)  
Member (Judl.)

  
(A.B. GORTHI)  
Member (Admn.)

Dated: 13th July, 1993

(Dictated in Open Court)

  
Dy. Registrar (Judl.)

sd

Copy to:-

1. Secretary to Government of India, Ministry of Steel And Mines, Department of Mines, Union of India, Sastri Bhavan, New Delhi-001.
2. The Director General, Geological Survey of India, 4 Chowringhee lane, Calcutta-016.
3. The Deputy Director General, Geological Survey of India, Training Institute, 2nd floor, Chandra Vihar Building, Mukaramjahi road, Hyd-1.
4. One copy to Sri. V. Venkateswara Rao, advocate, CAT, Hyd.
5. One copy to Sri. N.R. Devaraj Sr. CGSC, CAT, Hyd.
6. One copy to Library CAT, Hyd.
7. One spare copy.

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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 : 13/7/1993

ORDER/JUDGMENT:

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

in

O.A.No.

184/90

~~T.A.No.~~

~~(w.p.)~~

Admitted and Interim directions  
issued

Allowed

Disposed of with directions

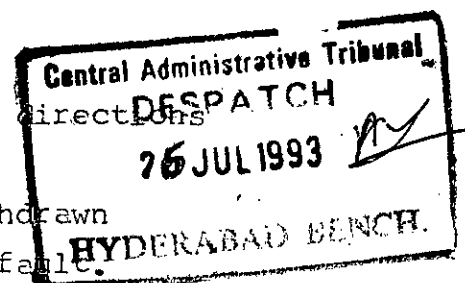
Dismissed

Dismissed as withdrawn

Dismissed for default

Rejected/ Ordered

No order as to costs...



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~~Correction~~  
~~Comments~~

27/7/93

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