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

O.A.No. 232/90

DATE OF DECISION: 16.4.90

T.A.No.

R. Sunder Singh & Others

Petitioner.

Sri I.V.S. RAO

Advocate for the
petitioner(s)

Versus

State of A.P., and others

Respondent.

Shri E. Madan Mohan Rao, Addl.CGSC

Advocate for the
Respondent(s)

CORAM:

THE HON'BLE MR. B.N. JAYASIMHA, VICE CHAIRMAN

THE HON'BLE MR. D. SURYA RAO, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
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 Tribunals ?
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)

HBNJ
VC

HDSR
M(J)

(65)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH AT : HYDERABAD

O.A. No.232/90

Date of Order: 6.4.90

Between:

1. R. Sunder Singh,
Dy. Collector/Asst. Secretary (Settlements),
O/o The Commissioner of Survey,
Hyderabad.

2. G. Nageswara Rao, S/o Somaiah,
Project Director, DRDA,
Kakinada.

Applicants

Versus

1. State of Andhra Pradesh,
Rep. by Chief Secretary to Government,
Secretariat Buildings,
Hyderabad.

2. Union of India,
Represented by its Secretary,
M/o Home, Department of
Personnel Affairs,
New Delhi.

3. Union Public Service Commission,
New Delhi.

4. K. Rami Reddy,
P.S. Minister for Agriculture,
A.P. Secretariat, Hyderabad

Respondents

APPEARANCE:

For applicants : Mr. I.V.S. Rao, Advocate

For Respondents 2 & 3 : Mr. E. Madanmohan Rao,
Addl. CGSC

For Respondent 1 : Sri Panduranga Reddy, Standing

CORAM: Counsel for State of A.P. appeared.

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

HON'BLE SHRI D. SURYA RAO, MEMBER (JUDICIAL)

.....

(ORDER OF THE BENCH DICTATED BY HON'BLE SHRI D. SURYA RAO,
MEMBER (JUDICIAL))

1. The applicants herein are members of the State Civil Services who are aspiring for inclusion in the select list for promotion to the I.A.S., They have filed the present application for deletion of the name of the 4th respondent from the select list prepared on 6.1.90 and consequential rearrangements of the select list with strict adherence to the rule of law. It is their case that they were appointed as Dy. Collectors in the A.P. State Civil Services in 1978. They joined duty in 1978. Their services were regularised as Dy. Collectors w.e.f

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29.1.1979 vide G.O. Ms. No.493, Revenue (W) Department, dt.8.4.1982. This order was however set aside by the A.P Administrative Tribunal. Subsequently, the first applicant Sunder Singh was confirmed w.e.f. 18.1.79 and the second applicant was confirmed w.e.f. 29.1.79. It is their case despite their having been appointed w.e.f.29.12.78 their seniority is not being reckoned from this date. It is alleged that the first respondent had not prepared a seniority list of State Civil Service Officers which is a mandatory requirement for the Select Committee to proceed with making selectipns for promotion under the I.A.S (Appointment by promotion) Regulations, 1955. It is contended that due to the non finalisation of a proper seniority list of State Civil Services an anomolous position was created ^{whereby} ~~thereby~~ State Civil Service Officers who have not even put in the mandatory requirement of 8 years service as officers of the cadre of Deputy Collectors (as required under Regulation 5(2) of I.A.S (Selection by promotion) Regulations,1955 were not only brought into the zone of consideration but were included in the select list andwere also substantially appointed to I.A.S to the utter detriment of officers who were actually eligible and entitled to be brought into the zone of consideration for being considered for inclusion in select list and finally to have been substantially appointed to the I.A.S by promotion from State Civil Services. It is further contended that the State Administrative Tribunal had held in R.P. No.2473/88 dt.17.9.88 that the orders of the regularisation issued in G.O. Ms. No.493 dt.8.4.82 is irregular. Despite these orders the first respondent did not reckon the seniority of the two applicants w.e.f., from the date of their respective appointments i.e., 29.12.78. It is contended that the first respondent had therefore acted illegally and violated the constitutional guarantees available to the respondents as enshrined in Articles 14, 15 and 16 of the Constitution. In effect it is contended that there is no proper

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seniority list of State Civil Service Officers and as such regulation 5 of the I.A.S (Appointment by promotion) Regulations, 1955 which requires consideration of State Civil Service Officers in the order of seniority is incapable of implementation. The first respondent herein in total violation of procedure under regulation 5 has brought ineligible officers like 4th respondent herein first into the zone of consideration and thereafter appointed them substantially into the I.A.S., It is therefore contended that the selection of the 4th respondent is irregular.

2. We have heard the learned counsel for the applicant Sri I.V.S. Rao, Sri Panduranga Reddy, Standing Counsel for the first respondent and Sri E. Madan Mohan Rao, Additional Central Govt. Standing Counsel for the respondents 2 and 3 who took notice at the stage of admission. It is clear from the averments made in the application that the grievance of the applicant is that no proper seniority list of Dy. Collectors in the State Civil Service has been prepared. His case is not that there is no seniority list at all. It is further specifically pleaded that in the existing seniority list, the date from which the applicants were appointed as Dy. Collectors viz., 29.12.1978 has not been taken into consideration that for reckoning their seniority and that the action of the first respondent in not reckoning their seniority from the date violates their rights under Article 14 and 16 of the Constitution. Consequently, it is contended that the selection of respondents to the I.A.S., is illegal as it is based on an illegal seniority list. It is thus clear the grievance of the allegations is not that there is no seniority list of Dy. Collectors but only that there is no proper seniority list. (emphasis laid by us). The forum to determine whether a

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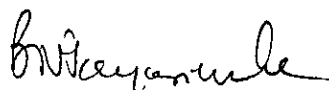
1. The Chief Secretart to Government,
State of A.P., Secretariat Buildings,
Saifabad , Hyderabad.
2. The Secretary, Union of India,
Ministry of Home, Department of Personnel Affairs,
North Block, New-Delhi.
3. The Secretary, Union Public Service Commission,
New-Delhi.
4. K.Rami Reddy, P.S. to Minister for Agriculture,
A.P. Secretariat, Saifabad, Hyderabad.
5. One Copy to Mr.D.Panduraga Reddy, Standing Counsel
for State of A.P.,
6. One Copy to Mr.E.Madan Mohan Rao, Addl.CGSC.
7. One Copy to Mr.I.V.S.Rao, Advocate,
& Plot.No.15, Arvind Nagar, Hyderabad.
8. One Spare Copy.

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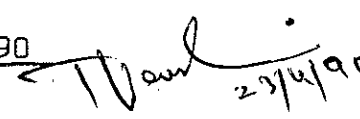
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proper seniority list of Deputy Collectors has been prepared and what should be the position of the applicant therein are matters to be agitated before the A.P. State Administrative Tribunal and not the Central Administrative Tribunal since these matters relate to conditions of service in the A.P. State Civil Service. The jurisdiction of this Tribunal is limited to adjudication of disputes in relation to recruitment, matters concerning recruitment and all service matters concerning (i) members of an All India Service, (ii) any person appointed to any Civil Service of the Union or any Civil Post under the Union (iii) to a post connected with defence or appointed to any defence service manned by a civilian. The right of the applicants to get rectified irregularities in the seniority list of Dy. Collectors which is a State Civil Service is clearly beyond the jurisdiction of this Tribunal. They have to first approach the A.P. State Administrative Tribunal and it is only if that Tribunal determines that the seniority list of Deputy Collectors is not properly drawn up that the applicant can have a grievance and can assail the selection to the I.A.S., It is not open to them to merely allege or assume that the seniority list of Deputy Collectors is not properly drawn up and invoke the jurisdiction of this Tribunal. For these reasons we hold that the application is not maintainable. It is accordingly dismissed.


(B. N. JAYASIMHA)
HON'BLE VICE CHAIRMAN


(D. SURYA RAO)
HON'BLE MEMBER (JUDICIAL)

Date: 16th April, 1990

Deputy Registrar (Admn).

Mvs.

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CHECKED BY

TYPED BY: KJ.

COMPARED BY.:

IN THE CENTRAL ADMINISTRATIVE TRIBU-
NAL:HYDERABAD. BENCH:HYD.

HON'BLE MR.B.N.JAYASIMHA: V.C.

HON'BLE MR.D.SURYA RAO:MEMBER:(JUDL)

AND

~~HON'BLE MR.J.NARASIMHA MURTHY(M)(J)~~

AND

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

DATED:

16/4/90

ORDER/JUDGMENT:

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

~~T.A.No.~~

~~W.P.No.~~

D.A.No. 232/90

~~Admitted and Interim directions
issued.~~

~~Allowed.~~

~~Dismissed for default.~~

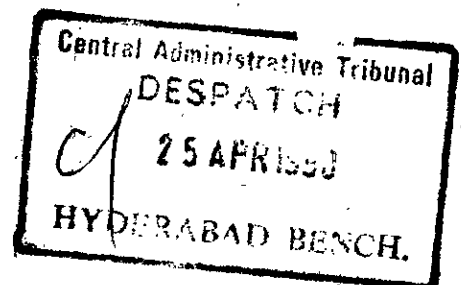
~~Dismissed.~~

~~Disposed of with direction.~~

~~M.A. ordered.~~

~~No order as to costs.~~

~~Sent to Xerox on:~~



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