

(49)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 248/90.

Date of Decision : 16.7.1991

~~T.A.No.--~~

K.R.V.Krishnaiah

Petitioner.

Shri G.Parameswara Rao

Advocate for the
petitioner (s)

Versus

The Union of India represented by its
Secretary, Ministry of Defence,
Central Secretariat, New Delhi & 4 others
Shri N.Bhaskar Rao,
Addl. CGSC

Respondent.

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. J.Narasimha Murthy : Member(Judl)

THE HON'BLE MR. R.Balasubramanian : Member(Admn)

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)
- No

HJNM
M(J)

HRBS
M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.248/90.

Date of Judgment 16.7.1991

K.R.V.Krishnaiah

.. Applicant

Vs.

1. The Union of India
represented by its
Secretary,
Ministry of Defence,
Central Secretariat,
New Delhi.

2. The Engineer-in-Chief,
Army Headquarters,
Kashmir House,
New Delhi.

3. The Chief Engineer,
Southern Command,
Pune-1.

4. The Chief Engineer(Project),
Factory,
Parade Grounds,
Secunderabad.

5. U.P.S.C. rep. by its
Secretary,
Dholpur House, Shahjahan Road,
New Delhi.

.. Respondents

[Respondent No. 5 is impleaded as party Respondent as per orders of the Tribunal dated 20.12.90
in M.A. NO-1006/90]

Counsel for the Applicant : Shri G. Parameswara Rao

Counsel for the Respondents : Shri N. Bhaskar Rao,
Addl. CGSC

CORAM:

Hon'ble Shri J. Narasimha Murthy : Member(Judl)

Hon'ble Shri R. Balasubramanian : Member(Admn)

[Judgment as per Hon'ble Shri R. Balasubramanian,
Member(Admn)]

This application has been filed by Shri K.R.V. Krishnaiah
under section 19 of the Administrative Tribunals Act, 1985
against the Union of India represented by its Secretary,

Ministry of Defence, Central Secretariat, New Delhi and 4 others.

2. The applicant was eligible for promotion to the cadre of Executive Engineer in Group 'A'. It is the case of the applicant that the D.P.C. which met in 1989 to consider the cases including his had taken note of the punishment of stoppage of increment inflicted on him vide proceedings No.130806/J2/⁴297/EID dated 21.12.88 by the Chief Engineer, Southern Command, Pune. It is his case that but for this cognizance of the punishment ~~case~~ he would have otherwise been selected. He prays for proper grading to be accorded to him in the D.P.C. ignoring the unjust punishment inflicted on him.

3. The respondents have filed the counter affidavit. They have stoutly denied that the fact of punishment had resulted in his not being selected. Hence they oppose the application.

4. We have examined the case and heard the learned counsel for the applicant and the respondents. In the case before us the punishment of withholding of one increment without cumulative effect was imposed on him by an order dated 21.12.88. The D.P.C. met on 17.5.89 and also on 1.8.89 and 2.8.89. On the day the D.P.C. had its sitting the punishment was current. According to standing instructions, when the D.P.C. encounters a case where the punishment is current, they have only to declare the fitness or otherwise of the person to be promoted. In that case the administrative authority would effect the promotion as soon as the punishment period is over. In the course of the hearing the learned

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counsel for the applicant drew our attention to the fact that subsequently while disposing of O.A.No.712/89 filed by the applicant against the punishment order this Bench had quashed the order of punishment. He, therefore, forcefully argued that the punishment factor which would have been taken into account at the time of grading by the D.P.C. of the applicant should also be undone and that the official be given a fresh grading ignoring the fact that he had a punishment at any time. The respondents have categorically averred that the fact of punishment did not influence them in the grading of the officer by the D.P.C. We have also seen the D.P.C. proceedings and there is no indication whatsoever that the punishment was taken into account. It is quite likely that the fact of punishment was mentioned in the C.Rs and in that case this fact would not have escaped the notice of the D.P.C. But then since the instructions are clear on the subject the D.P.C. could not have given any weightage to this fact. Like a large number of others considered he was also given the grading of only 'Good' ^{based on his work} and this was not enough for the applicant ^{to} ~~in~~ finding a place in the select list. We, therefore, see no reason to interfere in this case.

5. The respondents have also drawn our attention to the fact that the applicant has not exhausted the remedies available to him within the Department. In the application filed, against the column "Details of the remedies exhausted" the applicant states that he has no efficacious remedy in view of the fact that the authorities have a closed mind

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on the issue as revealed from the manner in which his appeal dated 6.2.89 against the punishment of stoppage of increment was disposed of. The disposal of appeal against a punishment is one matter. A representation against non-selection is a different matter. The applicant's conclusion that he can expect no redressal from his own Department and his not filing the representation is violative of section 21 of the Administrative Tribunals Act, 1985. The application is liable to be dismissed on this count also. In view of the above, we dismiss the application with no order as to costs.

MS

(J.Narasimha Murthy)
Member(Judl).

R. Balasubramanian

(R.Balasubramanian)
Member(Admn).

16th July 91
Dated

8/7/91
Deputy Registrar(J)

Ref

To

1. The Secretary, Union of India, Ministry of Defence, Central Secretariat, New Delhi.
2. The Engineer-in-chief,
Army Headquarters, Kashmir House, New Delhi.
3. The Chief Engineer, Southern Command, Pune-1.
4. The Chief Engineer (Project) Factory,
Parade Grounds, Secunderabad.
5. The Secretary, U.P.S.C. Dholpur House, *Shakjagan Road,* New Delhi.
6. One copy to Mr.G.Parameswara Rao, Advocate, CAT.Hyd.
7. One copy to Mr.N.Bhaskar Rao, Addl.CGSC.CAT.Hyd.
8. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
9. One spare copy.

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13/7/91