

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD.

O.A.No.369/90.

Date of Judgement : (6-9-93)

B.Bhima Raju, I.A.S.

.. Applicant

Vs.

1. Union of India, Rep. by
The Under Secy., to Govt.,
Min. of Personnel, Public
Grievances & Pensions,
Dept. of Personnel & Trg.,
New Delhi.

2. State of Andhra Pradesh, Rep. by
The Chief Secy., to Govt.,
Genl. Admin. Department,
Secretariat Buildings,
Hyderabad. .. Respondents

Counsel for the Applicant :: Shri V. Venkataramanaiah &
Shri G. Raghuram

Counsel for the Respondents :: Shri N.R. Devaraj, Sr. CGSC &
Shri D. Panduranga Reddy,
SC for AP

CORAM:

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

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

J u d g e m e n t

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

The Applicant was working as the Jt. Commissioner of Comm'l. Taxes when he was selected for appointment to the Indian Administrative Service in 1986. Though the selection was concluded in December, 1986, his actual appointment was made on 1.12.1987. His prayer in this application is that his date of appointment should reckon from 12.8.1987.

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2. The Applicant was appointed in the vacancy that arose on the demise of Shri P. Adinarayana, I.A.S. on 12.8.1987. In any case, Shri P. Adinarayana was due to retire on 30.9.1987. The Respondents took their own time and appointed him much later on 1.12.1987. In the case of Shri T. Venka Reddy and Shri T. Ramamohana Rao both of whom were selected along with the Applicant, the appointments were made on 8.4.1987 and 21.7.1987 respectively. As the Applicant was the next one to be appointed, there was no impediment as such coming in the way of the Respondents, which could have justified the delay in his appointment. The Applicant contends that in case his date of appointment is advanced to 12.8.1987 as requested by him, he would have become entitled to one more increment before his retirement on 30.9.1990.

3. The Respondents explained that appointment of a non-State Civil Service candidate to I.A.S. could be made only on the proposal/recommendation made by the State Govt. In the case of the Applicant, the Central Govt. received the proposal from the State Govt. sometime towards the end of October, 1987. The rules regulating the appointment by selection of non-State Civil Service Officers do not provide for appointment to I.A.S. with retrospective effect. There was no inordinate delay in making the appointment, but it does take some time to process each case and make the appointment. The Respondents thus contend that the appointment of the Applicant cannot be ante-dated to 12.8.1987 or any other date prior to 1.12.1987.

3. The learned counsel for the Applicant urged that the Applicant should not be made to suffer for the delay in his

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appointment, which was caused by the failure of the State and Central Governments to initiate timely and prompt action. In support of his contention, he relied upon the judgement in the case of S.Krishnamurthy Vs. Genl. Manager, Southern Railway, AIR 1977 SC 1868. Relevant portions of the judgement are extracted below:-

"2. The appellant joined the Southern Railway as a clerk way back in October, 1948 and was confirmed as train clerk on April 1, 1949. He worked his way up and became a wagon chaser in an ex cadre post. Thereafter, he was entitled to become Assistant Yard Master but, for reasons which we need not go into, he continued as wagon chaser. The promotion post for Assistant Yard Master is that of traffic inspector. Unfortunately, the appellant was not considered for that post although others similarly situated like him were absorbed as traffic inspectors. The Railway Administration discovered the injustice and set right the error of not treating the appellant as an Assistant Yard Master by its order dated November 10, 1965; but by this time others had been absorbed as traffic inspectors and the appellant was not. His representation proving unsuccessful, he moved the High Court under Art.226 for the relief of being treated as traffic inspector with effect from 1st January, 1959 when those others similarly situated were so absorbed. The conflicting fortunes of the case have already been indicated and all that we need say is that in the light of the order of the Railway Administration dated November 10, 1965, there has been an injustice inflicted on the appellant.

3. On the strength of the policy decision taken on December 31, 1958, the appellant was eligible to be absorbed as traffic inspector like his confrere but was not. Moreover he had actually worked as Assistant Yard Master for some time. In the circumstances, he was entitled to be taken into the cadre of traffic inspector."

4. There can be no doubt that a Govt. employee can be made to suffer on account of the lapses or mistakes of the Government. The short question for our consideration is whether in this case there was any such lapse on the part of the Respondents as would warrant our interference. The record discloses that the State Govt. forwarded the proposal for the appointment of the Applicant in October, 1987. Orders were issued by the Central Govt. appointing the Applicant

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w.e.f. 1.12.1987. We cannot therefore say that there has been an inordinate delay in appointing the Applicant. In any case, there was no scope for the Central Govt. to make the appointment prior to October, 1987, because it was only then that it received the proposal from the State Govt. The relevant rules too do not provide for appointment with retrospective effect.

5. We, therefore, do not find any merit in this application and it is hereby dismissed. No costs.

T. Chandrasekhara Reddy
(T.Chandrasekhara Reddy)
Member(J).

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

Dated: 16 Sept., 1993.

br.

824083
Deputy Registrar(J)

To

1. The Under Secretary to Govt., Union of India, Ministry of Personnel, Public Grievances & Pensions, Dept.of Personnel & Training, New Delhi.
2. The Chief Secretary to Govt., State of A.P., General Admin. Department, Secretariat Buildings, Hyderabad.
3. One copy to Mr.V.Venkataramanaiah, Advocate, CAT.Hyd.
(G.Raghuram)
4. One copy to Mr.N.R.Devraj, Sr. OGSC. CAT.Hyd.
5. One copy to Mr.D.Pandiranga Reddy, Spl.Counsel for A.P.Govt.CAT.
6. One copy to Deputy Registrar(J)CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. Copy to All Benches and All Reporters as per standard list of CAT.Hyd.
9. One spare copy.

pvm

*Temp. 2nd May
25/5/93*

~~Rowed~~
27/9/93

TYPED BY

R-3092/93

COMPARED BY

CHECKED BY (6)

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.GORTHI : MEMBER(A)

AND

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

AND

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

Dated: 16 - 9 - 1993

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ORDER/JUDGMENT:

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

in

O.A.No. 369/90

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.

pvm

