

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A. No. 374 of 1990

Date of order: 04-9-1991.

Between

1. K.A.Jayaprakash Reddi
2. U.Sambasiva Rao

... APPLICANTS

A N D

1. Government of India,  
Ministry of Finance,  
rep. by Secretary to Govt.,  
New Delhi.
2. General Manager,  
India Security Press,  
Nasik Road, Nasik.
3. Administrative Officer,  
India Security Press,  
Nasik Road, Nasik.

... RESPONDENTS

Appearance:

For the applicants : Shri N.Krishna Rao, Advocate

For the Respondents : Shri Naram Bhaskara Rao, Addl.CGSC

CORAM:

The Hon'ble Shri J.Narasimha Murthy, Member (Judicial)

The Hon'ble Shri R.Balasubramanian, Member (Admn.)

J U D G M E N T

(of the Bench delivered by the Hon'ble Shri R.Balasubramanian,  
Member (Admn.)).

This application is filed by S/Shri K.Jayaprakash Reddi and U.Sambasiva Rao under Section 19 of the Administrative Tribunals Act, 1985 against the Finance Secretary and two others. The Respondents issued an advertisement in the Employment News dated 6/7-2-1987 calling for

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applications for the post of Assistant Supervisors. The vacancies announced were 28 unreserved, 10 reserved for Scheduled Castes and 7 reserved for Scheduled Tribes. The applicants applied for the same and were selected. The applicant No.1 received the selection intimation vide letter dated 31-10-87 and the applicant No.2 also received the selection intimation vide letter dated 16-5-1988. They were also required to <sup>complete</sup>~~meet~~ some <sup>formalities</sup>~~requirements~~ and these were met before the time stipulated. The applicants had been fondly hoping to get the final appointment orders but to their dismay they found another notification in the Employment News dated 19/25-8-1989 calling for applications to the posts of Assistant Supervisors. In the interregnum, the two missed other opportunities of employment and applicant No.2 had crossed the age limit of 25 years and has, therefore, become ineligible for further government jobs due to over-age. Aggrieved, the applicants now pray that the second advertisement issued in August 1989 be quashed and that they be offered the posts of Assistant Supervisors.

2. The Respondents have filed a counter affidavit and opposed the application. The facts of the case are not disputed. It <sup>is</sup>~~is~~ pointed out that the vacancies announced were inclusive of some anticipated vacancies and the anticipated sanction from the Government did not come due to administrative changes. It <sup>is</sup>~~is~~ pointed out that the applicants stood only at Sl.Nos.34 and 40 beyond the announced number of vacancies. It is also contended that the letters they issued were only letters forwarding blank attestation forms. This is a pre-requisite formality <sup>which</sup>~~and~~ takes time and hence to save time

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they have taken advance action and that this couldnot mean to be an appointment of the applicants. It is also pointed out that the normal life of a select list is one year extendable by another six months. Even after the extension, the validity of the list had expired in February 1989.

3. The applicants had filed a rejoinder which is more or less a repetition of the application.

4. We have examined the case and heard the learned counsel forthe applicants Shri N.Krishna Rao, Advocate and the learned Addl.Standing Counsel Shri N.Bhaskara Rao on behalf of the Respondents.

5. The short question is whether the applicants had acquired <sup>any</sup> right by virtue of the letters dated 31-10-87 and 16-5-88 issued by the Respondents. The Respondents contend that these are mere forwarding letters which cannot be taken to <sup>be</sup> appointment to office. We have seen the two letters in question. The letters began with "your name has been selected for the post of Assistant Supervisor. You are, therefore, advised to fill in the enclosed forms . . . . . " Are these mere forwarding letters? The considered answer is "No". It contained a specific information that the applicants had been selected and <sup>were</sup> ~~are~~, therefore, advised to fill in the enclosed forms. If it was the intention of the Respondents that these should be mere forwarding letters, then such letters should clearly say so stating ~~that~~

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...4.

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"we hereby forward the forms for you to fill up and return and this will not be taken as <sup>an</sup> appointment letter." That is not the case. These letters have made a commitment and aroused the hopes of the applicants who as a consequence lost the opportunities of getting jobs elsewhere. ~~But~~ To deny them jobs at this stage on the ground that the vacancy position has undergone a change is a sin.

6. At the time of hearing, the applicants had produced a copy of the judgment of the Bombay Bench of this Tribunal in O.A.No.632/89 before them. It covers the same case relating to one Sri Vijaya Trimbak Patil standing at serial No.30 of the same list in which the applicants are reported to have figured at serial Nos.34 and 40. In that judgment, the learned members of the Bombay Bench had referred to the following three cases:

- (i) (1987) 5 ATC 590 K.L.Prashar Vs. U.C.I.
- (ii) (1990) 12 ATC 125 Nirmal Kumari Vs. Delhi Admn.
- (iii) JT 1989 (4) SC 130 V.Bhogeshwarudu Vs.APPSC

The Bombay Bench held that the application deserved to be allowed and, therefore, directed the Respondents to appoint the applicant therein, as Assistant Supervisor from the date when the first vacancy of such a post was filled up after the 29th un-reserved candidate from the panel was appointed. The learned counsel for the Respondents, on the other hand drew our attention to the decision of the Supreme Court 1991 (3) SCC 47. The case is not applicable here because in the case before the Supreme Court, the applicant therein was not included in the appropriate merit list and had no right as such. Moreover, <sup>no</sup> ~~any~~ intimation to the candidate that he had been selected for a particular post had ~~not~~ been given unlike in the case before us. Therefore, we do not

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accept the reliance of the learned standing counsel for the Respondents on the Supreme Court's judgment referred to. In this case, we feel that the applicants have acquired a right and feel that the application deserves to be allowed. Since, however, we are not sure whether all the unreserved candidates ahead of the applicants in the panel have been appointed, we are not straightaway giving the direction that the applicants should be

appointed. We, however, direct that the select-list containing the

*R2* names of the applicants

should be exhausted before the Respondents resort to

any further recruitment including the one advertised

in the Employment News dated 19-25 August, 1989.

With the above direction, we dispose of the Application

with no direction to costs.

*MS*

(J.Narasimha Murthy)  
Member (J)

*R. Balasubramanian*

(R. Balasubramanian)  
Member (A)

*R2* Dated: the 4<sup>th</sup> day of September, 1991.

*8/3/91*  
Registrar.

To mhb/

1. The Secretary to Govt., Govt. of India, Ministry of Finance, New Delhi.
2. The General Manager, India Security Press, Nasik Road, Nasik.
3. The Administrative Officer India Security Press, Nasik Road, Nasik.
4. One copy to Mr. N. Krishna Rao, Advocate Block No. 8 Flat 8MIG-2 A PHB Quarters, Baghlingampally, Hyd.
5. One copy to Mr. N. Bhaskara Rao, Addl. CGSC. CAT. Hyd.
6. One copy to Hon'ble Mr. J. Narasimha Murthy, Member (J) CAT. Hyd
7. One spare copy.

pvm

*Stg. Comr  
Page 8/9/91*

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PM  
10/6/91  
COMPARED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. J. NARASIMHA MURTY: M(J)

AND

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

DATED: 4-5-1991

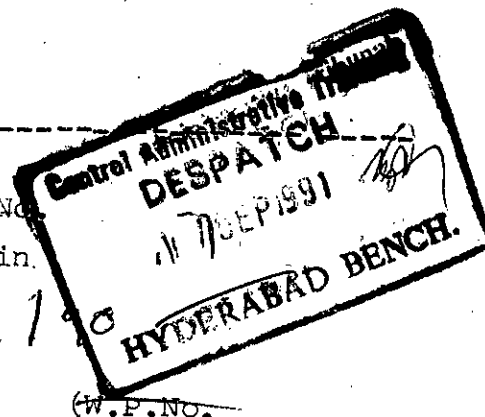
ORDER/ JUDGMENT

M.A./R.A./C.A. No. \_\_\_\_\_  
in \_\_\_\_\_

D.A. No. 374/90

T.A. No. \_\_\_\_\_

(W.P. No. \_\_\_\_\_)



Admitted and Interim directions  
issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

no. Specimen copy

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