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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.4 of 1990

DATE OF JUDGMENT: 15th June 1992

BETWEEN:

Mr. D.V.Krishnam Raju

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Applicant

AND

The Union of India represented by:

1. The Secretary to Government and
Chairman, Telecom Commission,
New Delhi.
2. The General Manager (Civil),
South Eastern Zone,
Yogayog Bhavan,
Calcutta.
3. The Chief General Manager,
Telecommunications,
Hyderabad.
4. The Deputy General Manager (Civil), Telecom.,
Hyderabad-20.

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Respondents

COUNSEL FOR THE APPLICANT: Mr. KSR Anjaneyulu

COUNSEL FOR THE RESPONDENTS: Mr. Naram Bhaskar Rao, Addl.CGSC

CORAM:

Hon'ble Shri P.C.Jain, Administrative Member

Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.)

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JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI P.C.JAIN, MEMBER (ADMN.)

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant who was initially appointed as Junior Engineer in the year 1972 and was confirmed in that post in 1981, has assailed the action of the respondents in withholding his promotion to the post of Assistant Engineer on regular basis though persons junior to him have been so promoted. It might be mentioned here that the applicant was promoted, on a purely temporary and adhoc basis, as Assistant Surveyor of Works vide order issued on 18.2.1980 and is said to have been continued on that post in that capacity till now.

2. The respondents in their reply have conceded that the applicant was eligible for consideration for promotion on regular basis to the post of Junior Engineer against the vacancy which occurred in 1987, and that he was accordingly considered by the Departmental Promotion Committee which met in August 1989. It is their further case that since a charge sheet was "deemed" to be pending against him, the recommendations of the Departmental Promotion Committee were kept in a sealed cover. Their contention is that as per the Government instructions, a vigilance case can be deemed to be pending against an official when the competent authority after the conclusion of

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of the investigation and on consideration of the result there of, either by the C.B.I. or the Department, has formed an opinion that a charge sheet may be issued to him on specific imputations where departmental action is contemplated, or sanction for prosecution is proposed. It is accordingly urged that in the case of the applicant, a firm decision had been taken by the Department of Posts to institute disciplinary action against the applicant under Rule 14 of the C.C.S. (C.C.A) Rules, 1965 and that a charge sheet was under preparation.

3. The one and the only contention of the learned counsel for the applicant ^{urged} (2) before us was that on the date when the Departmental Promotion Committee met, no memo of charge sheet had been issued to the applicant and as such ^{the} recommendations of the Departmental Promotion Committee in regard to the applicant could not have been kept in the sealed cover. For this, he relied on a Full Bench decision of the Central Administrative Tribunal in the case of "K.Ch.Venkat Reddy and others Vs. Union of India and others (Full Bench Judgments of the Central Administrative Tribunal 1986-89 page-158)". We find force in the contention of the learned counsel for the applicant. In the aforesaid cited case, ~~XXXX~~ a Full Bench of the Central Administrative Tribunal ~~XXXX~~ inter-alia held that the sealed cover procedure can be resorted to only after a charge memo is served on the concerned official (or) the charge sheet is filed before the Court

and not before. This view of the Full Bench was also upheld by the Supreme Court in Para 16 of their Judgment in the case between the Union of India Vs. K.V.Janakiraman (A.T.J. 1992(1) page 371, at pages 376/377). Admittedly, no charge sheet had been issued to the applicant by August 1989 when the DPC met. We were informed by the learned counsel for the applicant that the memo of charge sheet was issued to the applicant sometime in 1991.

4. The further contention of the applicant is that persons junior to him in the gradation list of Junior Engineers have been promoted on regular basis to the post of Assistant Engineer vide orders issued on 27.9.89.

5. In view of the foregoing discussions, the OA must succeed and it is accordingly allowed with the direction to the respondents that the sealed cover containing the recommendations of the DPC held in August 1989 in respect of the applicant for promotion to the post of Assistant Engineer on regular basis shall be opened and action in accordance with those recommendations shall be taken within a period of two months from the date of receipt of a copy of this Judgment. If the applicant is found to have been recommended for promotion to the post of Assistant Engineer, he should be allowed his promotion from the date his junior was so promoted unless, for reasons to be

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recorded in accordance with the observations of the Supreme Court in the case of Janakiraman (supra) by the competent authority, the competent authority passes a different order. The respondents are also directed not to revert the applicant from his temporary and adhoc officiation to the post of Assistant Surveyor till a decision is taken by them in the light of the aforesaid orders. No costs.

(Dictated in the open Court).

T. Chandra Sekhara Reddy
(T.CHANDRASEKHARA REDDY)
Member(Judl.)

P.C. Jain
(P.C.JAIN)
Member(Admn.)

Dated: 15th June, 1992. Deputy Registrar(Judl.)

Copy to:-

1. The Secretary to Government and Chairman, Telecom Commission, Union of India, New Delhi.
2. The General Manager, (Civil) South Eastern Zone, Yogayog Bhavan, Calcutta.
3. Chief General Manager, Telecommunications, Hyderabad.
4. The Deputy General Manager(Civil), Hyderabad-20.
5. One copy to Sri. K.S.R.Anjaneyulu, advocate, 1-1-365/A, Jawaharnagar, Bakaram, Hyd-bad-20.
6. One copy to Sri. N.Bhaskara Rao, Addl. CGSC, CAT, Hyd.
7. One copy to Hon'ble Mr. P.C.Jain, A.M., CAT, Hyd.
8. One copy to Hon'ble Mr. T.Chandra Sekhar Reddy, J.M. CAT, Hyd.
9. ~~Copy to reporters as per standard list of CAT, Hyd-Bench.~~
10. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

THE HON'BLE MR. P.C. JAIN, A.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN, M.

AND—

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

AND—

THE HON'BLE MR. G. J. ROY : MEMBER (J)

Dated: 15/6/ -1992

ORDER / JUDGMENT

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

in

O.A. No. 4/90

T.A. No.

(W.P. No.)

Admitted and interim directions
issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

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