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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

DA 514/90.

Dt. of Order:28-1-94.

D.Samba Siva Rao

...Applicant

Vs.

1. The Ministry of Defence, Govt.,
of India, rep. by its Secretary,
New Delhi.
2. The Engineer-in-Chief, Army
Headquarters, New Delhi.
3. The Chief Engineer, Vizag Zone,
Dry Dock-9, IRSD Area,
Kancharapelem Post, Visakhapatnam,
Visakhapatnam District.

...Respondents

Counsel for the Applicant : Shri D.Linga Rao

Counsel for the Respondents : Shri N.V.Ramana, Addl.CGSC

CORAM:

THE HON'BLE JUSTICE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

5/1/94

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9H

O.A.NO.514/90

JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard the learned counsel for the applicant and Shri N.V.Ramana, learned standing counsel for the respondents.

2. This OA was filed praying for a declaration that the applicant is entitled for appointment as Draughtsman Grade-II on the basis of the select list that was prepared in 1983 after declaring that the impugned letter dated 28.11.1989 informing the applicant that the said list had expired/^{been} cancelled, is illegal, void and ~~xxx~~ discriminatory.

3. A requisition was issued to the Employment Exchange, Visakhapatnam on 2.4.1983 for sponsoring names for 40 posts (31 OG; 6 SC and 3 ST) of Draughtsmen Grade-II. The names of 360 ~~were~~ sponsored and a provisional select list of 120 was prepared against the notified vacancies of 40. In the said list, the applicant was placed at Sl.No.90. Out of the said list of 120, only 34 were appointed on the basis of the rankings given.

4. The applicant was required, by the letter dated 5.9.1985 (Annexure-II) to give his willingness for consideration of his appointment in the states of Madras, Orissa, Andhra Pradesh, and Maharashtra. It is mentioned therein that if the said willingness was not intimated by 16.9.1985, his name will be deleted from the panel. While it was stated for the applicant that he sent his willingness for appointment, it is stated in the reply for the respondents that no such willingness was sent at any time. By the

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25/10/90
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letter dated 28.11.1989 (Annexure-I) the applicant was informed that the panel prepared in pursuance of the interview dated 25.6.1983 had expired or had been cancelled and the Employment Exchange was intimated for including the name of the applicant in the live list of their register with his original seniority.

5. The applicant is relying upon the O.M.No.22011/2/79 Estt.(B), dated 8.2.1982 (Annexure-III) to contend that till the candidates in the earlier list were appointed, no steps should be taken for recruitment in regard to the later vacancies. Para-4 of the said OM is relevant and it is as under:-

- "1. xxxx xxxx xxxx xxxx
2. xxxx xxxx xxxx xxxx
3. xxxx xxxx xxxx xxxx
4. Once a person is declared successful according to merit list of selected candidates, which is based on the declared number of vacancies, the appointing authority has the responsibility to appoint him even if the number of vacancies undergoes a change after his name has included in the list of selected candidates. Thus, where selected candidates are awaiting appointment, recruitment should either be postponed till all selected candidates are accommodated or alternatively in-take for the next recruitment reduced by the

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28/11/89

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number of candidates already awaiting appointment and the candidates awaiting appointment should be given appointment first, before starting appointments from a fresh list from subsequent recruitment or examination."

It is manifest therefrom that if the list is prepared to the extent of declaring ^{ed} the number of vacancies, and if it is later transpired that there was decrease in the number of vacancies, then the remaining names should be ~~not~~ kept in the waiting list for being absorbed in the later vacancies. But in this case, the notified vacancies were only 40. At best, on the basis of the OM dated 8.2.82, the remaining six alone may contend that till they are appointed, no fresh recruitment should be held for the later vacancies, when only 34 ^{out} of 40 vacancies were filled up. But the ranking of the applicant was at Sl.No.90 and ~~thus~~ he was not within the 40. Thus, the said OM does not support the contention for the applicant.

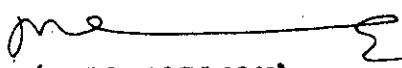
6. When the reply in this OA was filed on 8.9.1990, no steps were taken for the applicant to produce the acknowledgement if in fact he submitted his willingness in pursuance of the Annexure-II letter. So, we feel it not proper to grant further time for ^{production of the alleged acknowledgment} ~~disposal of this OA~~. Even otherwise, when the panel cannot be kept alive indefinitely for those whose ranking is beyond the number of notified vacancies, even if the applicant expressed his willingness in time in pursuance of the Annexure-II letter,


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26/9/90

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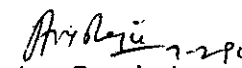
he cannot urge that the said panel should be ~~still~~ kept alive till his turn comes. Hence, this OA does not merit consideration and accordingly it is dismissed. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 28th January, 1994.
Open court dictation.

vsn


Deputy Registrar (Judl.) cc

Copy to:-

1. ~~XX~~ Secretary, Ministry of Defence, Union of India, New Delhi.
2. The Engineer-in-Chief, Army Headquarters, New Delhi.
3. The Chief Engineer, Vizag Zone, Dry Dock-9, IRSD Area, Kancharapalem Post, Visakhapatnam, Visakhapatnam Dist.
4. One copy to Sri. D.Linga Rao, advocate, Advocates Associations, High Court Buildings, Hyd.
5. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-


5/2/94
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7/2/94

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COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER (A)

Dated: 28/1-1994

ORDER/JUDGMENT: _____

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

in
O.A.No.

514/90

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

