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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH AT : HYDERABAD

O.A. No.579/90

Date of order: 24 Dec. 1990

BETWEEN

Mohd. Muneeruddin,
Gr.I Machinist, I.G.Mint,
Hyderabad.

.. Applicant

Vs.

1. Works Manager,
I.G.Mint, Khairatabad,
Hyderabad.

2. General Manager,
I.G.Mint, Khairatabad,
Hyderabad.

.. Respondents

APPEARANCE:

For the applicant

: Shri I. Dakshina Murthy,
Advocate

For the respondents

: Shri N. Bhaskara Rao, Addl.
Standing Counsel for Central Govt.

CORAM:

THE HON'BLE SHRI B.N. JAYASIMHA, VICE CHAIRMAN

THE HON'BLE SHRI J. NARASIMHA MURTHY, MEMBER (JUDICIAL)

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(Judgement of the bench delivered by Hon'ble Shri J.
Narasimha Murthy, Member(J)

This is a petition filed by the petitioner to partially quash the Diary order No.23 dt.25.6.90 which specified that the applicant shall not be entitled for any arrears and also the portion relating to placing the applicant on probation for 3 months.

2. The facts of the case are briefly as follows:

The applicant was appointed as Gr.IV Machinist in the Mint, I.G.Mint, Hyderabad. The applicant was promoted to Gr.III w.e.f. 1.12.1965 and as per rules he was kept on probation and he was asked to work on various machines like Farmer Machine, Milling Machine, Slote Machine, Grinding Machine. He also appeared for the prescribed test. After successfully completing probation working on all the machines, and after passing the prescribed test he continued in Gr.III till he was again promoted to Grade II Machinist on 3.8.1967. The applicant was to be promoted again to Gr.I post and when the D.P.C met on 24.12.1980 for this purpose, he was not considered and another person by name Sri Satyanarayana was promoted w.e.f.1.12.'80. Aggrieved by this order the applicant filed W.P. No.2399/81 to quash Rule 12 (a) of Hyderabad

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Mint (Industrial Workers) Promotion Rules, 1965 with reference to which Promotion to the applicant was denied. The rule was quashed by the Hon'ble High Court on 22.3.1983. The respondent filed W.A.No.610/83 and in the appeal orders were passed on 23.11.87 modifying the order quashing the orders of promotion to Sri Satyanarayana and held that rule 12 (c) should normally mean an unauthorised absence and that shortage of attendance on account of any leave for sickness or any emergency or any such unforeseen circumstances or situation is quite natural and reasonable shortage of attendance for the purpose of promotion. Aggrieved by this order in W.A. No.610/83, the respondent filed Civil Appeal No.2704/89 with S.L.P No.1990/89 on 2.12.88 before the Supreme Court of India and they were dismissed by the Hon'ble Supreme Court on 22.9.89.

A special Departmental Promotion Committee was convened and promotion to the applicant was denied in Diary Order No.81 dt.6.1.1990. Later respondents issued Diary order No.23 dt.25.6.1990 promoting the applicant to Gr.I w.e.f.,1.10.81. In this promotion order two untenable conditions are laid down (a) the applicant shall not be entitled for any arrears and (b) the applicant shall be on probation for a period of three months. Aggrieved by this order and without prejudice to his right to question the earlier order dt.6.1.1990 wherein he was not promoted, this application is filed. He contends that the

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respondents promoted the applicant w.e.f. 1.10.1981 and he is entitled to arrears of pay and allowances and the denial of such benefit is arbitrary and illegal.

3. The respondents filed the counter with the following contentions.

On account of his refusal to work on the machines other than forma machine he was given warning in the year 1982 and a Departmental Promotion Committee conducted in 1982 has rightly denied the promotion of the petitioner to the post of Gr.I Machinist considering the warning which was later questioned by the said applicant in High Court in W.P.9598 of 1982, which was dismissed. He filed a Writ Appeal. Subsequently that appeal was allowed. The petitioner though senior to the 4th respondent has refused to work on certain machines of which he is expected as the further promotion requires experience on all these machines. If the petitioner refuses to work on the machines asked for, it not only amounts to disobedience of the orders of his superiors but also render him unfit for the promotion as the very job requires him to be equipped with the kind of experience to the post demands. The petitioner was promoted to the post of Gr.I machinist on the basis of recommendations of the Special Departmental Promotion Committee vide the impugned Diary

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order No.23 dt.25.6.1990. Even after promotion he is refusing to do the work on all machines and for this refusal he has been advised in writing dt.21.7.1990. The applicant was denied promotion to the post of Gr.I Machinist and his junior Shri Satyanarayan was promoted to the post ^{of} Gr.I in the year 1980 on the basis of recommendations of the Departmental Promotion Committee. He was denied promotion in view of his bad attendance since in view of Rule 12 (a) he is required to put in some prescribed attendance during the period of preceeding 12 months. The diary order promoting his junior was challenged in High Court in W.P.No.2399 of 1981. The Hon'ble High Court quashed the rule 12 (a) of the said Promotion Rules holding that this rule was vague and unreasonable. The Hon'ble bench of A.P.High Court in their judgement in Appeal No.610/83 has modified the judgement of the single judge while maintaining the validity of Rule 12 (a) and given a new interpretation to the same. A Special Leave Petition was filed in Supreme Court against the Appellate judgement given by the bench. After dismissal of Special Leave Petition the D.P.C. was conducted to consider the case of promotion of the petitioner and other eligible candidates for filling up the vacant post of Gr.I Machinist of 1980. Since this vacancy has fallen on Roster Point, a reserved candidate has been promoted against the vacancy of 1980. The Mint has implemented the orders and directions given by the A.P.High Court on petition filed by the petitioner challenging the promotion to his junior on the basis of 1980 DPC recommendations. Since

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the diary order promoting Sri Satyanarayana who is junior to the petitioner in 1981 was quashed by the A.P. High Court in the above said petition filed by the petitioner it becomes necessary to review all the promotions ordered thereafter in order to accommodate Sri Satyanarayana and others and given them the rightful seniority due to them. Accordingly a fresh D.P.C was constituted in Jan.'90 to review all the promotions and on the basis of the recommendations of the special D.P.C., the petitioner was promoted to the post of Gr.I Machinist vide impugned order diary order No.23 dt.25.6.1990 which is now challenged by the petitioner for partial modification regarding the probationary period and for payment of arrears. The applicant prayed that he is entitled for pay and allowances w.e.f. 1.10.1981 is baseless and denied. -On the principle No work No pay, the applicant is not entitled to any pay and allowances w.e.f.1.10.1981. The High Court in the Writ Appeal No.610/83 has not directed for any backwages nor the Supreme Court stated to this effect while disposing the S.L.P filed by the the respondents. The promotion given to the petitioner is not directly due to the implementation of the Court orders but purely on account of administrative action by way of review and adjustment of seniority resulting from quashing of diary order by High Court. The claim of the petitioner that he is entitled to arrears is unjust and untenable.


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The Promotion Rules do not speak about the probationary period of either for Tradesman or Non-tradesman except that of direct recruits in Tradesman Establishment appointed as probationary tradesman for whom one year probationary period is prescribed. The Standing orders came into effect in 1966 have prescribed probation period of 3 months for all categories of workmen when they are promoted to higher posts. Standing Order No.22 which prescribed the probationary period for the promotees speaks as follows:

"PROMOTIONS: All promotions to higher posts with the workmen's establishment shall be made in accordance with the Hyderabad Mint Workers (Promotion) Rules, 1965. Every Workman shall on promotion to a particular category be on probation for three months from the date of promotion during which period the workman may be reverted to his original post if the work is found to be unsatisfactory. This does not constitute disciplinary action. Such action will however be based on specific report from the section-in-charge, Engineer, Chargemen and Deputy Works Manager".

After watching the performance of the promotees who are put on probation, their completion of probationary period is declared through separate diary orders issued by G.M. If the performance of the probationer is not found satisfactory his probationary period is extended from time to time and finally reverted when he is ultimately found not improving his performance in the higher posts. In view of the above reasons there are no merits in the O.A and hence the petition has to be dismissed with costs.

We have heard Shri I. Dakshina Murthy, learned Counsel for the applicant and Shri N. Bhaskara Rao, Standing Counsel for respondents.

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The petitioner joined as Gr.IV Machinist in the Mint and is promoted to Gr.III w.e.f., 1.12.1965 and he was kept on probation and according to the petitioner, he worked on various machines. He appeared for the prescribed test also and after completing successfully the probation and after passing the prescribed test he continued in Gr.III till he was again promoted to Gr.II on 3.8.67 and there is no difficulty until he came to Gr.II Machinist and the petitioner is entitled to be promoted as Gr.I post and D.P.C met on 24.12.80 for this purpose and in the D.P.C., he was not considered and another person by name Shri Satyanarayana was promoted w.e.f., 1.12.80. Aggrieved by that he filed W.P. No. 2399/81 to quash the rule 12 (a) of Hyderabad Mint Promotion Rules, 1965 with reference to which the promotion of the applicant was denied. In the W.A.No.610/83 that judgement was modified by quashing the order of promotion of Shri Satyanarayana and gave a clarification second rule 12 (c). On that W.A. 610/83 the respondents carried the matter in appeal to the Supreme Court. The S.L.P., was dismissed by the Supreme Court on 22.9.83.

The main contention of the respondents is that he did not work on the various machines, that he has to work and he is irregular in attending office. If it is a fact at no time no chargesheet was given, no enquiry was conducted and did not take any action against him. Simply because he approached the Court for his grievance they have stated all these things against him. While he

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was working as Gr.III Machinist it is stated that he worked on all machines and appeared for the test and came out successfully. If he has not worked on all machines how can he came out successfully during the period. It clearly shows that the version given by the respondents somewhat exaggerated but not a fact invented for this purpose. A special D.P.C., was convened and promotion to the applicant was denied in the diary order No.81 dt.6.1.1990. Later the respondents issued diary order No.23 dt.25.6.90 promoted the applicant to Gr.I w.e.f., 1.10.1981. While promoting him to the Gr.I w.e.f., 1.10.1981 they imposed two conditions viz., the applicant shall not be entitled to any arrears and secondly the applicant shall be on probation for a period of three months. The applicant now questioned these two conditions in this petition. He wants that the diary order No. 23 dt. 25.6.1990 which specified that the applicant shall not be entitled for any arrears and also the ~~portions~~ relating to placing the applicant on probation for 3 months to be quashed. The evidence on record establish that the petitioner successfully came upto Gr.II Machinist and during the period there is no trouble or no chargesheet was issued, no enquiry was conducted against him for any disobedience of work or for not having proper attendance.

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He successfully completed his probation in Gr.III and came to Gr.II and the only trouble arose when he was due to promotion for Gr.I and the D.P.C met on 24.12.80 for the purpose of promotion. He was not considered at that time and some other person Sri Satyanarayana was promoted w.e.f. 1.12.80 and aggrieved by that he questioned the promotion of Sri Satyanarayana in the W.P.2399/81 to quash the Rule 12 (a) of Hyderabad Mint Promotion Rules, 1965. In the W.A that was partially modified quashing the orders of promotion of Sri Satyanarayana and they interpreted rule 12 (c). The contention of the petitioner is that he entitled to promotion and D.P.C met on 24.12.80 and by using rule 12(a) of the Hyderabad Mint Promotion Rules, 1965 he was not selected and somebody else was promoted. When Sri Satyanarayana was promoted w.e.f. 1.12.80 he started his agitation that injustice was done to him. Afterwards after all the court proceedings were over the respondents convened a D.P.C. Even in that D.P.C they did not promote him in the diary order No.81 dt.6.1.1990. He was promoted only by diary order No.23 dt.25.6.1990 to grade-I w.e.f 1.10.1981. But his seniority was given w.e.f.1.10.81 because the petitioner was wrongfully prevented or ignored his promotion which is due on 1.10.1981 and dragged on till 25.6.1990. If he was promoted on 1.10.81 according to his rightful claim he would have drawn higher scales of pay i.e., Gr.I Machinist pay from that date onwards. Because the respondents wantonly prevented his promotion from 1.10.81 and finally considering all these things and rightly gave his promotion from 1.10.81. By the malafide acts of the respondents the petitioner could not get his Gr.I Machinist promotion from 1.10.1981 and he lost difference in the scales till 25.6.1990. To avoid that the respondents included in the promotion order that the applicant shall not be

entitled for any arrears which is a totally unjust condition to prevent the poor worker from getting the arrears. More over they stated that nothing was mentioned in the High Court judgement or the Supreme Court on Special Leave Petition regarding the back wages. At that time this point was not raised before either High Court or Supreme Court and it was not a point discussed by them in the W.P and in the S.L.P. There is no need to mention anything in the High Court or in the Supreme Court order regarding the back wages and they have given him seniority from 1.10.1981. They wantonly inserted this clause stating that he is not entitled for arrears to deny the benefits to the petitioner. The action of the respondents by inserting this clause in the promotion order is not just and proper and the principles of natural justice requires that he is entitled to the differential back wages from 1.10.1981 till the date of his promotion i.e., 25.6.1990.

So far as the probation period of 3 months is concerned they inserted this condition basing on the Rule 22 of the India Govt. Mint, Hyderabad Standing Orders. When it is inserted in the Standing orders and when he has not questioned the validity of the Rule it is not open to the Court to direct the respondents not to put him on probation of 3 months as per their Rule. We are not going to interfere with that Rule as he has not questioned the validity of the Rule itself. For the reasons stated above we hold that the petitioner is entitled to the arrears of pay and allowances w.e.f. 1.10.1981 as per the Rules and the denial of the

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respondents is arbitrary and illegal. We direct the respondents to pay him arrears of salary and allowances from 1.10.1981 till the date of his promotion i.e., 25.6.1990. Accordingly, the petition is allowed. The respondents are directed to pay the arrears of pay and allowances to the petitioner within two months from the date of receipt of this order. No order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
VICE CHAIRMAN

J. Narasimha Murthy
(J. NARASIMHA MURTHY)
MEMBER (JUDICIAL)

Dt. 24 Dec. 1990.

J. Narasimha Murthy
Deputy Registrar (J)

Mvs

To

1. ^{The} Works Manager,
I.G. Mint, Khairatabad,
Hyderabad.
2. ^{The} General Manager,
I.G. Mint, Khairatabad,
Hyderabad.
3. One copy to Shri I. Dakshina Murthy, Advocate,
10-1-18/25, Shyamnagar, Hyderabad - 500 004.
4. One copy to Shri N. Bhasker Rao, Advocate,
Addl. Standing Counsel for Central Government.
5. One copy to The Hon'ble Mr. J. Narasimha Murthy,
Member (J), C.A.T., Hyderabad Bench, Hyderabad.
6. One Spare Copy.

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TYPED BY 15/12 COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. B. N. JAYASIMHA : V.C.
AND

THE HON'BLE MR. D. SURYA RAO : M(J)
AND

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

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

DATE: ~~24-9-~~ 24/12/90

~~ORDER~~ / JUDGEMENT:

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

~~T.A.~~ No.

~~W.P.~~ No.

O.A. No. 579/90

Admitted and Interim directions
issued.

Allowed. ✓

Dismissed for default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered / Rejected.

No order as to costs. ✓

