

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.760/90

Date of Order: 24.12.93

BETWEEN :

Shri Lanka Rama Mohana Sastry .. Applicant.

A N D

- 1. The Union of India, rep. by Secretary to Govt., Min. of Defence, South Block, New Delhi.
- 2. Engineer-in-Chief, Army Head Quarters, Kashmir House, DHC PO, New Delhi - 110 011.
- 3. Chief Engineer, Southern Command, PUNE - 411 001.
- 4. Chief Engineer (P) Factory, Parade Grounds, Secunderabad - 500 003.8 .. Respondents.

Counsel for the Applicant .. Mr.N.Rama Mohan Rao

Counsel for the Respondents .. Mr. N.V.Ramana

CORAM :

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

HON'BLE Mr.K.RANGARAJAN : MEMBER (ADMN.)

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ORDER

{As per Hon'ble Shri Justice V. Neeladri Rao, Vice-Chairman}

The applicant was working as Office Superintendent Gr.I in M.E.S. by the date of this OA, ^{he is} and still continuing in the same post. This OA was filed praying for a declaration that the seniority List of Office Superintendent Gr.II prepared on 1.6.1988 and communicated, is not in conformity with the directions given by the Central Administrative Tribunal, Madras Bench, in TA No.427 of 1986 and batch; the order of New Bombay Bench in OA 521/87, and the order of Principal Bench at New Delhi in TA 957/85, and, hence, it should not be acted upon, ^{to} and further declare that the applicant is entitled to reckon his seniority from 8.3.1982 as Office Superintendent Gr.II, in preference to those, who have been promoted as OS Gr.II subsequent to his date of promotion and also for a declaration that he is entitled to be promoted as Office Superintendent Gr.I in preference to those who have been promoted as OS Gr.II later than his selection, and that, he is entitled to have his case considered for promotion to the ~~next~~ next higher posts such as Administrative Officer, Gr.II and Grade I in preference to those candidates who were promoted as Office Superintendent ^{Gr.II} later than his selection with all consequential benefits such as seniority, pay fixation, arrears of salary, etc.

2. The facts which give raise to this proceeding are briefly as under:

3. The applicant was promoted to the post of ~~Office~~ Superintendent Gr.II w.e.f. 20.12.1982, on temporary basis. The cases of number of UDCs in MES were referred to review DPCs in pursuance of the directions of the Allahabad High Court, for consideration for promotion to the post of Office Superintendent Gr.II. The Review DPCs met on 31.5.1983 and in December, 1983.

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On the basis of their selections, some of the UDCs were given notional promotions to the post of Office Superintendent Gr.II from 11.12.1975 and 4.7.1980. Then some of the UDCs who were temporarily promoted as Office Superintendent Gr.II prior to 1983 filed WP Nos.11388/83, 9295 & 7302/84 on the file of the High Court of Madras, challenging the notional promotion given to the UDCs referred to above, and also claiming seniority from the date of continuous officiation as Office Superintendent Gr.II. Those WPs were transferred to ~~The~~ ^{Madras} Central Administrative Tribunal/Bench and numbered as TA ^{Nos. 5} 177, 465 and 427 of 1986 respectively. Those TAs and OA 287 of 1986 were disposed of by a common order dated 5.12.1986.

4. The two questions which ^{were} ~~are~~ formulated for consideration in ^{T.A 177/86 and others} ~~those~~ proceedings are-

- (i) Whether the notional seniority given by the order dated 5.9.85 from 11.12.1975 to some of those selected on June, 1983 is legally valid and tenable?
- (ii) Whether the applicants are entitled to count their officiating service in the cadre of office superintendent Gr.II for purposes of seniority, once they have been regularly selected and promoted.

5. It is not in controversy that the applicant herein was also regularly selected and promoted as Office Superintendent Gr.II w.e.f. 20.12.1982, and he was officiating continuously as Office Superintendent Gr.II till he was promoted as Office Superintendent Grade I. It is hence contended for the applicant, that he is entitled to reckon his seniority ^{in GS grade II} from 20.12.1982

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and, as the notional seniority given ~~xxx~~ to ^{those} whose ^{who} ~~are~~ ^{were} selected in June, 1983, December, 1983 is not valid, he is senior to those who ~~are~~ ^{were} selected in June and December, 1983 as Office Superintendent Gr.II.

6. It is contended for the respondents herein, that the benefit of seniority referred to in the order dated 5.12.86 in TA 177/86 and batch was given to all the applicants therein. When the applicant herein is situated similarly to the applicants in TA 177/86 and batch, there will not be any reason for denying the benefit of the order dated 5.12.86 in TA 177/86 and batch on the file of the Madras Bench, ^{to the applicant herein}. If it is not ~~done~~ so done, it will lead to ^{an anomaly}. To illustrate, that, it may be assumed that an UDC, who is senior to some of the applicants in TA 177/86 and batch, is not given the benefit of that order, he will be junior to his ^{own} juniors in the grade of UDC, even though, he was ~~not~~ selected earlier to his juniors for promotion to the post of office superintendent Gr.II. The orders ^{similar} relating to the order in TA 177/86 can be implemented, ~~without~~ leading to ~~absurdity~~ ^{or anomaly}, by making it applicable even to the non-applicants ^{for otherwise - it will lead to anomaly}.

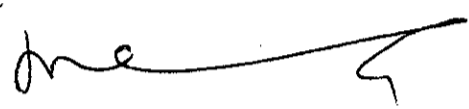
7. Hence, the contentions ^{for} of the applicant ^{herein} are upheld. His seniority has to be fixed by ~~xxxx~~ ^{the period from} reckoning ^{his} ^{commencement of his} officiation in the post of Office Superintendent Gr.II ⁱⁿ from 20.12.1982 and the notional seniority given to ^{such of} those UDCs who ~~are~~ ^{were} promoted as Office Superintendent Gr.II in June 1983 and later had to be ignored and their seniority ^{has} ~~have~~ to be reckoned from the dates of their respective promotions.

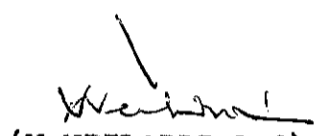
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8. If, on the basis of the above promotions, it becomes necessary to advance the date of promotion of the applicant to the post of Office Superintendent Gr.I, it had to be ~~so~~ so done and his pay from that date as Office Superintendent Gr.I has to be notionally fixed. The time for implementation of these orders is four months from the date of receipt of this order.

9. In the result, OA is ordered accordingly. No costs.

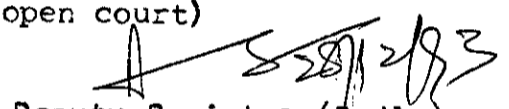

(R.RANGARAJAN)
Member (A)


(V.NEELADRI RAO)
Vice-Chairman

Dated: The 24th December, 1993

(Dictated in the open court)

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Deputy Registrar (Judl.)

Copy to:-

1. Secretary to Govt., Ministry of Defence, Union of India, South Block, New Delhi.
2. Engineer-in-Chief, Army Head Quarters, Kashmir House, DHQ PO, New Delhi-011.
3. Chief Engineer, Southern Command, Pune-011.
4. Chief Engineer(P) Factory, parade Grounds, Sec'bad.
5. One copy to Sri. N.Ram Mohan Rao, advocate, CAT, Hyd.
6. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One copy spare.

Rsm/-

Handwritten notes:
P.Selvaraj
28/12/93