

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

D.A. No. 959/90

Dt. of Decision : 15.11.93.

M. Sakthival

.. Applicant.

Vs

1. The Union of India,
represented by its Secretary,
Department of Atomic Energy,
New Delhi.

2. The Chairman,
Atomic energy commission,
D.A.E. Office,
Anushakti Bhavan,
Bombay.

3. The Director,
Baba Atomic Research Centre,
Trombay,
Bombay.

.. Respondents.

Counsel for the Applicant : Mr. K. Anantha Rao

Counsel for the Respondents : Mr. N.V. Ramana
Addl. EGSC.

CORAM:

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY : MEMBER (JUDL.)

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ORDER

(As per Hon'ble Shri A.B. Gorthi, Member (Admn.)

The grievance of the applicant is that the respondents did not consider his case for selection for the post of Security Officer, although he did submit his application for the same. His prayer is for a direction to the respondents to consider his case for promotion to the post of Security Officer.

2. The applicant, an ex-serviceman joined the Heavy Water Project, Manuguru as an Assistant Security Officer on 23.12.1983. He, having retired from Navy, in the rank and designation of Petty Officer Radio (Tactical), was eligible to be appointed as a Security Officer in any Civil establishment by virtue of Government of India Ministry of Labour (DGE&T) New Delhi letter dated November 1985. Notwithstanding the same, he accepted the appointment of Assistant Security Officer. Thereafter in response to an office memorandum calling for applications for drawing up a panel of Security Officers, the applicant submitted his application. The case of the applicant, however, has not considered by the respondents,

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later on another circular dated 29.8.1990, was issued by the respondents. In response thereto, the applicant submitted his application once again. On both the occasions he was fully eligible to be considered for promotion to the post of Security Officer. The respondents once again did not consider his case for promotion.

3. In the reply affidavit the respondents, without disputing the factual averments made by the applicant, have stated that according to the procedure for selection for the post of Security Officer, applications were invited from all the eligible candidates from the various Departments of the Atomic Energy Units and based on the applications received, list of candidates was prepared on the basis of and in accordance with their seniority. Depending on the number of vacancies, the required number of candidates were considered for selection in accordance with the Government of India, Department of Personnel and Training OM. No. F 22011/5/86/Estt. (D) dt. 10.3.89. Under the said memo, the number of candidates to be considered for selection should be three times the number of vacancies. In 1988, 102 applications were received, 35 candidates were called for interview, 25 selected and finally 17 appointed. In 1990, 120 applications were received, 60 candidates called for interview, 25 selected but only 7 were give

appointment. The respondents assert that in 1988 the position of the applicant in the seniority list was at serial 100. In 1990 his position was at 87 (according to the seniority list shown to us). Thus, although the applicant did submit his application it was not considered because, according the respondents, he was too junior as per the seniority list.

4. Mr. K. Anantha Rao, learned counsel for the applicant assailed validity of the selection held both in 1988/90. Firstly he contended that the respondents having invited applications from all eligible candidates were duty bound to consider all such candidates for promotion. If the respondents were not to consider the case of each of the candidates, they ought not to have invited the applications from all eligible candidates. In this context, the respondent's explanation is that as a matter of practice, applications were being called from all eligible candidate serving in all the departments of the Atomic Energy Units. The actual consideration of their cases is however based on the seniority and the number of vacancies. It may be that by inviting applications from all

eligible candidates, a certain amount of hope was generated among the candidates applying for promotion, but the fact remains that the consideration for such promotion cannot be in violation of the seniority of the various candidates. If the respondents decided to consider only the required number of candidates strictly in accordance with their seniority, we find, that it suffered from no irregularity merely because of the fact that the respondents had resorted to inviting applications from all eligible candidates. There is no dispute that none junior to the applicant was considered. In fact the candidates whose cases were taken up consideration were all very much senior to the applicant.

5. Mr. K. Anantha Rao further questioned, with some justification, the manner in which the respondents decided upon the number of candidates to be called for interview/selection. He has placed reliance on Union of India and others Vs Majoory Jungamayyer and others 1977 SLJ 19, wherein it was held that the number of candidates to be in the field of choice, should normally be 3 to 5 times the number of vacancies. In this regard we have

already noted that, under the relevant departmental instruction, if the number of vacancies is 4 or more, the number officers to be considered should be 3 times the number of vacancies. Obviously there was certain deviation by the respondents in fixing the number of candidates to be called for interview/selection, in the year 1988, is ~~apparent~~ that the respondents appointed 17 candidates but only 35 candidates were called for interview. This was less than 3 times the number of vacancies. In 1990 however, we find, that in respect of 7 vacancies, the respondents called as many as 60 candidates for interview/selection and prepared a panel of 25 selected candidates. The question that arises for our consideration is whether on account of the improper calculation of the number of candidates to be called for selection/interview in 1988, the entire selection proceedings deserve to be quashed are not. No where in the application is there any allegation of mala fides against the respondents. It is further to be noted that even if the stipulated number of candidates were called for interview/selection, the question of considering the applicant's case would not arise because in the year 1988, he was placed at serial 100 in the seniority list. In respect of the 17 vacancies

To

1. The Secretary, Union of India,
Dept.of Automic Energy, New Delhi.
2. The Chairman, Atomic Energy Commission,
D.A.E.Officer, Anushakti Bhavan, Bombay.
3. The Director, Baba Atomic Research Centre,
Trombay, Bombay.
4. One copy to Mr.K.Anantha Rao, Advocate, 16-2-705/1/13
New Malakpet, near Rice Mills, Hyd.
5. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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against which appointments were made in 1988/89, only 51 candidates could have been called for interview/selection. Even then the applicant would not have had a chance to be considered for promotion. In the year 1990, the respondents called adequate number of candidates for interview/selection.

6. It is needless for us to state that the case of the applicant would be considered in due course of time strictly in accordance with his seniority and as per the rules governing the promotion to the post of Security Officer.

7. In view of the above circumstances, we are of the considered view that notwithstanding the few deviations in the method of selection by the respondents, neither injustice has been done to the applicant nor have ~~been~~ ^{we} noticed any such irregularity or illegality in the selection procedure as would warrant our interference with the same. We are therefore unable to accept the claim of the applicant and hence this O.A is dismissed. No order as to costs.

T. CHANDRA SEKHARA REDDY
(T. CHANDRA SEKHARA REDDY)
MEMBER (JUDL.)

A. B. GORI
(A. B. GORI)
MEMBER (ADMN.)

Dated: The 15th November 93.
(Dictated in Open Court)

823/11/83
Deputy Registrar (J)

TYPED BY

COMPARED BY

CHECKED BY

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.GORTHI : MEMBER(A)

AND

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

AND

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

Dated: 15/11/1993

ORDER/JUDGMENT:

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

O.A.No. 959/90
in

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.

Central Administrative Tribunal
DESPATCH
26 NOV 1993
HYDERABAD BENCH