

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1019/90

Date of Order : 28.12.93

BETWEEN:

B.C.A.Banerjee

.. Applicant.

A N D

1. Union of India, rep. by
the Secretary, Ministry
of Defence, New Delhi.
2. Chief of Naval Staff,
Naval Head Quarters,
New Delhi.
3. Admiral Superintendent,
Naval Dock Yard,
Visakhapatnam-14.
4. G.J.Mohan Rao,
Foreman (P.P.C.)
Naval Dockyard,
Visakhapatnam-14.

.. Respondents.

Counsel for the Applicant

.. Mr.T.Jayant

Counsel for the Respondents

.. Mr.N.R.Devraj S. C. Sec.

CORAM:

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

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

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OA.1019/90

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri T. Jayant, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. R-4 herein was selected as Despatcher in the Shop Floor Section of the Naval Dockyard, Visakhapatnam, on 16-5-1977. It is stated for the ^{first} respondents that even from that date R-4 was working in Planning, Production, and Controller (PPC) Section of the Naval Dockyard, Visakhapatnam. The applicant was selected as Estimator in PPC on 1-9-1977 and he was working in the said section of the Naval Dockyard from that date. In 1979, the employees in various category ^{ies} of shop floor in Naval Dockyard in Visakhapatnam were required to opt for transfer to PPC of that Dockyard. The Admiral Superintendent, Naval Dockyard, Visakhapatnam, issued proceedings dated 14-9-1979 in regard to the exercise of option for serving in the Planning Department. Para-2 therein is in regard to seniority and it is as under :

"The seniority of such individuals, that is those who opt for the Planning Department, can be fixed on the basis of their regular appointment to the grade irrespective of their confirmation in the grade, provided the interse seniority of persons in the separate rolls is not disturbed in the combined seniority roll. The seniority of direct recruits already serving in the PP&C Organisation can also be fixed on the basis of the length of serving in the grades concerned."

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3. R-4 exercised his option to work in PPC and the same was accepted with effect from 1-3-1980. It is stated for the ^{official} respondents that in view of the proceedings dated 14-9-1979 of the Admiral Superintendent, Naval Dockyard, Visakhapatnam, R-4 whose appointment to the post of Despatcher was earlier to the date of appointment to the post of Estimator (Despatcher & Estimator are of equal cadre), R-4 was shown as senior to the applicant in the PPC. Both the R-4 and the Applicant were considered for promotion to the post of Junior Planning Planner Estimator / Despatcher and the said promotion was on selection. R-4 got more marks than the applicant. On that basis also the DPC had shown R-4 as senior to the applicant in the Planner / Estimator / Despatcher and accordingly the proceedings dated CEO No.B/231/81, dated 13-3-1981 were issued therein while R-4 ^{was} at Serial No.36, and the applicant was at Sl.No.37.

4. The case of the applicant is that as per proceedings dated 24-10-1979 vide MPS Circular No.16/79 (Material paper-I), the one who opted for PPC can claim seniority from the date on which his option was accepted and in support of the same para-3 of the circular dated 24-12-1979 which is as follows is relied upon:

"Naval Headquarters have clarified that the seniority of shop-floor supervisors opting from shop-floor to planning categories is to be fixed on the basis of their regular appointment to the grade irrespective of their confirmation in the grade, provided the interse seniority of the persons in the separate rolls is not disturbed in the combined seniority roll."

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5. It is stated for the applicant that he joined service in PPC in the category of Estimator on 1-9-1977 while R-4's option to come to PPC was accepted on 1-3-1980 R-4 should be shown ^{as} junior to the applicant and when ⁱⁿ the seniority list of 1989 in ~~which~~ R-4 was shown as senior to the applicant, he questioned the seniority list and when it was not revised this OA was presented on 3-12-1990.

6. Para-3 in Circular dated 24-12-79 vide No.16/79 is similar to para-2 in the proceedings of the Admiral Superintendent, Naval Dockyard, Visakhapatnam, dated 14-9-1979. Both indicate that on option to PPC and if that option is accepted, the seniority of such optee in PPC will be fixed by taking into consideration the date of entry in that category in the unit from which he opted for. This is made ^{more} clear in para-2 of the proforma option ~~form~~.

7. The learned counsel for the applicant is relying upon the General Rules, 1986 issued by the Ministry of Personnel in regard to fixation of seniority on transfer. They are not relevant for consideration of this OA as the transfer-~~ing~~ ⁱⁿ question was in 1980. Even otherwise General Rules do not prevail over Special Rules. When circular was issued in regard to fixation of seniority on option being accepted in case of transfer to PPC, and when the options were exercised on the basis of such proceedings, which indicate that the seniority in the unit from which the optee had come will be protected in fixing interse seniority in PPC, then the official respondents cannot fix the interse seniority otherwise. If the applicant was aggrieved in regard to the proceedings dated 14-9-1979 of the Admiral Superintendent, Naval Dockyard, Visakhapatnam, the same could have been challenged at the appropriate time. When it was not

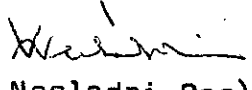
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challenged and when the seniority of R-4 was fixed on the basis of the said proceedings dated 14-9-1979 read with Circular No.16/79, dated 24-12-1979, it has to be held that this OA does not merit consideration and accordingly this OA had to be dismissed.

8. In the result the OA is dismissed. No costs.


(R. Rangarajan)
Member (Admn)


(V. Neeladri Rao)
Vice-Chairman

Dated : December 28, 93
Dictated in the Open Court

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Deputy Registrar (Judl.)

Copy to:-

1. Secretary, Ministry of Defence, Union of India, New Delhi.
2. Chief of Naval Staff, Naval Head Quarters, New Delhi.
3. Admiral Superintendent, Naval Dock Yard, Visakhapatnam-14.
4. One copy to Sri. T.Jayant, advocate, CAT, Hyd.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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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: 28/12/1993

ORDER/JUDGMENT: _____

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

O.A. No.

in
1019/94

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

