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Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 197/91.
~~Ex.No.~~

Date of Decision : 30.3.92

H. Obulesu & another

Petitioner.

Sri T. Jayant

Advocate for the
petitioner (s)

Versus

Union of India, rep. by the Secy., Min. of
Defence, New Delhi & 2 others.

Respondent.

Sri Naram Bhaskara Rao, Addl. CGSC

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. R. BALASUBRAMANIAN, MEMBER (ADMIN.)

THE HON'BLE MR. C.J. ROY, MEMBER (JUDL.)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

HRBS
M(A)

HCJR
M(J)

80

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::HYDERABAD BENCH::
AT HYDERABAD.

O.A.No.197/91.

Date of Decision: 30th March 1992.

Between:

1. H. Obulesu

2. M.G.More ..

Applicants

Vs.

1. Union of India, rep. by the
Secretary, Min. of Defence,
New Delhi.

2. Director General, Research & Dev-
elopment, DHQ P.O., New Delhi.

3. Director, Defence Research and
Development Laboratory (DRDL),
Kanchanbagh, Hyderabad.

Respondents

For the applicants : Shri T.Jayant, Advocate.

For the respondents : Shri Naram Bhaskara Rao, Addl.CGSC.

CORAM:

HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER (ADMN.)

HON'BLE SHRI C.J. ROY, MEMBER (JUDL.)

{JUDGMENT OF THE BENCH AS PER HON'BLE SHRI C.J.ROY, MEMBER(J) }

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This application is filed under sec.19 of the Administrative
Tribunals Act, 1985 to quash the Reversion Order No.3052/1/RD/
Pers-5 dt. 12-2-1991 passed by 2nd respondent and carried out
by 3rd respondent in his proceedings No.ION No.DRDL/1100/CAO
dt. 20-2-1991.

2. The applicants No.1 & 2 were initially appointed as
Stenographer Gr.III on 18.9.1974 and 20.8.1974 respectively.
They were promoted as Stenographer Gr.II and subsequently as
Stenographer Gr.I. Applicant No.1 & 2 were further promoted

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as Administrative Officer on regular basis with effect from 20.1.1987 and 30.1.1987 respectively, and were working as such by drawing annual increments in that Grade, at DRDL, Hyderabad (3rd respondent). The applicants allege that, to their surprise and shock, have received the impugned orders dt. 21.2.1991 of 3rd respondent communicating the orders of 2nd respondent dt. 12-2-1991 reverting them from the post of Administrative Officer and posting them as Stenographer Grade-I in DRDL, Hyderabad. The applicants stated that they made a representation dt. 21.2.1991 to 3rd respondent stating that the said reversion is in gross violation of principles of natural justice and CCS (CCA) Rules, 1965 R/w Article 311(2) of the Constitution of India. The applicants further alleged that they apprehend that they may be relieved from the post of Administrative Officer after they join the duty on expiry of their leave periods. The applicants stated that they could not wait for six months for disposal of their representations and therefore, in the said circumstances they filed this O.A. It is also alleged that no opportunity was afforded to them to make representations not only in the matter of reversion but also in the matter of revision of their seniority and the review panels stated to have been published in letter dt. 5.2.1991 mentioned in the impugned order dt. 12.2.1991. The applicants also averred that they were not aware of the Judgments mentioned in the impugned order as they were not respondents therein, and that the reversion cannot be ordered with retrospective effect. The applicants allege that they were promoted on regular basis as Administrative Officers and as per rules in 1986 they cannot be reverted after a period of 5 years and that the 2nd respondent is estopped from reverting them after such a long time for any reason, and that they are entitled to be continued in the said posts by creating supernumerary posts if necessary.

3. On behalf of respondents, a counter has been filed denying the claim of the applicants. The respondents state that in the year 1978, 220 posts of Stenographers (Gr.III) were upgraded by the DRDO and all the said posts were distributed to the units of DRDO all over the country with instructions to fill up the said posts on the basis of unit seniority, and accordingly promotions were made on the basis of unit seniority. It is stated that Sri Soman Pillai and others had filed a case in the Court for a direction to make promotions on All India Seniority basis in a Writ Petition, which was subsequently transferred to Central Administrative Tribunal, Bangalore Bench in T.A-No.235 to 237/86. The Bangalore Bench of this Tribunal quashed the letter dt. 10.11.1978 the basis on which promotions were made earlier on unit seniority basis and further directed to consider the case of applicants for fitment or promotion on the basis of All India Seniority and regulate all promotions in accordance with the directions of the Tribunal.

4. The respondents state that Steno-Typists who were converted as Stenographer Grade-III had filed writ petitions on the file of Hon'ble High Court of Delhi, claiming seniority with effect from 1.1.1973. The said writ petition was transferred to the Principal Bench of this Tribunal in T.A.No.508/85 had allowed the said claim of the applicants therein. It is also stated that the Principal Bench of this Tribunal in an earlier application viz. T.A.No.444/85 passed orders on 8-5-1986 to give the seniority with effect from 8-8-1975. As the decisions of the Principal Bench were contrary to each other, the respondents had moved the Hon'ble Supreme Court of India in S.L.P. No.10132/88 against the orders passed in T.A.No.508/85, but the same was dismissed by orders dt. 24.4.1989.

5. The respondents, therefore, in accordance with the directions of the Bangalore Bench of this Tribunal to promote the Stenographer Gr.III as Stenographer Gr.II (upgraded), had

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prepared seniority list of Stenographers Gr.III as per the directions of the Principal Bench of this Tribunal in T.A. No.508/1985. Based on the said all India seniority of Stenographer Gr.III, promotions were made to the grade of Stenographers Gr.II and the applicants herein were figured at Sl.No.239 & 248 respectively. The respondents averred that promotions were ordered by proceedings dt. 31-8-1989 according to the said all India Seniority List. As certain representations were received, the revised promotion orders were issued by orders dt. 12.12.1989. It is stated that the respondents had accordingly implemented the orders of the Bangalore Bench of this Tribunal in T.A.Nos.235 to 237 of 1986 as well as the orders passed by the Principal Bench in T.A.No. 508/85.

6. The respondents averred that in the process of implementing the orders of the Tribunal, promotions to the next higher grades of viz. Stenographers Grade-I and Administrative Officers had been revised, and accordingly revised panels were issued respectively. It is alleged that the names of the applicants herein did not figure in the revised panel of Administrative Officers, but their names were figured against the posts of Stenographer Gr.I at S.Nos.52 & 53 and in the said circumstances the applicants were reverted as Stenographer Gr.I from the posts of Administrative Officer. The respondents deny the allegation that the reversion of applicants is in view of disciplinary proceedings or a vigilance case.

7. The respondents deny the allegation that no opportunity was afforded to the applicants to make representations against their seniority position in the all India Seniority. The respondents state that the said seniority was circulated by a letter dt. 15-10-1987, 11/16-8-1989 and 3-10-1989. The respondents state that the reversion of applicants is only in the process of implementing the Judgment of Bangalore Bench of this

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Tribunal, but does not amount to any penalty under CCS (CCA) Rules, 1965 as alleged by the applicants and desired the applications be dismissed.

8. The applicants filed material papers viz. Promotion orders as Administrative Officers dt. 20-1-1987, Reversion order dt. 12-2-1991, Order dt. 20-2-1991 issued by 3rd respondent; Representations of applicants dt. 21-2-1991. The respondents also filed Judgment of the Bangalore Bench of C.A.T. in T.A. No.235 to 237 of 1986; O.M.dt. 8-8-1975 issued by the Government converting the Steno-Typists into Stenographers Gr.III; Judgment of the Principal Bench in T.A.No.508/85 dt.19.5.1988; Judgment in O.A.Nos.380/87 and 686/87 of Hyderabad Bench of this Tribunal; Orders of the Hon'ble Supreme Court in S.L.P.No.10132 of 1988 dt. 24.4.1989; Letter dt. 12.12.1989 containing the list of Stenographers promoted with effect from 9.11.1978; Letter dt. 5-11-1990 consisting the panel for promotion to the posts of Stenographer Gr.I.

9. We heard Sri T.Jayant, learned counsel for the applicants and Sri Naram Bhaskara Rao, learned counsel for respondents and perused the records carefully.

10. It is not in dispute that the respondents as a consequence of Judgments of the Hon'ble Supreme Court of India, CAT-Bangalore Bench and Hyderabad Bench, and Principal Bench, New Delhi, had revised the seniority of Stenographers Gr.III and in pursuance thereto, promotions were made to the posts of Stenographer Gr.II on all India seniority basis. While implementing the orders of the Courts/Tribunals, the department had revised the panels in the next higher cadre also as a consequent action, viz. Stenographer Gr.I and Administrative Officers. As the applicants herein were not figured in the said revised panel for the posts of Administrative Officer, the applicants though were promoted on

158

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regular basis as Administrative Officers, they were reverted as Stenographer Gr.I and were posted at DRDL, Hyderabad by orders dt. 12.2.1991 issued by 2nd respondent. The said orders of reversion were communicated through the proceedings dt. 20.2.1991 of 3rd respondent. It can be seen from the said orders of reversion that the said action is consequent upon court decision. The points in dispute are that

- (a) no prior notice, nor opportunity was given to the applicants before issuing the reversion orders thus resulting in gross violation of principles of natural justice.
- (b) the impugned orders, amounts to imposing major penalty and therefore in gross violation of CCS (CCA) Rules, 1965.
- (c) The applicants were not the respondents in the cases referred in impugned orders and therefore, they cannot be reverted, and
- (d) as per rules, 1986, the applicants having ^{new} promoted as Administrative Officers, cannot be reverted after a period of 5 years.

11. From the contentions of rival sides, it can be seen that the reversion of applicants is as a consequent upon court decision. The reversion in this case is not by way of punishment or a stigma. "Audi Alteram Partem" is not a ritual in each and every case. Where it is necessary only it has to be done. In this case reversion though passed on the Judgments of various Tribunals of this Bench viz. Bangalore & Hyderabad ~~and~~ ~~and that the orders of~~ Principal Bench, New Delhi were even confirmed by the Hon'ble Supreme Court of India. When the respondents are implementing the orders of various Tribunals on All India Seniority Basis, all Stenographers ~~those~~ who are aggrieved cannot complain because they are ^{only} ~~also~~ reverted in pursuance of the directions and in compliance ^{to} of the decisions

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of various Tribunals, it has resulted in their reversion. They are not entitled for any issue of notice. When they are implementing the orders of the Tribunals we cannot issue an order again to the respondents not to implement the previous orders. If the applicants were aggrieved by the impugned orders of reversion, (they should have filed Review Petitions even though they are not parties to the Original case in O.A.Nos.380/87 and 686/87 wherein this Tribunal had also decided on the same issue. The said cases were also specifically mentioned in the impugned reversion order dt. 12.2.1991. Even if they had agitated they would have succeeded or not is a different matter, but they cannot come out again by a separate O.A. for a direction to issue directions not to implement the earlier directions, to the respondents. It is not the case of the applicants that while revising the panels consequent to the directions of the Tribunals, their names were wrongly reflected and therefore were affected. Even in such case, the applicants, could have represented to the respondents for rectification in case if their names were wrongly placed in the revised panels.

12. In view of the above, we hold that the action of the respondents is only a concomitant result of execution of the directions of the various Tribunals in its Judgments including this Bench and also considered by the Hon'ble Supreme Court of India, and therefore, the applicants need not be given any specific notice or an opportunity. The contention of the applicants that the action of respondents is in gross violation of principles of natural justice is not acceptable. The action of respondents is also neither by way of punishment nor with malafide intentions, and hence the procedure contemplated in CCS(D)(CCA) Rules, 1965 is not warranted. The applicant have not placed any material in support of their contention that

To

1. The Secretary, Union of India,
Ministry of Defence, New Delhi.
2. The Director General, Research & Development,
DHQ P.O.NewDelhi.
3. The Director, Defence Research and Development
Laboratory (DRDL) Kanchanbagh, Hyderabad.
4. One copy to Mr.T.Jayant, Advocate, CAT.Hyd.
5. One copy to Mr. N.Bhaskara Rao, Addl.CGSC. CAT.Hyd.
6. One spare copy.

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they cannot be reverted after completion of five years regular service as Administrative Officer. However, in regard to another issue raised by the applicants that they were not the respondents in any of the cases decided by various Tribunals etc. we hold that the applicants could have filed a Review Application on receipt of the impugned orders having come to know that the said action is consequent upon the directions issued by the Courts and more-so the respondents had specifically mentioned the various cases decided by the Tribunals in the matter. Under the circumstances, we hold all the points (a) to (d) in favour of respondents. It is also not the case of the applicants that their names were wrongly placed in the seniority lists prepared subsequently and also that the consequent revised panels are defective. Therefore, we find no merits in the case.

13. We have also gone through the citation X 1991(1) CAT- Ernakulam - K.V. Madhavan Vs. Garrison Engineer, MES, Cochin X. It is a case where reversion was affected after seven years on the ground of eligibility and without issuing any notice. But this is not the case with the applicants herein. Hence the said citation is of no help in the instant case.

14. Under the circumstances, we dismiss the O.A. No order as to costs.

R. Balasubramanian

(R. BALASUBRAMANIAN)
MEMBER (A)

W. J. Roy
(C/J. ROY)
MEMBER (J)

Date 20th March, 1992.

grh.

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Deputy Registrar
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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

ASR

30/4/92

THE HON'BLE MR.

V.C.

AND

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

AND

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

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 30-3-1992.

~~ORDER~~ / JUDGMENT

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

in.

O.A. No. 197/91

T.A. No.

(W.P. No.)

Admitted and interim directions
issued

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

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