

(34)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 198/91.

Dt. of Decision : 6.6.94.

Mr. Ravi Kumaran Nair

.. Applicant

Vs

1. Secretary,
Ministry of Defence
Govt. of India,
New Delhi.
2. Engineer-in-Chief,
Army Headquarters
DHQ PO NEW DELHI.
3. Chief Engineer
Southern Command
Pune.
4. Chief Engineer (P) Fy
Parade Ground, SP Road,
Secunderabad - 3.

.. Respondents

Counsel for the Applicant : Mr. K.S.R. Anjaneyulu

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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P. S. V.

JUDGEMENT

1 AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN 1

Heard Shri K.S.R. Anjaneyulu, learned counsel for the applicant and also Shri N.V. Ramana, learned standing counsel for the Respondents.

2. This OA was filed praying for declaration that the order of the Chief Engineer in his letter No. 150101/37/255/E1B(R-DPC) dated 3-12-90 is arbitrary, illegal and for a direction to consider the claim of the applicant for promotion to the post of UDC with effect from the date his juniors were promoted as per PPO No. 13/89 dated 16-10-89 or an earlier date as the case may be with all consequential benefits.

3. The applicant was initially appointed as L.D.C. in an Infantry Unit with effect from 21-4-71 in peace area and he was moved to a field area during the war period. After the war, he was found surplus and he was posted to MES under surplus deficiency scheme to AGE (indep) Lonovla under Chief Engineer Southern Command, Pune during October, 1972. He was transferred to Delhi at his request in December, 1979. When his turn for tenure posting on the basis of his initial appointment had come, he was posted to Bhatinda in Punjab during September, 1985 for compulsory tenure service of 3 years. When he submitted for transfer to a nearby MES unit to his (home) State Kerala, and when he requested for his transfer to Cochin, Trivandrum, Coimbatore,

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Madras or Bangalore, he was informed that there ~~are~~^{were} no vacancies in those places and he was offered a post at Hyderabad or Vizag. Then the applicant requested for transfer to Hyderabad and during July, 1988, on completion of his compulsory tenure period of 3 years, he was posted at Secunderabad.

4. When the case of the applicant for promotion to the post of UDC in Secunderabad unit was not considered in 1989, he submitted a representation on 19-11-90 (vide Annexure I) and then he was given reply dated 3-12-90 vide Annexure II whereby the applicant was informed that his seniority for the purpose of promotion and confirmation in the post of LDC was reckoned from the date of his joining in the Secunderabad unit in accordance with the extant rules and hence his turn for promotion to the post of UDC had not come.

5. The applicant is relying upon the full Bench Judgement of C.A.T. ¹⁹⁸⁶⁻⁸⁹ (Full Bench judgement of C.A.T., Madras Bench at page 209, names of the parties K.A. Balasubramanian Vs. Union of India & Ors.) and urges that he should be given the benefit of his service in Delhi and Pune for considering him for promotion.

6. CPRO 11/75 read with CPRO 73/73 deals with the determination of seniority ~~in case of transfer from one unit to another~~ in case of request transfer from one unit to another and para 3 of the above order is relevant to this case and it is as under:

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P. J. A.

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" There have also been some doubt about the applicability of the revised principles of seniority in respect of individuals adjusted under surplus and deficiencies scheme and transferred on compassionate grounds. Revised principles of seniority are applicable with effect from 1st July, 1973. In view of this, the seniority of locally controlled staff, rendered surplus and adjusted or transferred on compassionate grounds, prior to 1st July 1973 will be determined in accordance with AI 24/50. Seniority of the individuals adjusted or transferred on compassionate grounds on or after 1st July, 1973 will be determined in accordance with the revised principles of seniority. In other words, those adjusted/transferred on or after 1st July, 1973 will not get the benefit of their previous service on their reporting to the new units. "

7. After referring to the same, it was held ~~that~~ in the above full Bench judgement ~~that~~ ^{KLX} ~~that~~ CPRO 11/75 read with CPRO 73/73 governs determination of seniority in the grade of the transferred employee and they do not deal with the question as to whether the benefit of service in the other units from the date of initial appointment in regard to such transferred employees should be given to ~~him~~ for determining as to whether such transferred employee ^{had} with the requisite period of ^{regular} service ~~in his unit is eligible~~ ^{for consideration} for promotion. It was held by the Full Bench in the above judgement that benefit of regular service in the other units has to be given to such transferred employees for reckoning the requisite period of regular service prescribed for eligibility for promotion even though ~~as per~~ the relevant instructions, the said benefit of service should not be given to such transferred employee for fixation of his seniority in the grade in the unit to which he was transferred.


8. While the applicant was transferred to Secunderabad unit in 1988, steps were initiated in 1989 for consideration for promotion to the post of UDC. It is ~~viewed~~ ^{evident} that by then none of those

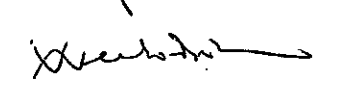
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who joined in service in Secunderabad unit subsequent to the date on which the applicant joined in ~~Secunderabad~~ unit was eligible for promotion to the post of UDC for the requisite period prescribed for eligibility for promotion was 3 years regular service as LDC. Hence the contention for the applicant that his juniors in the Secunderabad unit were promoted by CP 13/89 is not sustainable. Thus it is not a case wherein any of the juniors of the applicant in Secunderabad unit has been promoted to the post of UDC. He ^{has} ~~is~~ to blame himself for ^{not getting promotion as} ~~the same~~ when he sought transfer from Pune to Delhi and again to Secunderabad even before his turn for promotion to the post of UDC had come in the respective units and when he was made known about the existing rules which envisage that in cases of request transfer, ^{would be given} ~~one~~ the bottom seniority in the unit ^{to which} he is transferred will be considered.

8. Thus there are no merits in this OA and accordingly it is dismissed with no costs.


(R. RANGARAJAN)
Member (Admn.)


(V. NEELADRI RAO)
Vice-Chairman

Dated 6th June, 1994
Open court dictation

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Deputy Registrar(J)CC

- To
1. The Secretary, Min. of Defence, Govt. of India, New Delhi.
 2. The Engineer-in-Chief, Army Headquarters, DHQ PO, New Delhi
 3. The Chief Engineer, Southern Command, Pune.
 4. The Chief Engineer(P) Fy Parade Ground, S.P. Road, Secunderabad-3.
 5. One copy to Mr. K.S.R. Anajaneyulu, Advocate, CAT. Hyd.
 6. One copy to Mr. N.V. Ramana, Addl. CGSC. CAT. Hyd.
 7. One copy to Library, CAT. Hyd.
 8. One spare copy.

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TEMPED BY ✓

COMPARED BY

CHECKED BY ✓

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

✓
THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. G. RTHI : MEMBER(A)

AND

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

AND ✓

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

Dated: 6-6 -1994.

ORDER/JUDGMENT:

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

in

O.A.No.

198/91.

T.A.No.

(A.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.

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