

(25)

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

O.A.No. 797/91.

Date of Judgment: 20-1-92

MA. No. 51/92

BETWEEN:

P. Sivaram Prasada Rao

..

.. Applicant

And

The General Manager, India Security
Press, Nashik Road (Central Railway)
(Pin 422 101) (Maharashtra State)

..

.. Respondent

Counsel for the Applicant : Shri V. Madhusudhan Rao, Advocate.

Counsel for the Respondent : Shri N.V. Ramana, Addl. Standing
counsel for Central Govt.

CORAM:

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

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

{ Judgment as per Hon'ble Shri C.J. Roy, Member (Judl.) }

This is an application filed under section 19 of the Administrative Tribunals Act, 1985 to direct the respondent to give the seniority and other consequential benefits from the date of selection of Applicant as Assistant Supervisor.

2. The applicant states that in response to an advertisement he had applied for the post of Assistant Supervisor, to the General Manager, India Security Press, Nasik Road. The applicant averred that he was interviewed and was selected for the post of Assistant Supervisor. The respondent vide his reference dated 21-9-1987 bearing No.10354/Est-1-71 intimated the applicant that he has been selected for the said post of Assistant Supervisor and was advised to fill the forms enclosed thereto. The applicant alleges that he had

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complied with the formalities as stipulated in the letter and sent the forms prescribed duly filled to respondent by letter dated 26-9-1987. The applicant averred that he had not received any posting orders till the date of filing of this application from the respondent. He also stated that he made representation to the respondent on 26-6-1989, 18-8-1989 and 25-5-1991, but no reply was received.

3. The applicant alleges that the Administrative Officer of Respondent Press, gave advertisement in Employment News 19-25 Aug., 1989 calling for applications for filling up of 16 Assistant Supervisors, though he was selected for the post of Assistant Supervisor. The applicant averred that the respondent instead of filling up the vacancy by the selected candidates, chosen to fill up the vacancies by giving another advertisement and that the said action is illegal and improper. The applicant also alleges that the respondent wants to appoint his own interested persons by giving a fresh advertisement, and unless the respondent is directed to give posting orders to him for the post of Assistant Supervisor, he will be put to irreparable loss, hardship and injury. The applicant states that he had availed the remedies available to him and that no proceedings are pending before any court of law or authority in this regard. Hence filed this application.

4. The respondent has filed reply affidavit and opposed the application. The facts of the case are not disputed. The respondents allege that the vacancies announced were inclusive of some anticipated vacancies and ~~the~~ some ~~are~~ ~~not~~ sanctioned by the Government due to administrative changes. It is pointed out that the applicant stood at Sl.No.32, and beyond the announced number of vacancies. It is also contended that the letters issued were only

forwarding blank attestation forms. This is a pre-requisite formality which takes time and hence to save time they have taken advance action and that this could not mean to be an appointment of the applicants. It is also stated that the normal life of a select panel is one year and six months and, therefore, the validity of the panel expired in March, 1989.

5. We have examined the case and heard Shri V. Madhusudhan Rao, learned counsel for the applicant and Shri N.V. Ramana, learned counsel for Respondent, and perused the records carefully.

5. The short question is whether the applicant had acquired any right by virtue of the letter dt. 21-9-1987 issued by the respondent. The respondent contend that the same is mere forwarding letter which cannot be taken to be appointment for the post. We have seen the letter in question. The letter began with "Your name has been selected for the post of Assistant Supervisor. You are, therefore, advised to fill in the enclosed forms.....". Are these mere forwarding letters? The considered answer is "No". It contained a specific information that the applicant had been selected and ~~was~~ was therefore, advised to fill in the enclosed forms. If it was the intention of the respondent that this should be mere forwarding letter, then such letter should clearly say so stating "we hereby forward the forms for you to fill up and return and this will not be taken as an appointment letter". That is not the case. This letter has made a commitment and aroused the hopes of the applicant who as a consequence lost the opportunities of getting jobs elsewhere. To deny him the job at this stage on the ground that the vacancy position has undergone a change is a sin.

6. At the time of hearing, the learned counsel for the applicant cited a Judgment of this Tribunal in O.A.No.374 of 1990 dt. 4-9-1991 between Sri K.A.Jayaprakash Reddy & another Vs. Government of India, Ministry of Finance, rep. by Secretary to Government, New Delhi and others, which was allowed.

7. While deciding the above referred application, this Tribunal relied on a Judgment of the Bombay Bench in O.A. No.632 of 1989 in a case of ~~one~~ Sri Vijaya Trimbak Patil. In the said Judgment, the learned Members of the Bombay Bench had referred to the following three cases:

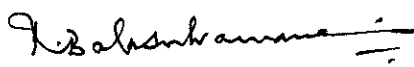
- (i) (1987) 5 ATC 590 KL Prashar Vs. U.O.I.
- (ii) (1990) 12 ATC 125 Nirmal Kumari Vs. Delhi Admn.
- (iii) JT 1989 (4) SC 130 V.Bhogeshwarudu Vs. APPSC.

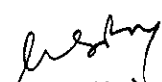
The Judgments referred above covers the same case relating to one Sri Vijaya Trimbak Patil, (standing at Sl.No.30), Sri K.A.Jayaprakash Reddi (standing at Sl.No.34), Shri U.Sambasiva Rao (standing at Sl.No.40) of the same list in which the applicant herein reported to have figured at Sl.No.32.

8. In view of the important legal aspects involved, and in view of the rulings of the Hon'ble Supreme Court and also likely injustice that may be caused to this applicant, we hereby condone the delay in filing this application.

9. In Judgments referred supra, the applications were allowed directing the respondents to appoint the applicants therein, as Assistant Supervisor from the date when the first vacancy of such a post was filled up after the 29th unreserved candidate from the panel was appointed. In this case, we feel, that the applicant had acquired a right and feel that the application deserves to be allowed. Since, however, we are not sure whether all the unreserved candidates ahead of the applicants in the panel have been appointed, we are not straight-away giving the direction that the applicant should be appointed.

We, however, direct that the select-list consisting the name of the applicant herein should be exhausted before the Respondents resort to any further recruitment including the one advertised in the Employment News dated 19-25 August, 1989. With the above direction, we dispose of the Application with no order as to costs.


(R. BALASUBRAMANIAN)
MEMBER (A)


(C.J. ROY)
MEMBER (J)

Dated: 20th January 92


Deputy Registrar (J)

grh.

To

1. The General Manager, India Security Press,
Nashik Road (Central Railway)
(Pin 422 101) Maharashtra State.
2. One copy to Mr. v. Madhusudhan Rao, Advocate,
1-8-724/4/A, Opp; I.T.I. Nallakunta, Hyderabad.
3. One copy to Mr. N. v. Ramana, A.C. for Rlys, CAT. Hyd.
4. One spare copy.
5. One copy to D. R. Jadhav C.A., Hyd.

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CHECKED BY

ASR
COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

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

AND

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

AND

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

DATED: 20-1-1992 ✓

ORDER/JUDGMENT: ✓

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

in

O.A.No.

797/91 ✓

T.A.No.

(N.P.No.)

Admitted and interim directions
issued.

Allowed ✓

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/ Rejected

No order as to costs.

Central Administrative Tribunal

DESPATCH

28-1-92

HYDERABAD BENCH.