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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 1003/91.

Dt. of Decision : 7.11.94.

N. Krishna Rao

.. Applicant.

Vs

1. Director General/Joint Secretary,
Directorate General of Employment &
Training, (D.G.E. & T), Ministry of
Labour, Govt. of India, New Delhi-11.
2. Director of Training
D.G.E. & T., Min. of Labour,
Govt. of India, New Delhi-11.
3. Chairman, Departmental Promotion
Committee/D.S.C., Hyderabad Unit,
O/o Depl. Director, Regional Directorate
of App. Training, ATI EPI Campus,
Ramanthapur, Hyderabad-13.
4. Director, Advanced Training Institute
Vidyanagar, Hyderabad-500 007.
5. Director, Advanced Trg. Instt for
Electronics & Process Instrumentation,
Ramanthapur, Hyderabad-013(A.P)
6. Regional Director, Regl. Directorate
of App. Training (RDAT),
Ramanthapur, Hyderabad-13.
7. Regl. Labour Commissioner (Central),
A.T.I, Camps, Vidyanagar,
Hyderabad-7.
8. Dy. Accountant General,
O/o Accountant General-1,
Saifabad, Hyderabad-4.
9. Md. Ameer Shariff
10. S. Dhani Ram

.. Respondents.

Counsel for the Applicant : Mr. P.B. Vijaya Kumar

Counsel for the Respondents : Mr. N.V. Raghava Reddy, 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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OA 1003/91.

JUDGMENT

Dt:7.11.94

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri P.B.Vijaya Kumar, learned counsel for the applicant, and Shri N.V.Raghava Reddy, Addl.CGSC for Respondents 1 to 8.

2. While the applicant was promoted as Suveyor on 16.12.1991, R-9 and R-10 were promoted as Surveyors on 7.5.1991 and 8.5.1991 respectively. The case of the applicant is that he is senior to R-9 and R-10 in the lower category and hence he should have been promoted as Suveyor even before R-9 and R-10 were promoted as Surveyors. This OA was filed praying for direction that the date of his promotion as Surveyor should be advanced to 7.5.1991, the date on which R-9 was promoted as Surveyor.

3. The facts which as placed before us and which are relevant are as under:-

R-9 was senior to the applicant in the category of Junior Technical Assistant by 26.5.1970. The applicant was promoted as Senior Instructor on 25.11.72. By then, R-8 was not promoted as Senior Instructor.

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4. By 26.5.1970, the pay scale for Junior Instructor was Rs.180-280 while it was Rs.210-425 for Senior Instructor. The pay scales of Rs.180-280, 210-380, 250-380 and 210-425 were merged into a common scale of Rs.250-550 as per Ministry's letter No.DGET-96(1)72-Ta, dated 1.7.1974. The Ministry letter No. DGET-20/1/75-TA(1), dated 8.8.1979 lays down the guidelines for fixation of interse seniority on formation of single cadre with effect from 27.5.1970 by merging the pay scales with effect from that date. It is laid down therein that those who were in the higher scale as on 26.5.1970 should be treated as seniors to those who were in the lower scale. It is also stated therein that those who were substantively appointed in the grade should be above those who were not substantively appointed in the grade.

5. It is even the case of the applicant that he and R-9 were not even regular Junior Technical Assts. in the pay scale of Rs.180-280 by 26.5.1970, and R-9 was senior to the applicant even as amongst temporary appointees in the cadre of Junior Technical Assistants. It is stated for the respondents that by following the seniority rule referred to in the letter dated 8.8.79, R-9 was treated as senior to the applicant in the common cadre.

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6. The contention for the applicant is that even though the benefit of higher pay scale was given ~~xx~~ with retrospective effect ie., from 27.5.1970, the promotions that were given between 27.5.1970 and 1.7.1974 should not be nullified for fixation of seniority and as the applicant was Senior Instructor while R-9 was only Junior Instructor by 1.7.1974, the date on which the order was issued for formation of common cadre with effect from 27.5.1970, the applicant being in the higher scale should be treated as senior to R-9 who was in the junior scale.

7. It may be noted that it is not a mere case of revising the pay scale of posts with retrospective effect. It is a case of merger of four cadres ~~xx~~ with retrospective effect. In view of the retrospectivity, it should be deemed that there was only one cadre from 27.5.1970. Hence, the question of promotion subsequent to 27.5.1970 within the same cadre will be not in consonance with the formation of common cadre from 27.5.1970. Thus, the nullification of the subsequent promotion is only due to formation of common cadre with retrospective effect. Hence, it was stated in the letter dated 8.8.1979 that the seniority in the common cadre has to be considered on the basis of the facts which existed as on 26.5.1970 and ^{the} same cannot be held as arbitrary. In fact, it was not even ~~xxxxxx~~ prayed

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Copy to:-

1. Director General/Joint Secretary,
Directorate General of Employment & Training,
(D.G.E. & T.), Ministry of Labour, Government of
India, New Delhi-1.
2. Director of Training, D.G.E. & T. Ministry of
Labour, Government of India, New Delhi-1.
3. Chairman, Departmental Promotion Committee/
D.S.C. Hyderabad Unit, Office of Depl. Director,
Regional Directorate of App. Training, A.T.I.
E.P.I. Campus, Ramanthapur, Hyderabad-13.
4. Director, Advanced Training Institute,
Vidyanagar, Hyderabad-500 007.
5. Director, Advanced Training Institute for
Electronics & Process Instrumentation,
Ramanthapur, Hyderabad-0 013(A.P.)
6. Regional Director, Regional Directorate of
APP Training (RDAT), Ramanthapur, Hyderabad-13.
- 7 8. Dy. Accountant General, Office of Accountant
General-1, Saifabad, Hyderabad-4.
9. One copy to Mr. P.B. Vijaya Kumar, Advocate, CAT, Hyderabad.
- 9 10. One copy to Mr. N.V. Raghava Reddy, Addl. CGSC, CAT, Hyd.
11. One copy to Library, CAT, Hyderabad.
12. One spare.
12. Regional Labour Commissioner (Central), A.T.I.
Campus, Vidyanagar, Hyderabad-7. (R-7)

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that the letter dated 8.8.1979 referred to supra should be quashed by holding it as arbitrary being violative of Article 14 of the Constitution.

8.. As the interse seniority ^{fixed in regard to} of the applicant and R-9 ~~was fixed~~ is in accordance with the rule of seniority prescribed in the letter dated 8.8.1979 referred to supra, it does not warrant interference.

9. R-10 is an SC candidate. The plea for the applicant is that as Shri Joshua was already promoted as Suveyor as against the roster point, R-10, an SC candidate, should not have been again promoted as against the same SC roster point. But it is stated for R-1 to R-8 that Shri Joshua was promoted as Surveyor as against the carry forward x SC vacancy while R-10 was promoted as against a Regular SC point. The said plea for R-1 to R-8 was not challenged. Hence, the applicant cannot claim that the date of his promotion has to be advanced to 8.5.1991, the date on which R-10 was promoted as Surveyor.

10. Thus, the OA fails and accordingly it is dismissed. No costs./

(Handwritten signature)
(R.RANGARAJAN)
MEMBER (ADMN.)

(Handwritten signature)
(V.NEELADRI RAO)
VICE CHAIRMAN

DATED: 7th November, 1994.
Open court dictation.

vsn

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10/11/94
Dy.Registrar(Judl)

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CHECKED BY

COMPARED BY

APPROVED BY

Tyler

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

DATED: 7-11-1994

ORDER/JUDGMENT:

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

in

O.A.No. 1003/91

~~T.A.No.~~

(w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

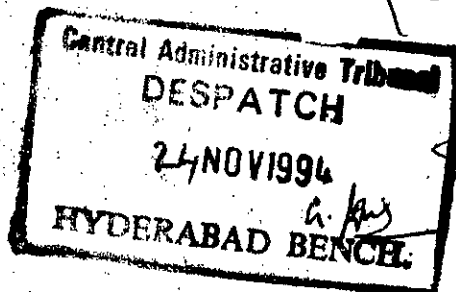
Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected

No order as to costs.

Dvm



whp