

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.1090/91

Date of Order: 23.2.1994

BETWEEN:

G.Sailu

.. Applicant.

A N D

1. Deputy Director General,
Geological Survey of India,
S.R., Southern Regional Office,
Bandlaguda, Saroornagar,
Hyderabad - 500 035.
2. The Director General, Geological
Survey of India, Chowranghee lane,
Calcutta -16.
3. Smt. Tabita Asgar, Scriber Senior
Map Printing Division, Geological
Survey of India, Southern Regional
Office, Bandlaguda, Saroornagar,
Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.C.Narender

Counsel for the Respondents

.. Mr. *N.R. Divakaraj*
~~Mr. Kesava Rao~~

Mr.A.K.Ahmed &
Mr.Koka Satyanarayana for
R-1

CORAM:

HON'BLE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

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

209

(35)

O.A.No.1090/91.

Date: 23.2.1994.

J U D G M E N T

{ as per Hon'ble Sri R.Rangarajan, Member(Administrative) }

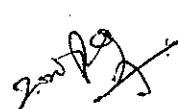

This O.A. has been filed for a declaration that the impugned memo No.A.32016/4/91/16A dated 17.1.1991 whereby R-3 was promoted as Senior Scriber in the Map Printing Division of Geological Survey of India, Southern Regional Office, Hyderabad is arbitrary, illegal and violative of Article 15(4) of the Constitution of India and also contrary to the Rules of Reservation and for a consequential direction to R-1 to promote the applicant as Scriber (Senior) against the Schedule Caste quota in the place of R-3.

2. The facts which led to the filing of this O.A. are as follows:-

(i) The applicant joined service under R-2 from 18.7.1979 as Scriber (Junior) against a vacancy reserved for S.C.quota and he had, at that time submitted the required certificate in the prescribed proforma in support of his Caste. In the year 1979, all the categories in the Geological Survey of India (G.S.I. for short) ^{were} ~~was~~ centralised under the appointing authority, Director General, G.S.I., Calcutta. The 40-point roster for promotion was maintained by the above said authority who has been impleaded as R-2. The cadre-wise seniority was also maintained on All India basis by R-2.

(ii) With effect from 1.8.1984 regionalisation of Group 'C' and 'D' services in G.S.I. was effected and R-1 has been declared as cadre controlling and appointing authority in respect of Group 'C' and 'D' cadres. The

...3/-

36

: 3 :

communal rosters to determine the points reserved for SC/ST communities hitherto maintained on All India basis by the Director General, G.S.I. have been discontinued. Fresh region-wise rosters commencing with Point-1, to determine the number of vacancies to be reserved for SC/ST out of the posts arising on or after 1.8.1984 have been ordered to be opened. Accordingly, a 40-point roster has been opened with effect from 1.8.1984 in the Southern Region. Further, in pursuance of the above scheme of decentralisation, the cadre strength of each region as on 1.8.1984 has also been fixed and posts under various cadres have been allotted accordingly. Southern Region has been allotted two posts in the Grade of Scriber (Senior) and they were held by S/Shri Poolchand and M.Ganesh Rao on the date of allotment to Southern Region i.e. on 1.8.1984. Four posts of Scriber (Junior) have also been allotted. No back-log of SC/ST reservation in the grades of Scribes - Senior and Junior have been transferred to Southern region. In the regional seniority list of Scriber (Junior), the applicant has been placed at Serial No.3.

(iii) Shri Poolchand, Scriber (Senior) had been repatriated to his parent department with effect from 29.4.1988 and consequently his post had fallen vacant. The above vacancy has to be filled only by promotion from the feeder category of Scriber (Junior) with 5 years service on the basis of seniority-cum-fitness (non-selection) observing roster point as per roster register opened in the Southern region from 1.8.1984.

...4/-



(iv) The above said post of Scriber (Senior) was filled by R-3 and as the applicant states that this post being the first vacancy arising in that year against the first point of the 40-point roster, it has to be filled by an S.C. candidate. As he is the senior-most S.C. candidate in the category of Scriber (Junior) and as he fulfills all the conditions as laid down in the recruitment rules for this promotion, he avers that he has to be promoted against this vacancy of Scriber (Senior) and that promoting R-3 is irregular. As his representation submitted to the above & effect to R-1 (Annexure-IV) was not considered favourably, he has filed this O.A. with the aforesaid prayer.

3. The main contention of the applicant is that the vacancy of Scriber (Senior) arising because of the repatriation of Shri Poolchand has to be filled by him only, by promotion, as this is the first vacancy arising in that year and falling on the first point of the 40-point roster which is earmarked for S.C. opened in Southern Region with effect from 1.8.1984. The respondents state that this being the first point in the 40-point roster, though reserved for SC has to be filled only by an O.C. candidate in terms of the provisions in O.M.No.1/9/74-Estt.(SCT) dt. 29.4.1975 issued by the Department of Personnel and Administrative Reforms. The respondents further state that the second point in the 40-point roster will go to a SC candidate as per the above said O.M.

4. The relevant portion of the above said O.M. dated 29.4.1975 is reproduced below:-

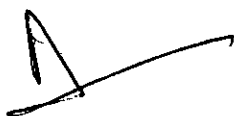
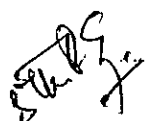
"If there are only two vacancies to be filled in a particular year, not more than one may be treated as reserved. If there be only one vacancy, in a

particular year which falls on a reserved point in the roster, it will be treated as unreserved in the first instance and filled accordingly but the reservation should be carried forward to subsequent year(s). In the subsequent year(s) of recruitment, the reservation should be applied by treating the vacancy arising in that year as reserved even though there might be only a single vacancy in that subsequent year(s)."

5. As per the above O.M. it is clear that the first point of the 40-point roster for promotion of Scriber (Senior) must necessarily be treated as unreserved in the first instance and filled accordingly. But, the reservation should be carried forward to the subsequent year. The second vacancy arising in the subsequent year of recruitment should be treated as reserved even if it is a single vacancy in that year.

6. It is also seen that the applicant was also considered for the above post along with R-3 by the D.P.C. and as R-3 was senior-most, he was recommended for promotion against the said vacancy since it was a non-selection post on seniority-cum-fitness. Hence, no irregularity is committed by R-1 in promoting R-3 by the impugned order dt. 17.1.91. It is also submitted by the respondents that the above vacancy which had been treated as unreserved is being carried forward for filling up by a reserved candidate in the next arising vacancy as provided for in O.M. dated 29.4.1975.

7. The second contention of the applicant is that R-2 has instructed R-1 to fill this vacancy by an S.C. candidate and this instruction has been ignored by R-1 which is irregular.



To

1. The Deputy Director General,
Geological Survey of India,
S.R.Southern Regional Office,
Bandlaguda, Saroornagar, Hyderabad-35.
2. The Director General, Geological Survey of India,
Chowranghee lane, Calcutta-16.
3. One copy to Mr. C. Narendar, Advocate, 2-2-1075/15/A
Bagh Amberpet, Hyd.
4. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
5. One copy to Mr. Koka Satyanarayana, Advocate,
Advocates' Association, High Court of A.P. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

pvm


*Itu ap-1
P-11
4/3/24*

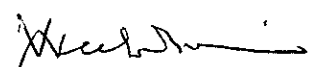
The above stated instruction contained in the letter No. A.11013/2/87/16A in April, 1990 (Annexure-III) of R-2 addressed to R-1 was seen. It is only in the nature of an advice to fill-up the vacancy in accordance with normal rules on reservation. This letter cannot over-ride the provisions in the O.M. dt. 29.4.1975. Hence, this contention of the applicant also cannot be upheld.

8. The third contention of the applicant is that the post vacated by Shri Poolchand ^{has been} is reserved for S.C. as Shri Poolchand belongs to S.C. community and both the posts in the cadre of Scriber (Senior) cannot be manned by O.C. candidates. This contention has no meaning as the roster point is to be filled on the basis of the vacancies arising in the cadre and not on the basis of the cadre strength. In a reserved vacancy reserved candidates will be considered only if the percentage of SC & ST candidates in that cadre is less than 15% & 7½% respectively.

9. The Tribunal can set aside a promotion order only if such promotion is ordered ignoring Statutory Rules/Executive Instructions or ordered with malafide intention. The applicant failed to prove any violation of any statutory rules. As a matter of fact the promotion was ordered strictly in accordance with provisions contained in O.M. dated 29.4.1975. No malafide intention of the respondents has been brought on record by the applicant. In view of what is stated above, this O.A. has no merit and is only liable to be dismissed.

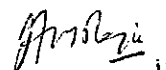
10. In the result the O.A. is dismissed. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice-Chairman

Dated 23rd February, 1994.

Grh.


Deputy Registrar (Jr)

6/1/94

TYPED 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. E. GORTHY : MEMBER (A)

AND

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

AND

THE HON'BLE MR. R. RAMARAJAN : MEMBER
(ADMN)

Dated: 23-2-1994.

~~ORDER~~ JUDGMENT:

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

in

O.A.No. 1090/91

T.A.No.

(W.P.No.)

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

