

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

O.A.No.1042/92 & 65/92.

Date of Decision: 29-6-93

Between:

in O.A.No.1042/92

G. Arjuna Rao

..

.. Applicant

and

1. The Deputy Principal Information Officer, Press Information Bureau, South Central Region, Hyderabad-500 004
2. The Principal Information Officer, Press Information Bureau, Government of India, Shastri Bhavan, New Delhi.
3. The Deputy Principal Information Officer, Press Information Bureau, Government of India, Shastri Bhavan, Madras.
4. The Secretary, Department of Personnel and Administrative Reforms, Ministry of Home Affairs, Government of India, New Delhi.
5. V.Someswara Rao, Clerk Grade-I, Press Information Bureau, Lakdikapool, Hyderabad-500 004.

.. Respondents

in O.A.No.65/92

V. Someswara Rao

..

.. Applicant

and

1. Principal Information Officer, Press Information Bureau, Government of India, Shastri Bhavan, New Delhi.
2. Deputy Principal Information Officer, Press Information Bureau, Government of India, Shastri Bhavan, Madras-6.
3. Deputy Principal Information Officer, Press Information Bureau, South Central Region, Hyderabad-4
4. G.Arjuna Rao, Accountant, Press Information Bureau, Lakdikapool, Hyderabad.

.. Respondents

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APPEARANCE

Counsel for the Applicant :

- (a) in O.A.No.1042/92 : Sri Kota Bhaskara Rao, Advocate
(b) in O.A.No. 65/92 : Sri K.Sudhakar Reddy, Advocate

Counsel for the Respondents:

- (a) R-1 to 4 in OA 1042/92: Sri V.Bhimanna, Addl. CGSC
R-5 " : Sri K.Sudhakar Reddy, Advocate
(b) R-1 to 3 in OA 65/92 : Sri M.Jagan Mohan Reddy, Addl. CGSC
R-4 " : Sri Kota Bhaskara Rao, Advocate.

CORAM:

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

THE HON'BLE MR. P.T. THIRUVENGADAM, MEMBER (ADMN.)

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(JUDGMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE
SRI P.T. THIRUVENGADAM, MEMBER (A))

O.A.No.65/92 has been filed by Sri V.Someswara Rao, Clerk Grade-I, Press Information Bureau, Hyderabad with a prayer to quash the order No.F.2/23/89-M dated 3rd October, 1989 issued by the Deputy Principal Information Officer, Madras promoting Sri G.Arjuna Rao, Clerk Grade-I as Accountant on temporary basis in Hyderabad office.

2. O.A.No.1042/92 has been filed by Sri G.Arjuna Rao, praying for setting aside the proceedings No.F.No. 10/5/92-H(Estt.) dated 24th November, 1992 issued by the Deputy Principal Information Officer, Hyderabad promoting

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Sri V.Someswara Rao, as Accountant with retrospective effect from 3-10-1989 simultaneously cancelling the promotion orders of Sri G.Arjuna Rao as Accountant which were issued on 3-10-1989.

3. The facts of the case which are not in dispute are as under:

The then Branch offices of Press Information Bureau at Bhopal, Lucknow, Hyderabad and Guwahati were upgraded as full-fledged regional offices vide Ministry of Information & Broadcasting's letter No.G-30011/3/85-B&AS/PIB/US(1) dated 16-8-1989 to provide administrative and other infrastructural support to all PIB offices in their respective new regions viz. Central Region, East Central Region, South Central Region and North Eastern Region. Thus, the three PIB offices at Hyderabad, Bangalore and Vijayawada, which were until then branch offices under the Southern Region (regional office at Madras), were constituted into a new region viz. the South Central Region (regional office at Hyderabad). Thus, the effective date of bifurcation of the Southern Region into Southern Region and South Central Region as also that of upgradation of PIB, Hyderabad as full-fledged regional office is 16-8-1989. Vide PIB Headquarters order No.G-17018/2/89-B&AS dated 14-9-1989, the PIB Branch offices as existing then were re-grouped into eight regional offices (as against four earlier) and the reorganised set-up of the eight regional offices and the Branch offices under their jurisdiction was laid down. In respect of the regional office at

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Hyderabad (South Central Region), the branch offices at Bangalore and Vijayawada were ^{also} put under its control. Vide PIB Hqrs. Order No.G.17018/2/89/B&AS dt. 21-9-1989 the financial and administrative powers of a Head of Department under the delegation of Financial Power Rules, General Financial Rules, Fundamental Rules and Supplementary Rules were, with effect from 1-10-1989, delegated to the Deputy Principal Information Officer, PIB, Hyderabad. The said order stipulates as follows:

"DPIO, Bhopal, Hyderabad, Lucknow and Guwahati shall hereby act as Head of Department with effect from 1-10-1989 in respect of offices indicated below:

1. (Not reproduced)
2. (Not reproduced)
3. South Central Region
at Hyderabad viz., Vijayawada, Bangalore and Hyderabad.

With reference to the aforesaid order of PIB Hqrs., even the DPIO, PIB, Madras, vide his U.O. No.2/23/89-M dated 21-11-1989 stated that with effect from 1-10-1989, DPIO, Hyderabad, shall act as Head of Department in respect of PIB, Hyderabad, Vijayawada and Bangalore.

(ii) The Roster and seniority lists of all Group-C & D posts of the Bureau are maintained region-wise. The appointment and promotion to all Group 'C' and Group 'D' posts in a region are made by the DPIO (declared as Head of the Department) of the concerned Regional office with reference to the relevant roster and seniority list of that region.

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(iii) Vide the Ministry of Information and Broadcasting letter No.G-30011/8/85-B&AS/PIB/US(I) dated 16-8-1989, one post of Accountant, besides other posts, was created at the new regional office viz. PIB Hyderabad with effect from 16-8-1989. Vide PIB Madras order No.F-2/23/89-M dated 3-10-1989 the applicant in O.A.No.1042/92 viz. Sri G.Arjuna Rao, was promoted to the post of Accountant in PIB, Hyderabad.

(iv) Sri V.Someswara Rao, applicant in O.A.No.65/92 submitted a representation dated 28-8-1989, prior to bifurcation, for consideration of his candidature for promotion as Accountant. He again submitted another representation dated 17-12-1990 subsequent to promotion of Sri G.Arjuna Rao, on 3-10-1989. In his representation dated 17-12-1990, it was pleaded that the newly created post of Accountant in South Central Region should be treated as unreserved at the time of filling up the post for the first time and accordingly his case should have been considered. The said representation was replied by the Deputy Principal Information Officer, Hyderabad vide Memorandum No.2/1/90-H(Estt.) dated 4-1-1991. Extracts from the said Memorandum are as under:

"All aspects of the case were considered at length and in depth before Sri Arjuna Rao was promoted as Accountant. The Madras office issued orders only after getting clearance from Headquarters. Headquarters vide their U.O. dated 27-9-1989 had made it very clear that Sri Arjuna Rao may be promoted as Accountant in temporary capacity. That U.O. also says there is a carry forward vacancy reserved for SC. The post was filled according to the

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Recruitment Rules and other orders on the subject. The Central Administrative Tribunal's order in the Muthukrishnan's case also supports Sri Arjuna Rao's eligibility to be promoted as Accountant."

(v) Aggrieved by the above said reply Sri V.Someswara Rao filed O.A.No.65/92 seeking the relief as stated supra. While the said O.A. was pending, Deputy Principal Information Officer, Hyderabad issued order dated 24-11-1992 bearing No.10/5/92-H(Estt.) promoting Sri V.Someswara Rao as Accountant retrospectively with effect from 3-10-1989 and simultaneously cancelling the earlier promotion order of Sri G.Arjuna Rao against the same post. Against this order O.A.No.1042/92 has been filed by Sri G.Arjuna Rao.

4. The two O.As. are combined and heard together since the outcome of one would have bearing on the other.

5. The learned counsel for the applicant in O.A.No.1042/92 Sri Kota Bhaskara Rao raised number of grounds which are given below:

- (a) The Press Information Bureau, Hyderabad office was upgraded as South Central Region with effect from 16.8.89. But it should still be treated as a continuing office of the erstwhile Southern region. The financial and administrative powers transferred to the South Central Region do not cover the Recruitment and Promotion Rules.
- (b) There cannot be a separate roster for the new region and the old roster for the southern Region should have been continued. In O.A.No.416/89, Madras Bench of this Tribunal passed orders on 14-2-90 stating that next vacancy in the post of Accountant was to be filled by a reserved community candidate.

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- (c) Sri V.Someswara Rao kept silent for a long time even after Sri Arjuna Rao was promoted on 3-10-89 and chosen to represent only on 17-12-1990 against the promotion of Sri Arjuna Rao. Hence Sri Someswara Rao is hit by limitation.
- (d) Deputy Principal Information Officer, Hyderabad had no jurisdiction to constitute Departmental Promotion Committee. He had no authority to consider the case of Sri V.Someswara Rao as done by him vide orders dt. 24-11-1992.
- (e) The stand taken by the administration that as per relevant instructions with regard to the reservations issued vide O.M.No.1/9/74-Estt.(SCT) dt. 29-4-1975 and No.36011/39/81-Estt.(SCT) dt. 30-11-1981 by the Department of Personnel and Administrative Reforms if there is only one vacancy in the initial recruitment year and the corresponding roster point happen to be for Scheduled Caste or Scheduled Tribe, it should be treated as unreserved and filled accordingly and the reservation carry forward is not in order, since no recruitments are taken place in this case and it was only the case of consideration for promotion of the available candidates.
- (f) No counter has been filed by the Principal Officer, New Delhi who is the authority to mediate when there is conflict in approach between the South Central Region and the other Regional offices.
- (g) There were many notings exchanged between the Southern Regional office and South Central Regional office justifying the promotion of Sri G.Arjuna Rao. As per some of these notings the promotion of Sri G.Arjuna Rao was justified.

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(h) No notice of reversion was given to Sri Arjuna Rao before the orders dt. 24-11-1992 were issued.

(i) The impugned order dt. 24-11-1992 was issued even during the pendency of O.A.No.65/92.

6. The learned counsel for the official respondents produced a copy of the Delegation of Financial and Administrative powers to the Heads of Regional offices of the P.I.B. issued vide letter No.F.7/5/67/B&AS(PIB)/US(K) dt. 1st January, 1968. Under these delegations the heads of Regional offices have been conferred with powers to make officiating appointments to Class-III & IV posts. It is not disputed that ^{with} when the creation of South Central Region, the financial and administrative powers of the Head of the Department were delegated to the heads of Regional offices of the PIB at Hyderabad. In the notification dt. 16-8-1989 bearing No.G-30011/3/85/B&AS/PIB sanction of the President to the upgradation of the Branch office at Hyderabad into full-fledged Regional Office to provide administrative and other infrastructural support to all PIB offices in the newly formed South Central Region has been conveyed. In view of the above the contentions that the South Central Region office at Hyderabad should only be treated as continuing office of Southern Region and relevant administrative powers were not made available to the Head of Hyderabad Regional Office are not tenable.

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7. As regards the opening of sepearate rosters for the new region, the respondents in their counter filed in O.A.No.1042/92 brought out that as per the instructions of Department of Personnel & Training, a fresh roster is required to be maintained in the newly created offices. This has also been subsequently re-iterated in PIB letter dt. 2-4-1992 bearing PIB U.O.No.10/18/91-Estt. addressed to PIB, Hyderabad, the contents of which read as under:

"South Central Region are to start Reservation Roster afresh for filling up the vacancies occurring in the PIB offices in that region after the date of the creation of South Central Region. They are advised to purchase "Brochure on Reservation for SC/STs" for reference and guidance in such cases in future."

8. In O.A.No.416/89 filed before the Madras Bench of this Tribunal, the applicant Sri V.Muthukrishnan who had been working as Account on adhoc basis sought regularisation. This was allowed by orders dt. 14-2-1990, while observing that when Sri Muthukrishnan quits the post, the vacancy arising therefrom should get reserved for SC/ST candidate. By that time the South Central Region had come into existence and since Sri Muthukrishnan was working in the Southern Region, the orders of CAT-Madras Bench referred above should apply to the vacancies arising in Southern Region. .

9. The learned counsel for Sri V.Someswara Rao in O.A. No.1042/92 mentioned that Sri Someswara Rao had given a representation on 28-8-1989 prior to the bifurcation for

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consideration of his candidature for promotion to the post of Accountant. He again submitted another representation dt. 17-12-1990 subsequent to promotion of Sri Arjuna Rao on 3.10.1989 when the latter had been promoted by orders issued by Madras Regional office. The representation of Sri Someswara Rao was replied by the Deputy Principal Officer, Hyderabad on 4-1-1991 referred to above at para-3(iv). Not satisfied with the said reply Sri V. Someswara Rao approached this Tribunal within an year. Accordingly, the contention of limitation is not tenable.

10. In the order issued by the Deputy Principal Information Officer dt. 24-11-1992 in para-12, it has been stated that subsequent to the filing of O.A.No.65/92 by Sri V.Someswara Rao, a draft reply was submitted to P.I.B. headquarters. At this stage a reference was made to the Ministry of Information and Broadcasting by the P.I.B. and who in turn sought clarification from the Department of Personnel and Training. On receipt of clarification from the Department of Personnel & Training, PIB headquarters vide their U.O. dated 29-5-1992 stated as under:

"The case of Sri V.Someswara Rao, CG.I, challenging the promotion of Sri G.Arjuna Rao to the post of Accountant by PIB, Madras has been examined by Headquarters in consultation with Ministry of Information & Broadcasting/Department of Personnel and Training. Department of Personnel & Training has given their decision that a fresh roster is required to be maintained by the newly created office in respect of the various cadres/posts.

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In view of the DP&T's decision, PIB, Hyderabad need to examine the case of Sri V. Someswara Rao for appointment as Accountant against the post of Accountant created for the then newly created South Central Region as per rules. In case they find Sri V. Someswara Rao eligible for promotion as Accountant, he may be appointed to the post of Accountant in PIB, Hyderabad and Sri G. Arjuna Rao, be reverted to the post of CG.I."

Consequent to the above said clarification, the PIB, Hyderabad went ahead with the constitution of Departmental Promotion Committee to consider the case of Sri V. Someshwara Rao for promotion to the post of Accountant and an order dated 24-11-1992 was issued thereafter.

11. The learned counsel for Sri G. Arjuna Rao, took the stand that the instructions regarding Reservations dt. 29-4-1975 and 30-11-1981 (referred to in para-5(e) above) are not relevant to the promotion at the time of filling up of the new posts in the South Central Region. In Chapter-XI of the Brochure on Reservation for Scheduled Caste/Scheduled Tribes in Services (Government of India, Ministry of Personnel, Public Grievances and Pensions), 7th edition, 1987 Recruitment Year has been clarified vide F.Note (2) in para-11.1 as under:

"Recruitment year in cases of promotion when the panel prepared by the DPC spreads into more than one calendar year will be the year in which the first recruitment is made from the select list prepared by the DPC."

12. From the above, it is manifest that the term 'Recruitment Year' used in the context of carrying forward of Reservations also covers promotions.

13. As regards the contention that the Principal Officer, New Delhi should necessarily file a counter, we feel that in the context of the various orders issued by the Delhi office and which have been produced by the learned counsels, no further light would be thrown by such a counter.

14. Notings exchanged between the various offices are purely matters of internal correspondence and any such notings justifying this way or the other, cannot be exclusively relied upon in advancing arguments.

15. During the course of arguments learned counsel for the applicant in O.A.No.1042/92 raised an issue that ^{as} no notice of reversion is given to Sri G.Arjuna Rao before the orders dt. 24.11.1992 were issued, ^{the same is} ~~it is~~ ^{not} ~~valid~~. There is force in this contention. Normally, in such cases the impugned orders would be set aside and the administration would be directed to give an opportunity to the affected party. But, in this case Sri V.Someshwara Rao had filed O.A.No.65/92 against the orders promoting Sri G.Arjuna Rao. We already held that the said O.A. is in time. As such, it is necessary for this Tribunal to consider the validity of the order promoting Sri G.Arjuna Rao. This, the Tribunal is considered ^{ing}

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after hearing learned counsel, for Sri V.Someshwara Rao, Sri G.Arjuna Rao and the Standing Counsel for official respondents. When this Tribunal is considering the validity of the order promoting Sri G.Arjuna Rao, the question of remitting to the concerned authority to consider the validity of the order of the promotion of Sri G.Arjuna Rao in pursuance of the representation given by Sri V.Someshwara Rao, does not arise.

16. It is evident from the record produced that the post of Accountant is sanctioned for South Central Region. ^{We accepted on} ~~As we rely on~~ the contention of the learned counsel for Sri V.Someshwara Rao that it had to be treated as newly constituted region and as such the roster had to be opened afresh of the said region. In view of the instructions issued by the Department of Personnel & Administrative Reforms vide O.M.No. 1/9/74-Estt.(SCT) dt. 29.4.1975 and No.36011/39/81-Estt.(SCT) dt. 30.11.1981, the first vacancy had to be treated as unreserved. It is not in controversy that Sri V.Someshwara Rao is senior to Sri G.Arjuna Rao. The Departmental Promotion Committee which already met found that Sri V.Someshwara Rao is suitable to the post of Accountant. As such, the order promoting Sri G.Arjuna Rao is erroneous. Accordingly, the said order is liable to be set aside. As Sri V.Someshwara Rao is entitled for promotion from the date on which Sri Arjuna Rao joined the post of Accountant, he had to be given promotion with effect from the said date.

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17. The order No.10/5/92-H(Estt.) dt. 24.11.1992 which is impugned in O.A.No.1042/92 is set aside as no notice was given to Sri G.Arjuna Rao before that order was passed. But, in view of the findings ^{in this order,} ~~above~~ ~~that~~ the order dt. 3.10.1989 No.2/23/89-M promoting Sri G.Arjuna Rao for the post of Accountant is set aside and Sri V.Someshwara Rao had to be promoted with effect from the date on which Sri G.Arjuna Rao joined as Accountant, Sri G.Arjuna Rao has to be reverted ^{if there is no other post of Accountant} to the post of Clerk Grade-I. The O.As. are ordered accordingly. No costs.

P. J. Thiruvengadam

(P.T.Thiruvengadam)
Member (A)

V. Neeladri Rao

(V.Neeladri Rao)
Vice-Chairman

Dated 29/6/1993. Deputy Registrar (Judl.)

grh.

Copy to:-

1. The Deputy Principal Information Officer, Press Information Bureau, South Central Region, Hyderabad-004.
2. The Principal Information Officer, Press Information Bureau, Government of India, Shasthri Bhavan, New Delhi.
3. The Deputy Principal Information Officer, Press Information Bureau, Government of India, Shasthri Bhavan, Madras.-6
4. The Secretary, Department of Personnel and Administrative Reforms, Ministry of Home Affairs, Government of India, New Delhi.
5. One copy to Sri. Kota Bhaskara Rao, advocate, CAT, Hyd.
6. One copy to Sri. K.Sudhakar Reddy, advocate, CAT, Hyd.
7. One copy to Sri. V.Bhimanna, Addl. CGSC, CAT, Hyd.
8. One copy to Sri. M.Jagan Mohan Reddy, Addl. CGSC, CAT, Hyd.
9. One spare copy.

Rsm/-

14/6/93
P.T. Thiruvengadam
29/6/93