

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A. 1011/92

Dated: 25.10.1996

Between

1. Nuclear Fuel Complex Employees' Association, Hyderabad.
2. S. Venkateswara Rao
3. Y. Umapathy
4. S.S.S. Babu
5. N. Sitaramudu
6. K. Venkateswara Raju
7. K. Ravindran
8. D.N. Rajasimha
9. G. Satyanarayana
10. B.S. Sathyader
11. V.S.R. Krishna Rao
12. A. Pardha Saradhi

..... Applicants

and

1. The Secretary,
D/o Atomic Energy,
CSM Marg, Bombay-39.
2. The Addl. Secretary
(Cadre Authority)
D/o Atomic Energy,
Bombay.
3. The Chief Executive,
Nuclear Fuel Complex,
ECIL PO, Hyderabad.
4. The Director,
M/o Personnel, PG & Pensions,
D/o Personnel & Training,
New Delhi.

.... Respondents

Shri V. Venkateswara Rao .. Counsel for applicants

Shri N.V. Raghava Reddy, ACGSG .. For respondents

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HON'BLE SHRI JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN *hll*

HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER (ADMN.) *8/25/96*

as six months and therefore there is no reason not to give the benefit of upgradation to the applicants at least from a date ^{immediately} after the expiry of six months from 30.1.91.

5. We find it difficult to go into the question as to whether the applicants were entitled to the benefit of upgradation from the dates prior to the dates from which they have been given that benefit. It has been stated in the reply of the respondents that the scheme of upgradation was prepared considering functional requirement. The promotions are not vacancy oriented but are governed by merit on fulfilling certain requirements with reference to work, conduct etc and after assessing the suitability. Moreover, there will be a number of senior officers in different grades but the post of Stenographers are created on functional basis. They submit that the OM dated 30.1.91 is not a blanket order for creation of posts and such creation has to take ^{place} ~~into~~ ^{taking into account} functional requirements. The OM, according to them, also states that in order to relieve stagnation in the lowest grade wherever possible on functional consideration, one Stenographer Gr.II may be provided to two officers entitled for a Stenographer Gr.III each and this should be suitably phased to ensure that it does not lead to any of the existing stenographers Gr.III being rendered surplus. It is also provided that Stenographic assistance has to be determined after identifying the posts on the basis of stenographic workload. It is further submitted that with the sanction ^{now} received to Department of Atomic Energy for 3 posts of Stenographers the applicants have no further case. The last statement is of no consequence because the reply was declared in February 1993. It was much thereafter that the respondents have upgraded the applicants from 13.12.94/8.8.95. The counter of the respondents therefore shows that the exercise of upgradation is not to be automatic. It depends on several factors. The availability of vacancies, the workload requiring stenographic

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10.4.91 and 27.1.92 and certain decisions were arrived at.

The minutes show that it was explained on behalf of the department that the process of upgradation was not automatic and it was to be considered as a functional requirement based on stenographic workload and it was not linked with the officer's grade.

3. It has become unnecessary to deal with the grievance in main raised by the applicants by reasons of subsequent events. The respondents have promoted 9 applicants to the next higher grade in the available vacancies as per details shown in the Annexure dated 7.9.95. The statement shows that applicant No.2 S. Venkateswara Rao and applicant No.6 K.Venkateswara Raju, have been upgraded with effect from 13.12.94 and the remaining applicants have been upgraded from 8.8.95.

4. Mr. V. Venkateswara Rao,, the ld. counsel for applicants submits that although the upgradation has been given to the applicants, yet, the respondents have not acted in accordance with the scheme and instructions issued thereon in the year 1991 in giving the upgradation with effect from 13.12.94/8.8.95 prospectively and that the applicants would be entitled to be given that benefit at least from 30.1.91 if not from 6.2.89 and therefore, the respondents may be directed to relate back the dates of ~~the~~ upgradation of the applicants to 30.1.91. The ld. counsel submits that the action of the respondents in giving the promotions prospectively from the dates mentioned above puts the applicants to monetary loss as they are being deprived of the benefit of upgradation from 30.1.91. In this connection the ld. counsel emphasises on the statement contained in the OM dated 6.2.89 that the entitlement of officers was revised with immediate effect and the instructions to the Ministry of Agriculture etc. contained in para 4 of OM dated 30.1.91 that expeditious action to implement the decision may be initiated so as to relieve stagnation amongst Stenographers and non-secretariat/subordinate offices under them and submits that the respondents therefore were expected to take necessary action within a reasonable time which can be reckoned

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respondent, in respect of the claim to get the benefit of upgradation from an earlier date after 30.1.91^{and} upto the date from which the upgradation has been granted vide Annexure dt. 7.9.95.

(iii) On such representation being received from any of the applicants the respondents are directed to examine the same in accordance with the applicable rules and law ~~max~~ expeditiously and preferably within a period of 3 months from the date of receipt of the order, and in due course communicate their decision to the said applicants.

The OA is disposed of in terms of the aforesaid order.

No order as to costs. |

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न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
हैदराबाद बेंच
HYDERABAD BENCH

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OA-1011/92
25-10-96

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[Signature]

assistance and eligibility and suitability of the candidates and the different categories and grades from which upgradation has to be worked out is a complexed matter and needs individual determination on the basis of relevant facts in regard to each person concerned entitled to the upgradation.

6. The submissions now urged by Mr. V. Venkateswara Rao necessarily relate to the dates from which the upgradation has now been granted. The OA does not contain any particulars in that respect either on the side of the applicant or the respondents. Such materials have also not been introduced in the pleadings by amendment of the OA. Thus embarking upon an enquiry as to whether any of the applicants can be entitled to upgradation from a date earlier to the date from which it has been granted (~~upto 1991~~) would be a question involving determination of facts and cannot be gone into on the present frame of the application. We are, therefore, of the view that since the principal relief as sought by the applicants has been made available to them, there is no scope for further order on this OA in that respect. However, if any individual applicant could claim that he was eligible to the benefit of the upgradation from a date earlier from which he has been given the upgradation, ^{it will be open to him to} may file an appropriate representation to the authorities concerned so that in the light of the circumstances relating to such application the respondents may be able to take a decision. In the result, the following order is passed.

ORDER

- (i) In view of the promotion to the next higher grade given to the applicants as per Annexure dated 7.9.95 (part of Ann.R1 to the OA) no order is called for in the OA as prayed.
- (ii) However, it is left open to the applicants 2 to 12 in the OA to file, if so advised, individual representation to the appropriate authority of the

