

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 235/92.

Dt.of Decision : 16.1.95.

K. Venkateswarlu .. Applicant.

Vs

1. Union of India rep. by the Chairman, Telecom Commission, New Delhi.
2. The Chief General Manager, Telecommunications, Hyderabad.
3. Telecom District Engineer, Adilabad.
4. Sub Divisional Officer, Telecom, Manchiryal. .. Respondents.

Counsel for the Applicant : Mr. K.S.R. ANJANEYULU

Counsel for the Respondents : MR. N.V. RAMANA, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN
THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

OA.235/92

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri K.S.R. Anjaneyulu, learned counsel for the applicant and Sri N.V. Ramana, SC for Central Government.

2. The facts which are relevant and material for consideration of this OA are in narrow compass. The applicant was at Serial No.2 in ~~regard to~~ ^{the} selection of Short duty Telephone Operator/Reserved Trained Pool (for short RTP) in regard to the vacancies for the second half year of 1979 in Nizamabad Division. He was allotted to Adilabad Division which was carved out of Nizamabad Division and posted at Manchiryal as Short Duty Telephone Operator as per order dated 24-4-1982. The name of the applicant was removed from the said RTP list by order dated 1-10-1982 by alleging that he was overaged, as noticed by TDE, Nizamabad later. WP.9291/82 on the file of AP High Court was filed by the applicant assailing the above order. By interim order dated 22-12-1982, the applicant was continued in service as Telephone Operator pending further orders. That writ petition was transferred to this Bench and registered as TA.473 of 86. It was disposed of by order dated 9-6-1987. Para-8 therein is the operative portion and ~~which~~ ^{it} reads as under :

"In the circumstances, the applicant should be given the benefit of relaxation of the age limit and he should be allowed to continue in service. The application is accordingly disposed of " (emphasis is supplied).

3. There upon TDE, Adilabad, issued order No.Q.506/30 dated 18-9-1987. It is stated that the services of the Immediate Junior of the applicant in the Select RTP list of 1979 second half year were regularised with effect from

X

and hence

5-5-1982, the regular appointment of the applicant was given from that date i.e. 5-5-1982^{as per order dated 18.9.87}. But by memo dated 13-11-1988 vide No.E--7-19/ABD/87-88/234, the date of regularisation of the applicant as Telephone Operator was given with effect from 9-6-1987 i.e the date of judgement in TA.473/86.

4. The above memo dated 13-11-1988 is challenged in this OA praying for setting aside the same and for consequential direction to the respondents to regularise the services of the applicant as Telephone Operator with effect from 5-5-1982.

5. The contentions for the respondents are two fold.

i) The direction for age relaxation in regard to the applicant was given by judgement dated 9-6-1987 in TA. 473/86, ^{and hence} the applicant is entitled for the regularisation from 9-6-1987 only, and

ii) There are no juniors to the applicant working in the Adilabad Division and hence the applicant cannot claim regularisation from the date earlier to 9-6-1987.

6. It is manifest from the emphasised portion in the para-8 of the judgement in TA.473/86 that the applicant should be allowed to continue in service and it means that the said continuation is by virtue of his selection for 1979 vacancies. The applicant was found to be over-aged by four months by the cutoff date. The relaxation which is directed to be given ^{is} in regard to these four months, it cannot be stated that the relaxation for the period upto to the date of judgement has to be given. Anyhow, when this Bench observed that the applicant should be allowed to continue in service it is only on the basis of his selection for the second half of 1979 vacancy for ^{as}

Nizamabad Division. It so happened that all his juniors were allotted to the newly carved out Nizamabad Division while the applicant was allotted to the Adilabad Division which was carved out from the original Nizamabad Division. ~~It is~~ If it implicitly conceded in reply statement that any of the juniors as per that select list were allotted to Adilabad Division that the applicant also should have been given the date of regularisation from the date on which his junior was regularly appointed.

7. If the date of regularisation is having a bearing only for the purpose of seniority, it is immaterial as to whether the service of the applicant is regularised with effect from 5-5-1982 on 9-6-1987, so long as no one is appointed as Telephone Operator between 5-5-1982 and 9-6-1987. But in view of the BCR Scheme, a Telephone Operator who is in regular service for 16 years is entitled for consideration for one time bound promotion and on completion of 26 years he is eligible for consideration for second promotion. Hence, the date of regularisation is having a bearing even though the impugned order regularising his services with effect from 9-6-1987 is not going to affect his seniority. Hence, it is stated for the applicant that it is necessary to decide as to whether the applicant should be given regular appointment with effect from 5-5-1982 or from 9-6-1987.

8. The question as to whether the applicant is within the age has to be considered on the basis of age by the cut off date referred to in the notification. When the Tribunal by order dated 9-6-1987 in TA.473/86 directed the respondents to give relaxation in regard to the age

X

To

1. The Chairman, Union of India, Telecom Commission, New Delhi.
2. The Chief General Manager, Telecommunications, Hyderabad.
3. The Telecom District Engineer, Adilabad.
4. The Sub Divisional Officer, Telecom, Manchiryal.
5. One copy to Mr.K.S.R.Anggneyulu, Advocate, CAT.Hyd.
6. One copy to Mr.N.V.Ramana, Addl. CGSC.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

MS/Ans/1
31-10-65

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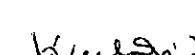
as there was no suppression or concealment of any material on the part of the applicant, it is just and reasonable to hold that the age relaxation as per the cut off date was directed to be given. Further specific direction to the respondents to continue the applicant in service. Hence, it is not a case of giving fresh appointment from the date of judgement i.e. 9-6-87 in TA.473/86. As already observed if ~~any~~ ^{there is} of the juniors of the applicant as per the relevant select list was allotted to Adilabad Division i.e. the Division to which the applicant was allotted, the applicant should also have been given the date of regularisation from the date on which his junior as per relevant select list was regularly appointed. The mere fact that none of the juniors of the applicant as per that list was allotted to Adilabad Division should not make any difference.

9. For the above reasons, the contention for the applicant that he should be regularly appointed with effect from 5-5-1982 has to be upheld.

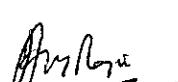
10. Accordingly, the DA is allowed as under :

The impugned memo dated 15-11-1988 is set aside and the memo dated 18-9-1987 vide No.Q.506/30 of TDE, Adilabad, is restored. No costs./


(R. Rangarajan)
Member(Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : Jan. 16, 95
Dictated in Open Court


Deputy Registrar
J. 1-95

TYPED BY

CHECKED BY

COMPARED 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.R.RANGARAJAN : M(ADM)

DATED: 16-1-1994

ORDER/JUDGEMTN:

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

in

O.A.No.

235/92

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.

30/1/95
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