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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

D.A. 327/92.

Dt. of Decision : 9.6.94.

1. P.S. Ramakrishna
2. G. Chittibabu
3. P. Haribabu
4. S.V.R. Girish
5. D. Sambasiva Rao
6. S. Srinivasa Rao
7. A. Ramakrishna
8. B.L. Srinivasa Rao

.. Applicants

VS

1. The Admiral Superintendent,
Naval Dockyard,
Visakhapatnam.

.. Respondents

Counsel for the Applicants : Mr. P. Krishna Reddy

Counsel for the Respondents : Mr. N.R. Devaraj, Sr.CGSC

CORAM:

THE HON'BLE SHRI JUSTICE V.NEE.ADRI RAO : VICE CHAIRMAN

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

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OA.327/92

Judgement-

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

Heard Sri P. Krishna Reddy, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. All the applicants herein are ITI candidates. All of them were selected as Apprentice Trainees for Non-designated Trade in Naval Dockyard, Visakhapatnam, and the training commenced on 31-3-1990. Para 8 of 'Regulations and prospectus governing entrance and training of designated and non-designated apprentices in Dockyard Apprentice Schools under the Apprentices Act, 1961', lays down that ~~as~~ on completion of the period of training, the apprentices shall appear for a test to be conducted by the Council for training in vocational trades, and on successful completion ^{full} of apprentice, the non-designated apprentices ~~and the~~ ^{new} designated apprentices ~~will~~ be employed in any of the Naval Repair Organisation as Skilled or Highly Skilled Group-II Mechanic depending upon the merit, and availability of vacancies. In pursuance of this OA, the Visakhapatnam Naval Dockyard issued Permanent Order No.12 of 1986 on 3-12-1986 stating that all apprentices who have got 75% to 79% of marks will be designated as HSK Grade II without increment. The training of these applicants was over on 31-3-1991. All these applicants got marks between 75 ~~and~~ and 79 per cent in the NCTV Examination which was conducted between 11-3-1979 and 14-3-1979 and the results of which were announced on 3-4-1991. On the same day they were all
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appointed as Mechanics HSK Grade II.

3. The Naval Dockyard issued Permanent Order No.04/A on 21-3-1991 whereby it is stated that all those who got 75% and above marks in NCTV Examination will be construed as having qualified for HSK Grade II but they would be given two increments on appointment as Skilled. On receipt of the said Permanent Order of the Naval Dockyard, the respondents issued the impugned order dated 10-4-1991, modifying the order dated 3-4-1991 by treating the appointment of the applicants as Skilled with two increments.

4. It is not in controversy that these applicants were selected on 30-3-1990 for the Apprentice Training for posts of Non-designated Mechanics with an offer that they would be appointed as Skilled Grade II in case they get more than 75% in the NCTV Examination, subject to availability of vacancies. It is rightly contended for the applicants that they got the vested right for the said post of HSK Grade II if the vacancies are available and if they got more than 75% marks in NCTV Examination. The permanent order No.04/A of 1991 was issued only on 21-3-1991. No amendment by way of Executive instruction can be issued so as to affect the vested right. Hence, it has to be stated that the case of the applicants has to be considered in accordance with Dockyard Permanent Order No.12 of 1986 dated 3-12-1986 read with letter dated 21-11-1986 of the Ministry and not as per Dockyard Permanent Order No.04/A of 1991 dated 21-3-1991.

5. It is true that it is not mentioned in Dockyard Permanent Order No.12 of 86 that the Selection to HSK Grade II is on the basis of availability of vacancies. But

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To

1. The Admiral Superintendent, Naval Dockyard, visakhapatnam.
2. One copy to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
3. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
4. One copy to Library, CAT.Hyd.
5. One spare copy.

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when it is specifically mentioned in para 8 of the Ministry's letter dated 21-11-1986 that the said appointment is only on the basis of the availability of vacancies, the applicants cannot claim that they should be appointed as HSK Grade II when they got more than 75% marks even when the vacancies were not available.

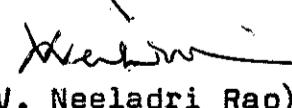
6. It is true that in the reply filed for the respondents in this OA, it is not specifically mentioned that for want of vacancies the impugned order was issued. Thereby it cannot be inferred that there were vacancies in HSK Grade II by 3-4-1991 the date on which the applicants were appointed. Probably in view of the stand taken by the respondents i.e. that only Dockyard Permanent Order No.04/A of 1991 is applicable, they might not have thought of advertizing to the question as to whether the vacancies ^{were} ~~are~~ available or not.

7. In the circumstances this OA has to be disposed of by the following order :

All the applicants or ~~such~~ of the applicants on the basis of their seniority to the extent of vacancies in HSK Grade II have to be appointed as ~~as~~ HSK Grade II with effect from 3-4-1991, and ofcourse if there were no such vacancies as on 3-4-1991 this OA stands dismissed. But in case vacancies in HSK Grade II were there ~~as~~ on 3-4-1991, the applicants are entitled to the ~~same~~ ^{difference in pay} throughout.

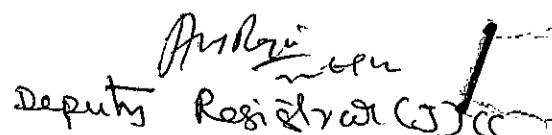
8. The OA is ordered accordingly. No costs.

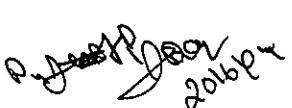

(R. Rangarajan)
Member(Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : June 9, 1994
Dictated in Open Court

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Deputy Registrar (J)


20/6/94
20/6/94

TMPEd BY

COMPARED BY

CHECKED BY

APPROVED BY

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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.B.GRTHI : MEMBER(A)

AND

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

AND

THE HON'BLE MR.R.RANGARAJAN : MEMBER(A)

Dated: 9-6-1994.

ORDER/JUDGMENT:

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

in

O.A.No. 327/92

T.A.No.

(W.P.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions
Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

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