

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

DA.414/92

date of decision : 20-4-93

Between

M.V.S. Sastry

: Applicant

and

1. The Superintending Engineer
Telecom Civil Circle
Hyderabad 500 020

2. The Chief General Manager
Telecom, A.P. Circle
Hyderabad

3. The Superintending Engineer
Telecom, Electrical Circle
Hyderabad

4. C.H. Saliah
Office Superintendent
O/o the Superintending Engineer(C)
Telecom, Civil Circle
Hyderabad

5. Dharam Singh
Office Superintendent
O/o the Superintending Engineer
Telecom, Electrical Circle
Hyderabad

6. The Director-General
Telecommunications
representing Union of India
New Delhi

: Respondents

Counsel for the Applicant

: K. Venkateshwara Rao
Advocate

Counsel for the Respondents

: M. Jagan Mohan Reddy
Addl. SC for Central Govt.

CORAM :

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMN.)



post of Office Superintendent, it is necessary for the concerned authority to decide in accordance with rules as to whether R-4 or R-5 had to be reverted when only one vacancy had to be filled up by reserved candidate. .

6. As already observed, the applicant had to be promoted in one of the two vacancies as it is stated for the applicant that the promotion to the post of Office Superintendent from the post of Head Clerk is by mere seniority. Out of the two vacancies, the first vacancy had to be filled up by the reserved candidate. Hence, the DC candidate who had to be promoted to the ~~other~~ other vacancy cannot claim seniority over the reserved candidate. Hence, notional promotion ~~for~~ to the applicant had to be given from the date on which the reserved candidate who is not going to be reverted, assumed charge as Office Superintendent. The applicant is entitled to the monetary benefits and seniority from that date.

7. In the above view, there is no need to consider for disposal of this OA in regard to the other contention that the reserved vacancy should not ^{be} remain ^{ed} unfilled for more than one year. The time for implementation of this order is three months from the date of receipt of the copy of this order.

8. The OA is ordered accordingly. No costs.

CERTIFIED TO BE TRUE COPY

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Date.....

Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

contd ... 5/-

whereby R-4 and R-5 were promoted and to consequently declare that the applicant is entitled for promotion to the post of Office Superintendent with effect from 28-10-1988, the date on which the second post of Office Superintendent was created with all consequential benefits such as pay and allowances, seniority and other attendant benefits.

4. The contention for the applicant are two fold :

- i) The letter No.36011/1579-Est.(SCT), dated 6-1-1981, vide Annexure-VII is to the effect that the decision to keep a vacancy unfilled for more than one year in anticipation for SC/ST candidates to acquire eligibility is unwarranted;
- ii) OM No.36012/3/78-Estt(SCT) dated 9-2-1982 vide Annexure-VIII stipulates 50 per cent limit for fresh and carry forward reservations and hence the filling up of both the posts by the reserved candidates is illegal.

5. It is evident from the impugned order dated 23-4-1992 that both the posts of Office Superintendent in this unit were filled up by the reserved candidates and both of them are juniors to the applicant in the seniority list. The respondents had not brought to the notice of this Tribunal, any amendment or modification to OM.No.36012/3/78-Est.(SCT), dated 9-2-1982 whereby a limit of 50 per cent was fixed for filling up the post by fresh and carry forward reservations. Hence, promotion of one of the two candidates as per the order dated 23-4-1992 is illegal as it is in violation of OM dated 9-2-1982. For dismissal of this case, it is not necessary to consider as to whether R-4 or R-5 had to be reverted when the applicant had to be promoted to the post of Office Superintendent, as ^{he is} the senior most amongst the OC candidates. When order~~s~~ has to be issued by the Department for promoting this applicant to the

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Copy to:-

1. The Superintending Engineer, Telecom Civil Circle, Hyd-20.
2. The Chief General Manager, Telecom, A.P. Circle, Hyderabad.
3. The Superintending Engineer Telecom, Electrical Circle, Hyderabad.
4. The Director General, Telecommunications, representing Union of India, New Delhi.
5. One copy to Sri. K. Venkateshwara Rao, advocate, D-18, A.G. Staff Qtrs, Yousufguda, Hyd.
6. One copy to Sri. M. Jagán Mohan Reddy, Addl. CGSC, CAT, Hyd
7. One spare copy.

Rsm/-

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