

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD.

OA.781/92.

Date of order: 17-8-1995.

Between:-

B.V.Suryanarayana

2.S.Kanna Babu

... Applicant.

And

1. The Union of India, rep. by its Secretary, Ministry of Defence, Department of Navy, New Delhi.
2. The Chief of Naval Staff, DHQ, P.O., New Delhi-110011
3. The Flag Officer, Commissioner-in-Chief, Eastern Naval Command, Visakhapatnam-14.
4. The Admiral Superintendent, Naval Dock Yard, Eastern Naval Command, Visakhapatnam-14.
5. The Dy. General Manager (Personnel), Naval Dock Yard, Visakhapatnam-14.
6. The Sr. Administrative Officer (Personnel) Department) R & P Section, Naval Dock Yard, Visakhapatnam-14.
7. Sri K.S.Chalam Sr. Forman, ICE, PGS, Eastern Naval Command, Naval Dock Yard, Visakhapatnam-14.
8. Sri P.Mukaraju Forman, ICE, Naval Dock Yard, Visakhapatnam-14.

9.

Counsel for the Applicant: Mr.V.Venkateswara Rao

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

CORAM:

HON'BLE MR.JUSTICE V.NELLADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R.RANGARAJAN, MEMBER ADMINISTRATIVE.

OA.781/92

Judgement

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

Heard Sri V. Venkateswara Rao, learned counsel for the applicants and Sri N.R. Devaraj, learned counsel for the respondents.

2. The applicants were working as Foreman in the ICE unit in the Naval Dockyard, Visakhapatnam, by 3-9-92 the date on which this OA was filed. The next promotion is to the post of Senior Foreman.

3. Two vacancies for the post of Foreman in ICE Unit, in Eastern Naval Command were notified for the posts of Senior Foreman in ICE Unit Dockyard, Visakhapatnam, for consideration for selection for promotion in 1992. Then R-7 and R-8 were selected as Senior Foreman. R-7 assumed charge as Senior Foreman. R-8 refused the promotion to the post of Senior Foreman as he was posted in the vacancy in PortBlair which is also under Eastern Naval Command.

4. This OA was filed praying for setting aside the proceedings No.PE/08/92 dated 28-2-92 in so far as the empanelment of promotion of R-7 and R-8 as Senior Foreman and to direct the respondents to prepare a fresh panel of Senior Foreman taking into consideration all the existing and anticipated vacancies of Senior Foreman by considering all the eligible candidates including the applicants herein and for further direction to the respondents to promote the applicants as Senior Foreman with effect from 14-3-92 the date on which R-7 and R-8 ^{b/wc} ~~are~~ promoted as Senior Foreman with all consequential benefits.



2. It is not in controversy that ICE Unit has a separate seniority unit for the post of Senior Foreman also. One post of Senior Foreman was sanctioned to Base Repair Organisation (Port Blair) vide Ministry of Defence letter No.CS/4242/11/NHQ/416/DDID(N-IV) dated 25-3-1991. Three vacancies in the post of Senior Foreman in ICE had arisen in 1991-92 due to promotion of S/Sh.P. Ramachandran, P.M. Sukumaran, & S.B. Komhar, Senior Foreman in ICE to the post of Civilian Technical Assistant (Engineering).

3. The contention for the applicants is that as four vacancies of Senior Foreman in ICE existed in view of the vacancies due to promotion of three senior Foreman in ICE and the sanction of one post as per letter dated 25-3-91, ^{should have been} the selection ~~has to be~~ made for all the four vacancies. But the plea of the respondents as per the reply statement is that it is open to the management to transfer ^{a post} from one seniority unit to another seniority unit and as only two out of four vacancies referred to were retained in ICE unit, the selections were made for those two posts ^{vacancies} in 1992. Of course, the relevant circular/DM/letter was not filed alongwith the reply statement. But when no rejoinder was filed denying the same, we feel it not a case where the respondents ^{have to be directed} ~~had to be selected~~ to produce the DM/circular/letter in regard to the same. If a false statement was made deliberately for the respondents in the reply statement, it is open for the applicants to come up with review application.

4. Hence, in view of the plea of the respondents that two out of four vacancies of Senior Foreman were retained in ICE ✓

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unit in 1992, the selection for only two vacancies cannot be held as illegal.

5. In pursuance of the direction of this Bench as per order dated 14-6-1995, the Minutes of the Meeting of the DPC which met on 10th and 11th February, 1992 for selection for the post of Senior Foreman and other posts were produced (returned to the Standing Counsel after perusal). It discloses that there were two carry forward SC vacancies and one current ST vacancy for 1992 in regard to the posts of Senior Foreman in ICE unit. Both the R-7 and R-8 are SC candidates. It is shown against the R-7 that he was selected against reserved quota, while it is noted against R-8 that he was "super session" by super session against reserved vacancy.

6. It is contended for the applicants that as more than 50% of the vacancies cannot be filled up from the reserved vacancies in the same year, the selection of R-7 and R-8, ~~reserved candidates~~, one against the reserved quota and the other against carry-forward vacancy had to be held as illegal.

7. But Sri N.R. Devaraj, learned counsel for the respondents submitted that R-7 was the seniormost ~~senior~~ foreman at the time of selection, and hence he was selected against DC vacancy, and R-8 was selected against carry forward SC vacancy and by mistake it was noted in the remarks column as against R-7 that he was selected against reserved quota.

8. It may be noted that R-7 is admittedly senior to both the applicants in the category of Foreman as R-7 ^{was} at serial-1 while the applicants ^{were} at sl.No.2 & 4 by the date of impugned selection. Thus, even assuming ~~As R-7 was senior to applicants~~ bettered as against DC Quota as against reserved quota, his

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selection cannot be challenged by the applicant, and it is immaterial whether he was selected under OC/reserved quota. Hence for consideration of this OA there is no need to decide as to whether in fact R-7 is considered only against OC but not as against reserved quota as urged for the respondents and we leave it open for consideration as and when it arises.

9. It was pleaded in the reply statement that as per convention the seniormost of the selectees is posted in the Headquarters while the other or others are posted outside if the vacancies exist outside and as one vacancy existed at Headquarters at Visakhapatnam and the other was at Port Blair, R-7 the senior was posted in Visakhapatnam. When R-8 refused promotion when posted to Port Blair, volunteers were called and Sri J. Manuel, who volunteered was selected and promoted as Senior Foreman in ICE unit, was posted at Port Blair. The applicants had not chosen to volunteer for selection for promotion to the said vacancy at Port Blair as Senior Foreman. When the applicants had not chosen to volunteer for consideration for promotion to the post of senior Foreman when the vacancy existed at Port Blair, it can be safely inferred that the first applicant would have refused the promotion to the post of Senior Foreman for being appointed at Port Blair and hence the question of giving direction to the respondents to consider the case of the applicant for promotion to the second vacancy of senior Foreman in ICE unit in 1991-92 does not arise. Hence, there is no need to consider for the disposal of this OA as to whether the first vacancy was filled up by appointing R-7 for the OC vacancy or the reserved vacancy.

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Copy to:-

1. Secretary, Ministry of Defence,
Union of India, Department of Navy, New Delhi.
2. The Chief of Naval Staff, DHQ, P.O.,
New Delhi-100 011.
3. The Flag Officer Commissioner-in-Chief,
Eastern Naval Command, Visakhapatnam-14.
4. The Admiral Superintendent, Naval Dock Yard,
Eastern Naval Command, Visakhapatnam-14.
5. The Dy. General Manager (Personnel),
Naval Dock Yard, Visakhapatnam-14.
6. The Sr. Administrative Officer (Personnel
Department) R & P Section,
Naval Dock Yard, Visakhapatnam-14.
7. One Copy to Mr. V. Venkateswara Rao, Advocate, CAT, Hyd.
8. One copy to Mr. N. R. Devaraj, Sr. CGSC, CAT, Hyd.
9. One copy to Library, CAT, Hyd.
10. One spare copy.

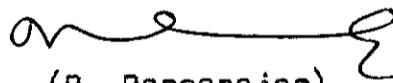
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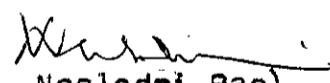
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10. Copies of the rosters produced for the respondents in respect of the direction of this Tribunal disclose that the first applicant and R-8 were promoted as senior Foreman in ICE as per the proceedings dated 27-11-1993 and they assumed charge. The point that was urged on behalf of the second applicant is that the first carry forward vacancy of 1981 lapsed in 1988 itself and R-7 should be deemed to have been absorbed in 1988 carry forward vacancy and hence there is no vacancy for the SC in the selection in 1993 and as such the empanelment of R-8 at the time of selection in 1993 for the reserved vacancy has to be held as illegal. That is not the subject matter of this OA. Hence, we do not wish to express in regard to the same for disposal of this OA.

11. The learned counsel for the applicants submitted that the first applicant may be permitted to make a representation to the concerned for fixation of seniority in the category of Senior Foreman. If the first applicant is so advised he can make a representation in regard to the same, and if so represented it will be naturally considered by the concerned authority in accordance with law.

12. Subject to the above, the OA is dismissed. No costs. //


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : August 17, 95
Dictated in Open Court

Dy. Registrar (Jud.)

COMPANY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

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

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMIN)

DATED 17-8 1995.

ORDER/JUDGMENT:

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

OA. No.

in 781/92

TA. 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.

No Space Copy

Central Administrative Tribunal
DESPATCH

20 SEP 1995 NM

HYDERABAD BENCH