

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT HYDERABAD

O.A. NO. 478 OF 1994

Between:

A Srimannarayana
s/o Shri ~~A Venkateswara~~
aged 38 yrs.,
occ: Mech/Refg HS II
Office of the Garrison Engineer (P) (I) R & D
Chandrayanagutta, Keshavagiri Post
Hyderabad 500 005 ... Applicant

and

1. Commander Works Engineer
MMudfort, Secunderabad
2. Garrison Engineer (P)(I) R & D
Chandrayanagutta, Keshavagiri Post
Hyderabad 500 005 ... Respondents

Details of the application:

1. Particulars of the applicant:

a) Name of the applicant .. A SRIMANNARAYANA
b) Name of father .. Shri ~~A Venkateswara~~
c) Designation and office .. Mech/Refg HS II
in which employed Office of the Garrison Engineer (P)(I) R & D
Chandrayanagutta,
Hyderabad 500 005
d) Office address .. -do-
e) Address for service of .. M/s A Gopal Reddy
notices. A Narasimha Reddy
Harender Pershad
Advocates,
No 3-4-875/2
Barkatpura,
Hyderabad 500 027

2. Particulars of the Respondents:

a) Name and designation .. 1. Commander Works Engineer
Mudfort,
Secunderabad 500 003
2. Garrison Engineer (P)(I)
R & D Chandrayanagutta
Keshavagiri Post
Hyderabad 500 005

b) Address .. -do-

c) Address for service of notices ..

3. Details of the order against which application is made:

a) Order No .. Proceedings No 10474/3475/EIB and consequential Office Order No 146 and 106/110/EAI

b) Date 27th Aug 92, 2.9.92 and 7th March 1994

c) Passed by: .. Commander Works Engineer, Mudfort, Secunderabad, Garrison Engineer (P)(I) & R & D, and AE, AGE E/M(P) R & D, Chandrayana-gutta, Hyderabad 500 005

d) Subject in brief .. The applicant who has been promoted as Mech Refg HS Gr II vide Proceedings No 10474/2336/EIS dated 23 Jun 86 was reverted to the post of Mech Refg (SK) ~~to~~ with effect from 1.9.92 by the impugned order/proceedings.

4. Jurisdiction:

The subject matter of the order against which the applicant seek redressal is within the jurisdiction of this Honourable Tribunal under Section 14 (I)(b)(ii) read with Section 19(i)(a) of Central Administrative Tribunal Act 1985.

5. Limitation:

The application submitted by the applicant is within the limitation prescribed under Section 21 of the Central Administrative Tribunal Act 1985.

6. Brief facts of the case:

The applicant who was appointed as Driver Compressor in the Garrison Engineer's Office (Project) Chandrayanagutta in October 1974. The applicant was appointed as a permanent appointment. Thereafter, he was promoted to the post of Mech/ Refg HS Gr II with effect from 15.10.1984. By Proceedings No 10474/2336/EIB dated 23 Jun 86 (Annexure 'A') the first respondent herein issued a promotion order to the applicant and put the applicant on probation for a period of two years. The applicant completed the satisfactory probation and is working as Mech/ Refg HS Gr II since from 15.10.1984 without any interruption.

While so, the first respondent issued proceedings No 10474/3475/EIB dated 27 Aug 92 (Annexure 'B') reverting the applicant from the post of Mech/Refg HS Gr II to Mech / Refg (SK) with effect from 2.9.92. The second respondent issued proceedings in Office Order No 146 dated 2.9.92 (Annexure 'C') reverting the applicant consequent to the order passed by the first respondent. A perusal of the order shows that consequent to the review of the departmental promotion committee, the applicant was reverted from the post of Mech/Refg HS Gr II to Mech/Refg/(SK) on the ground of erroneous promotion. On promotion of the applicant in 1986, some of the employees who claimed seniority against the applicant filed a O.A. in this Honourable Tribunal and the said O.A. was dismissed stating that they cannot claim any seniority against the applicant. After the dismissal of the above O.A. it appears that the Departmental Promotion Committee again thinking them senior to the applicant, and consequently the applicant was reverted from the post of Mech/Refg

HS Gr II to Mech/Refg (SK) along with one Shri J Chandra Reddy, who was promoted along with me. Questioning the same, he filed O A No 789/92. This Honourable Tribunal granted statusquo of reversion by order dated 15.9.92. Pursuant to the stay granted by this Honourable Tribunal, they have not taken any action as regards to reverting me. I made a representation on 24th April 1993 not to effect reversion till the above O A No 789/92 is decided by the Honourable Tribunal. While so, by the impugned proceedings No. dated 7th March 1994, it is informed that my representation is rejected stating that the Honourable Tribunal cannot be made applicable to the applicant. In view of the same, the authorities are effecting the reversion order. Therefore, the petitioner is invoking the jurisdiction of this Honourable Tribunal.

7. Grounds for the relief with legal provisions:

- i. The action of the authorities in reverting the applicant from the post of Mech/Refg MS Gr II is arbitrary and illegal and the same is violative of Article 14, 16 and 21 of the Constitution of India.
- ii. The action of the authorities in reverting the applicant basing upon the review made by the Departmental Promotion Committee after 6 years is illegal and arbitrary and the applicant was not given an opportunity before making such reversion as the applicant is working in the said post since from last 8 years has acquired a right to continue in the said post.

iii. The reviewing of the seniority by the Departmental Promotion Committee is arbitrary and illegal and it is only to accommodate the persons who failed to get a relief from the Tribunal who claimed seniority against the applicant. The ~~same~~ same is binding on the departmental promotion committee and they cannot be given seniority against the applicant and the applicant cannot be reverted from the said post.

iv. It is submitted that once the applicant was promoted to the ~~as~~ cadre of Mech Refg HS Gr II strictly in accordance with the ranking assigned in the seniority on reverting the applicant stating that he was promoted on erroneous seniority is arbitrary and illegal and it is incumbent upon the authorities to issue notice to the concerned before revising any such seniority. So far the applicant has not been given any intimation till now about the change of the seniority which they have given as early as in the year 1979 in the cadre of Refg/Mech.

v. In similar circumstances, the Central Administrative Tribunal, Bangalore Bench in O.A. No. 189 of 1990 set aside the show cause notice issued for reversion order and directed to continue the applicant therein and applicant who was promoted and worked for two years to be continued in the promoted post till the vacancy arises and the applicant cannot be reverted.

vi. The applicant made an application not to effect the reversion. Questioning the Proceedings dated 27.8.92, and 2.9.92, O A No 789 of 92 was filed and the Honourable Tribunal granted stay. In view of the

same they have not effected the reversion of the applicant therein. The applicant herein also made an application on 24.4.93. It was rejected by the 1st respondent and the same was informed by the second respondent. The rejection of the application of the applicant is arbitrary and discriminatory.

8. Details of remedies exhausted:

The applicant do not have any other remedy against the reversion order. Hence, the applicant is invoking the jurisdiction of this Honourable Tribunal.

9. Matters previously filed or pending with any other court:

The applicant has not filed any representation petition in respect of the impugned proceedings or N.P is pending before any other court.

In view of the facts mentioned in Para 4 and 6 above, the applicant prays for the following relief:

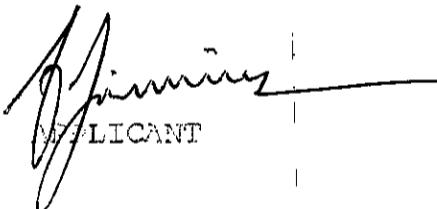
- a) To declare the Proceedings No 10474/3475/EIB dated 27.8.92 issued by the Commander Works, Engineer, Secunderabad and consequential office order No 146 dt 2.9.92 and proceedings No 106/110/EM dt 7.3.94 issued by the second respondent as illegal and void and consequently;
- b) declare that the Promotion of the applicant to the cadre of Mech/Refg HS Gr II pursuant to the order in Proceedings No 10474/2336/EIB dt 23.6.86 (Marked as Annexure 'A') is valid and legal and in accordance with law; and

- c) to direct the authorities to continue the applicant as Nech/Refg HS Gr II;
- d) to grant all other reliefs for which the applicant is entitled;

INTERIM PRAYER:

Pursuant to the Orders No 10474/3475/EIB dt 27 Aug 92, the authorities may revert the applicant. Therefore, it is just and necessary that this Honourable Tribunal may be pleased to pass an interim order restraining/forebearing the respondents from reverting the applicant from Nech/Refg HS Gr II to Nech/Refg (SK) in pursuance of the proceedings No 10474/3475/EIB dt 27 Aug 92 and consequential order dated 2.9.92 and 7.3.94 of the second respondent, pending disposal of the P.A.

COUNSEL FOR APPLICANT


APPLICANT

10. Particulars of the bank draft/postal order in respect of the application fees:

- a) Name of the bank on which Demand draft is drawn;
- b) Demand Draft No

or

- a) Postal Number of Indian Postal Order: 806 914275
- b) Name of Issuing Post Office: Madras
- c) Date of issue of Postal Order: 7-4-94
- d) Post office on which payable:

I.P.O./B.C.I.D./Removed