

(39)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 70/93.

Dt. of Decision : 22-02-95.

S.K. Khasimvali

Applicant.

Vs

1. The Union of India
Rep. by the Director General,
Telecommunications,
New Delhi - 110 001.
2. The Chief General Manager,
Telecommunications,
Andhra Circle, Nampally Station Road,
Hyderabad - 500 001.
3. The Telecom District Engineer,
Nizamabad.

Respondents.

Counsel for the Applicant : Mr. J.V.Lakshmana Rao

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

CORAM:

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

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

(60)

JUDGMENT

I as per Hon'ble Sri R.Rangarajan, Member(Administrative) X

The applicant herein is a regular Mazdoor under R-3 at the time of filing this OA having been appointed to that category from 1.9.1982. He qualified for the post of time-scale clerk under the 10% incentivescheme and the orders promoting him along with two other regular mazdoors was conveyed by R-2 vide Memo No.TA/STA/9-14/I.S./II dated 27.4.1989. One Sri G.Lakshminarayana who figured first in that list and the applicant who figured second in the list were allotted to Nizamabad Division whereas one Sri P.Narayana Reddy who was 3rd in that merit list was allotted to Sanga Reddy Division. In the above said promotion order it was made clear "that the above promotions under incentive scheme should not exceed 10% of the Departmental quota of vacancies of the divisions concerned. Since sufficient vacancies were not available in Nizamabad Division under the said scheme the promotion order issued in so far as Nizamabad Division was concerned was cancelled by R-2 by his letter dt. 13.4.1992 and the applicant was informed of the same by letter dt. 28.12.1992 (page-8 of the material papers).

2. Aggrieved by the above said intimation rejecting his candidature for the post of time-scale clerk, he has filed this OA praying for a direction to the respondents to promote him from the date of approval of his promotion i.e. April, 1989 or from the date candidate approved for the Sangareddy Division Sri P.Narayana Reddy was promoted with all consequential benefits including due seniority.

(td)

3. The main contention of the applicant is that he should be promoted as he was duly selected as communicated by R-2 and cancellation of the same is arbitrary. It is further contended that in terms of the letter of D.G., P&T, New Delhi, vide letter No.62/24/63-SPBI dt. 9.4.1964, the names of eligible officials are to be arranged in the waiting list on circle basis and the vacancies are therefore to be arrived at on circle basis and not on divisional basis. It is further submitted by the applicant that Sri P.Narayana Reddy who was selected along with him for the post of TOA under the incentive scheme and ranked 3rd in the merit list in terms of R-2 letter dt. 12.5.1989 has been appointed in Sangareddy Division and as Sri Narayana Reddy junior to him in the merit list, he also should be appointed from the date of appointment of Sri Narayana Reddy. In case there are no vacancies in Nizamabad Division, he should have been accommodated in other divisions as the list containing selected names is against circle vacancies. It is also the contention of the applicant that there were two vacancies at Nizamabad due to creation of posts as contained in the sanction memo of R-2 dt. 12.5.1989 (Annexure-A to the Reply/Counter Affidavit) against which he should have been accommodated as he was a selected candidate against the 10% quota. In the reply to the counter affidavit it is stated by the applicant that he has now been deputed for Telephone Operating Assistant (General) in TRA section, Office of the Telecom Dist.Engineer, Nizamabad under his letter dt. 28.12.1994 and hence his promotion may be advanced to the date of the posting of Sri Narayana Reddy in Sanga Reddy Division with all consequential benefits by allowing this O.A.

4. It is manifest from the letter dt.27.4.1989 addressed to R-3 that the approval conveyed for promotion by R.2 is subject to the condition that the promotion under the incentive scheme should not exceed 10% of the departmental quota of vacancies of the Divisions concerned.

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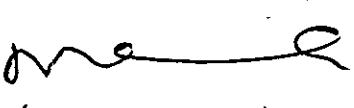
Hence, it is clear from that letter that the panel formed under the said scheme is division-wise only and not circle wise. Though the selection must have been conducted under the unified control of R-2, it cannot be said that the selection is meant for circle vacancies and that the selected candidates in the list had to be accommodated in other divisions also if enough number of vacancies are not available in the division to which the selected candidates are allotted. The learned counsel for the applicant relied on the letter of D.G., P&T dt. 9.4.1964 to state that eligible officials in the select list are to be accommodated against vacancies arrived at on circle basis and not on division basis. It has been submitted in the counter-affidavit of the respondents that the above said letter of 9.4.1964 does not apply to the divisional cadre under the incentive scheme. The instructions contained in the letter dt. 9.4.64 enclosed to the counter affidavit does not give an indication that the vacancies are to be arrived at on circle basis and not on divisional basis. Even in the reply to the counter affidavit, not enough material has been placed to show that the letter dt. 9.4.1964 is applicable to the 10% incentive quota of the Time-scale clerk selection and the vacancies are to be computed on the circle basis. In view of this, it is to be concluded that the selected candidates are to be accommodated only in the divisions to which they were allotted against the 10% quota of vacancies. If the vacancies are not available against the 10% quota in the allotted division, they cannot be promoted and they have no right for accommodation in vacancies existing in other divisions.

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5. Sri P.Narayana Reddy, who was selected along with the applicant and ranked 3rd in the merit list, was allotted to Sanga Reddy Division and as there were vacancies in Sanga Reddy Division against the 10% incentive scheme quota, Sri Reddy was promoted. This in no way will give any right to the applicant for his promotion if there are no vacancies in Nizamabad Division to which he was allotted. He cannot also claim to be posted in other divisions as the selection is based on divisional vacancies as stated earlier.

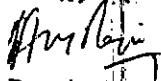
6. Sanction conveyed by R-2 by the memorandum dt. 12.5.1989 shows that only two posts were created for Nizamabad Division, though overall 101 posts were created for whole of Andhra circle. 10% of two vacancies of the two posts created in Nizamabad Division works out to only .2. Hence no vacancy can be earmarked against the incentive quota. It is unfortunate that the applicant though qualified could not get promotion as not even a single vacancy can be earmarked in Nizamabad Division as the total number of posts created was only 2 at that time.

7. In view of the above, we see no merit in this application and it is only liable to be dismissed. Accordingly, it is dismissed. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated 22 February, 1995.


Deputy Registrar (J) CC

To Grh.

1. The Director General, Union of India, Telecommunications, New Delhi-1.
2. The Chief General Manager, Telecommunications, Andhra Circle, Nampally Station Road, Hyderabad-1.
3. The Telecom District Engineer, Nizamabad.
4. One copy to Mr. J.V. Lakshmana Rao, Advocate, CAT.Hyd.
5. One copy to Mr. N.R. Devraj, Sr. CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.


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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEE LADRI RAO
VICE- CHAIRMAN

AND

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

DATED - 22-2-1995.

ORDER/JUDGMENT:

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

O. A. No.

T. A. No.

in
70/93..

(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.

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