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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.802-of 1993

DATE-OF-ORDER:- 18th-December, - 1996

G.GANESAN

.. APPLICANT

AND

1. Union of India represented by its Secretary, Ministry of Labour (DGE&T), New Delhi,
2. The Senior of Superintendent, Vocational Rehabilitation Centre for Handicapped, Hyderabad,
3. The Sr.Superintendent, Vocational Rehabilitation Centre for Handicapped, ATI Campus, V.N.Puruv Marg, SION, Bombay,
4. The Director of Employment Exchange, Ministry of Labour (D.G.E&T), New Delhi.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI K.VENKATESWARA RAO

COUNSEL FOR THE RESPONDENTS: SRI N.R.DEVARAJ, Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, ADMINISTRATIVE MEMBER

HON'BLE SHRI B.S.JAI PARAMESHWAR, JUDICIAL MEMBER

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.K.Venkateswara Rao, learned counsel for the applicant and Mr.Satyanarayana for Mr.N.R.Devaraj, learned senior standing counsel for the respondents.

2. The applicant, in response to the notification dated 6.2.82 (Annexure-I at Page 8 of the OA), applied for

the post of Workshop Engineer. It is stated that he has fulfilled all the conditions laid down in the Employment Notice. Inspite of it, he was posted as adhoc Workshop Engineer from 3.6.82 onwards. Though, it is stated that, the adhoc posting is only for six months initially, it was extended from time to time and he was continued in that capacity. Another notification for the same post was issued on 23.8.86 (Annexure-V at Page 12 of the OA). On that basis one Mrs. Sobha Mehar was posted regularly for that post on 9.9.86. When the applicant represented his case, he was given an alternative appointment as Vocational Instructor (Metal) by the order dated 25.8.86 (Annexure VIII at page 15). He accepted that post and gave undertaking on 10.9.86 to the effect that he had no claim for the post of Workshop Engineer and also admitted that he ~~would~~ ^{will} not be entitled for any service benefits towards regular employment now being offered or for any purposes of financial advantage. The applicant submits that he took up the post of Vocational Instructor (Metal) because of the family circumstances and that the undertaking given by him should not be quoted against him for denying him the service benefits.

3. ~~Though~~ The applicant ~~was~~ intially filed this OA praying for declaration that he is entitled for regular absorption as Workshop Engineer with retrospective effect from 3.6.82, the date of his initial appoointment, with all consequential benefits or alternatively for a declaration that he is entitled for counting his service from 3.6.82 as

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qualifying service for seniority, pay, pension and other benefits and also protection of his pay of Rs.2240/- as last pay drawn on 8.9.86 in the newly appointed scale of Rs.1400-2600 by holding the memo No.VRC/A 12024/1/85 dated 22.4.93 issued by R-3 as illegal, unjust, violative of Articles 14 and 16 of the Constitution of India.

4. The applicant filed M.A.No.686/93 in this OA for condoning the delay from 8.9.87 to 12.7.93, the date of presentation of the OA. That M.A. was disposed of by the order dated 22.2.94 as below:-

"We feel that in view of the material on record it is just and proper to entertain this OA by condoning the delay, only in regard to the relief claimed for regularisation in the post of Vocational Instructor from 3.6.1982 without affecting the seniority of any one who was appointed as Vocational Instructor either by direct recruitment or by promotion between 3.6.1982 and 11.9.1986, the date on which the applicant joined in this post. M.A.No.686/93 is ordered accordingly."

5. The applicant on the basis of the above direction had amended the prayer in the OA. Hence the present application is filed for declaration that he is entitled for counting the service rendered by him in the post of Workshop Engineer from 3.6.82 to 8.9.86 and the transit

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period from 9.9.86 to 10.9.86 to join duty at Hyderabad from Bombay, as duty in the post of Vocational Instructor in the scale of pay of Rs.1400-2600 with all consequential benefits such as seniority, increment, pension and leave and other attendant benefits by holding the memo dated 22.4.93 issued by the Snior Superintendent, Vocational Rehabilitation Centre for the Handicapped, ATI Campus, V.N.Puram, Margion, Bombay as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.

6. From the above, the only relief that is asked for in this OA is that the applicant should be considered as Vocational Instructor (Metal) from 3.6.82 when he joined as Workshop Engineer on adhoc basis and on that basis his pay and other benefits in the cadre of Vocational Instructor (Metal) should be regulated.

7. In M.A.No.686/93, it has been stated that the relief claimed is for regularisation in the post of Vocational Instructor from 3.6.82 without affecting the seniority of any one who is appointed as Vocational Instructor either by direct recruitment or by promotion between 3.6.82 and 11.9.86 when he joined at Hyderabad as Vocational Instructor. In view of the above direction in the M.A., the applicant cannot claim any seniority above those who have joined as Vocational Instructor between 3.6.82 and 11.9.86. His seniority will count only from 11.9.86 in the cadre of Vocational Instructor when he



joined in that post at Hyderabad.

8. A reply has been filed in this connection. There is no reason given in the reply in regard to the granting of other service benefits such as fixation of pay etc. to the applicant treating him as Vocational Instructor from 3.6.82. The learned counsel for the respondents submitted that the applicant had given an undertaking on 10.9.86 and because of that undertaking he cannot claim any benefits. A perusal of the undertaking indicates that he had forgone his right in the post of Workshop Engineer and other service benefits on that basis. But the undertaking does not prohibit him from claiming the relief of pay fixation and other service benefits except seniority in the cadre of Vocational Instructor (Metal). When we questioned the learned standing counsel for the respondents whether he has any objection to grant the limited prayer as above, the learned standing counsel for the respondents submitted that he has no objection to grant that relief.

9. In view of the above, we are satisfied that the OA should be disposed of as follows:-

The applicant should be treated as Vocational Instructor (Metal) from 3.6.82 onwards. His pay when he joined as Vocational Instructor (Metal) Hyderabad on 11.9.86, should be regulated on that basis. He will get all the service benefits except seniority in the cadre of Vocational Inspector (Metal). ~~Those who were appointed~~

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between 3.6.82 and 11.9.86 as Vocational Instructor (Metal) shall rank senior ^{to} him in that cadre. The consequential arrears, if any, arising in pursuance of the above direction should be paid to him within a period of six months from the date of receipt of a copy of this order.

10. The OA is ordered accordingly. No order as to costs.

~~(B.S.JAI PARAMESHWAR)
JUDICIAL MEMBER~~

18/12/96

~~(R.RANGARAJAN)
ADMINISTRATIVE MEMBER~~

*Avideh
Dy. Registrar (X)*

DATED:- 18th December, - 1996
Dictated in the open court.

vsn

21/12/93

21/12/93

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED:

18/12/93

ORDER/JUDGEMENT

21/12/93/C.P/M.A.No.

O.A. NO.

802/193

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
DESPATCH

- 1 JAN 1993

हैदराबाद न्यायालय
HYDERABAD BENCH