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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.894/93

Date of Order: 12.11.96

BETWEEN :

P.V.Ramana

.. Applicant.

AND

1. Union of India, rep. by its
Secretary, Ministry of Defence,
New Delhi - 110 001.
2. The Chief of Naval Staff,
Naval Head Quarters,
New Delhi - 110 001.
3. The Flag Officer, Commanding in Chief,
Eastern Naval Command,
Visakhapatnam - 530 014.
4. Sri G.Appa Rao,
U.D.C., Naval Armament Inspectorate,
N.A.D. (Post), Visakhapatnam-9

.. Respondents.

Counsel for the Applicant

.. Mr. M.P.Chandramouli

Counsel for the Respondents

.. Mr. N.R.Devraj

Mr. P.S.N.Murthy

CORAM:

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

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

JUDGEMENT

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn) X

Heard Mr. M.P.Chandramouli, learned counsel for the applicant, Mr. N.R.Devraj, learned standing counsel for the respondents and Mr. K.Sudhakarareddy for Mr. P.S.N.Murthy, for R-4.

2. The applicant was initially appointed as L.D.C. through the Employment Exchange, Visakhapatnam against the

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quota earmarked for visually handicapped persons. He was promoted as U.D.C. w.e.f. 10.12.82. In the draft seniority list published for the post of UDC the name of the applicant is shown below that of R-4. The next promotion for the applicant from the post of UDC is to the cadre of Office Superintendent. The contention of the applicant is that the first vacancy that arises in the promotional post against PH roster for the post of Office Superintendent has to be filled by visually handicapped even though visually handicapped person is junior to hearing handicapped or orthopedically handicapped person. He submitted representations for promotion to the post of Office Superintendent in preference to R-4 even though R-4 is senior to him in the cadre of UDC on the ground that the first vacancy is to be earmarked to the visually handicapped and then ^{only} the other categories of handicapped persons namely hearing handicapped and orthopedically handicapped can be considered. His representations dated 5.9.90 and 23.4.92 are at page-10 & 13 of the OA. These representations were disposed of by the impugned order No.CP(SC)/7620/Vol.III dt. 16.7.92 (page-11) rejecting the claim of the applicant on the basis that once an appointment has been made the promotion is governed by the seniority in the cadre irrespective of the fact whether the applicant belongs to visually handicapped, hearing handicapped or orthopedically handicapped. The applicant though visually handicapped is junior to R-4 who is an orthopedically handicapped and hence the applicant cannot march over R-4 for promotion to the post of Office Superintendent from the grade of UDC.

/ praying /

3. Aggrieved by the above, he has filed this OA/ for setting aside the letter No.CP(SC)/7620/Vol.III, dt. 16.7.92 issued by R-2 by holding it as contrary to O.M.No.39016/20/80/Estt/C, dt.30.12.80 modified by O.M.No.39016/20/80/Estt(C), dt. 27.3.81

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and O.M.No.36035/8/89/Estt (Spt) dt. 20.11.89 issued by Govt. of India and for a consequential direction to R-1 to R-3 to put the applicant in the cadre of UDC at Sl.No.225 below B.Suryanarayana at Sl.No.224 and above P.V.Ramana (General candidate) at Sl.No.225 in the draft seniority list of UDCs as on 1.6.93 and promote the applicant in the vacancy that arose in the cadre of Office Superintendent earlier to R-4.

4. The main contention of the applicant in this OA is that the memorandum of DOP No.39016/6/77-Estt (C), dt. 4.11.77 (page-2) states that the recruitment against the handicapped quota should be in the order that the first vacancy is to be given to/ the visually handicapped, second vacancy to hearing handicapped and the third vacancy to orthopedically handicapped in the 100 point roster. The above is also further supplemented by the O.M. of DOP No.39016/20/80 Estt. (C) dt. 30.12.80 (page-4). As per this memorandum dated 30.12.80 it is evident from para-2 that the recruitment against the 100 point roster, the first vacancy should be earmarked for visually handicapped, second vacancy to the hearing handicapped and the last vacancy to orthopaedically handicapped. This cycle should be strictly followed in the case of promotions also. That is whenever any promotions takes place the visually handicapped even if junior should be promoted first and then only the other two handicapped persons can be considered. The applicant relying on the O.M.No.36036/8/89-Estt (SGT) dt. 20.11.89 (page-7) states that the above principle is evident from para-1 of the above said memorandum. By this memorandum the reservation provided in the three categories of the physically handicapped persons should be implemented in the order as mentioned above even in promotion.

5. The respondents have filed a reply. In page-5 of the reply the respondents submit that in terms of Naval Headquarters letter No.CP (SC)/7620/Vol. III, dt. 6.7.92 that the physically

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handicapped person irrespective of the category to which he belongs, will be eligible for promotion against the vacancy reserved for physically handicapped person only on the basis of seniority and that there are no order which stipulate that a visually handicapped person though junior will be given preference over senior persons belonging to the other two categories i.e. hearing handicapped and orthopaedically handicapped. Accordingly, taking into account the eligibility of an employee and suitability for the post, promotion is to be regulated for filling up of physically handicapped reservation, if available. Further, the above interpretation of the Ministry of Defence has been upheld by the department of Personnel and Training by the letter No. CP(NG)/6024, dt. 15.7.93 (page-6). Hence the respondents urge that the case has no merit for consideration.

6. The applicant relying on the O.M. of the Department of Personnel dt. 30.12.80 and 27.3.89 stresses that the cycle for promotion as prayed for by him is in accordance with the memoranda. Those instructions are once again repeated in the O.M. dt. 20.11.89 of the DOP for promotion also. We do not subscribe to that view. The O.M. dt. 30.12.80 and 27.3.89 meant only for direct recruitment against the quota earmarked for direct recruitment. Whenever such direct recruitment is made the cycle has to be followed in the order that the visually handicapped person is to be appointed first and the appointment of the other handicapped candidates follows. The applicant ~~try~~ to interpret para-1 of the memorandum dt. 20.11.89 to state that in accordance with the memorandum promotion is also to be given to the visually handicapped first followed by hearing handicapped and the orthopaedically handicapped. But a study of that memorandum does not reveal that the interpretation given by the applicant's counsel is borne by the facts. As a matter of fact that memorandum only says that the reservation is to be given

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even in the promotion cadres for the physically handicapped persons. Just because the visually handicapped is shown as first in para-1 of the memorandum it does not mean that he should be promoted first irrespective of the seniority.

7. The respondents in their reply state that no relevant government orders have been pointed out to strengthen the contention of the applicant as above. We also come to the same conclusion as above and hence the above contention of the respondents has force. Hence we are satisfied that the promotion made to the post of Office Superintendent in accordance with the seniority of the U.D.C. cannot be faulted. The applicant even though visually handicapped cannot march over the other handicapped person in promotion just because he is a visually handicapped person. No doubt in the promotion cadre the reservation is to be given for the physically handicapped persons. That reservation is to be followed in accordance with the seniority of the physically handicapped in the feeder category.

8. In view of what is stated above we do not find any contradiction in the impugned letter dt. 16.7.92 as contended by the applicant. The impugned letter has been issued after consideration of all the issues involved. Seniority in a cadre plays a very important part. Just because a person is visually handicapped he cannot claim promotion overlooking the other seniority. ^{who} ~~PM~~ employees are found fit for such promotion. The whole carrier of a government servant depends on the seniority. When somebody marches over dehors the rules of seniority, the rule of seniority will have no meaning at all. In that view also we do not find any merit in this application.

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8. In the result, the OA is dismissed. No costs.

R. Rangarajan
(B.S. JAI PARAMESHWAR)

Member (Judl.)

12.11.96

R. Rangarajan
(R.RANGARAJAN)

Member (Admn.)

Dated: 12th November, 1996

(Dictated in Open Court)

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D.R. (S)
D.R. (S)

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9/12/96
O/A 894/93

9/12/96

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 12/11/96

ORDER/JUDGEMENT

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

O.A.NO. 894/ⁱⁿ93

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

No stamp copy

II COURT

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