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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 987/93.

Dt. of Decision : 21-11-96.

Bhagavanthu

.. Applicant,

Vs

1. The Union of India, Rep. by
its Secretary to Govt. of India,
Min. of Communications, Sanchar
Bhavan, New Delhi-1.
2. Telecommunications, AP Circle,
Hyderabad.
3. The General Manager,
Telecommunications,
OPs: Telephones,
AP Circle, Hyderabad.
4. The Director,
Telegraph Traffic,
Dept. of Telecommunications,
Hyderabad.
5. The Chief Superintendent,
Central Telegraph Office,
Hyderabad-1.

.. Respondents.

Counsel for the Applicant : Mr. V. Venkateswara Rao
Counsel for the Respondents : Mr. V. Rajeswara Rao,
Addl. CGSC.

CORAM:

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

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

ORDER

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

Heard Mr.V.Venkateswara Rao, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. The facts of this case are as follows:-

The applicant was appointed as Junior Clerk on 18-9-64. He was promoted as D.T.O. Accountant on 18-12-69. He passed the departmental qualifying examination for promotion to the post of LSG Clerk while he was working as DTO Accountant. On the basis of his eligibility as he had passed the departmental qualifying examination he was posted as LSG Clerk on 1-6-74. Thereafter, he was promoted as LSG Accountant as one LSG Accountant is justified for operation of 8 LSG Clerks in terms of para 415 of P&T Manual Vol.IV. He was appointed as LSG Accountant on 25-11-80. He was conferred ^U was brought in the scale of pay of Rs.1600-2660/- on the basis of the BCR Scheme on 16-10-90. R-4 reshuffled the officials in the year 1993 by order No.S.24/Vol.II/48 dated 24-04-93 and in that reshuffle the applicant was shifted as Section Supervisor in the general line from the post of LSG Accountant. He submitted a representation dated 4-5-93 for retaining him as LSG Accountant. That representation was rejected as he was told that the post of LSG Accountant was abolished. However, he was retained as LSG Accountant in terms of memorandum No.TA/TFC/26-2/BCR dated 16-06-93 (Annexure-5), keeping in abeyance the transfer order as Section Supervisor till the disposal of his representation. By the impugned order ^{No.} TA/TFC/26-2/BCR dated 10-8-93 R-4 was informed by R-2 that the posting of the applicant as SS I/R in CTO is approved.

3. This OA is filed for setting aside the letter No.TA/TFC/26-2/BCR dated 10-8-93 (Annexure-6) and for a consequential direction to continue the applicant as LSG Accountant in C.T.O.

4. The respondents in their reply submit that two posts of LSG Accountant were sanctioned ~~one~~ in the year 1980 which ^{was} a permanent one and other in the year 1990 which ^{was} a temporary one. The temporary one was abolished on review in the review of Establishment for 1991 when the justification for continuing that temporary post was not existing. The permanent post was also kept in abeyance in 1991 when it was found redundant in view of DOT Letter No.6-1/93/FC dated 17-5-93 (Annexure R-1). The reduction in the post of LSG Accountant was necessitated because of the improved accounting procedure which resulted in the reduction of LSG Clerk from 8 to 4.5. The respondents further submit that the post vacated by the applicant was not filled by Mr.L.Basavaraj though an order ^{that} to ~~the~~ effect was issued and that order of posting of Mr.L.Basavaraj subsequently was cancelled. It is further stated in the reply statement that the name of the applicant was shown at Sl.No.34 along with the Section Supervisors in the gradation list of Section Supervisors though he was working as LSG Accountant. The applicant having joined as a Junior Clerk in the general line his seniority was maintained in the general line also as Section Supervisors. Hence, he cannot question his posting as Section Supervisor on abolition of the post of LSG Accountant. It is also stated in the reply that the abolition did not require sanction from the competent authorities as the operation of the post depends on the necessity and justification for continuing that post.

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5. ~~An~~ interim order was passed in this OA dated 20-08-93 whereby the status-quo as on that date was to be maintained. The applicant is still continuing in that post as LSG Accountant.

6. The points for consideration in this OA are 1) whether the CGM is the competent authority to abolish the post of LSG Accountant when post was sanctioned by the Director General, Telecommunication. 1i) Whether LSG Accountant can be posted as Section Supervisor on the abolition of the post of LSG Accountant. Whether this transfer would mean transfer from one cadre to another cadre?

7. The CGM by his order No.TA/TFO/26-2/BCR dated 10~~0~~8-93 (Annexure-R-1) directed R-4 to issue posting order of the applicant as SS in CTO Hd after the withdrawal of the sanction for the post of LSG A/C at CTO Hyderabad. The contention of the applicant in this regard is that the said post was operated on the basis of the sanction issued by the Director General Post & Telegraph vide order No.TFC.18-121, dated 25-11-80 (Annexure-I). Hence the learned counsel for the applicant submits that the CGM who is impleaded as R-2 has no power to abolish the post sanctioned by R-1.

8. When the operation of the posts are in the Andhra Region, it continue to operate the posts if there is reduction in work load till such time he receives order from the Director General who created the post. The learned counsel for the applicant relies on the para 415 of P&T Manual Vol.IV to state that the abolition of the post by R-2 is irregular. We do not subscribe to this view as para 415 only states the yardstick prescribed for creation of post of LSG Accountant. It does not talk about the competent authority to create and abolish the post. No other order to the effect, as as contended by the learned counsel for the applicant, was brought to our notice. When a post is surplus to the requirement, the Government cannot wait till the competent authority orders for suspension or abolition of the post. The authority incharge of

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the region is competent to issue orders for abolition of post even if he is not competent to issue sanction for operation of the post to avoid drainage of public exchequer. Thus, we find that the first contention cannot be sustained.

9. The respondents in their reply in para-10 state that the applicant's name is at Sl.No.34 along with the Section Supervisors in the gradation list of Section Supervisors. It is also admitted fact that the applicant was appointed in the general supervisory cadre as Junior Clerk initially. It may be possible that the applicant progressed in the accounts & cadre as he qualified in the departmental qualifying examination for LSC Clerk. There is ^{same chart} ~~no~~ ^{charge} produced before us to show that the hierarchy of accounts section and of general section are two separate distinct identity. The very fact that the name of the applicant is shown in the seniority list of section supervisors, we are of the opinion that it may be a combined cadre and the post of Accountant is being filled from amongst those who qualified for holding the post of accountant. But has not filed any rejoinder controverting the statement made in regard to the applicant's name figuring in the section supervisors' seniority list. The learned counsel for the applicant now submits that the applicants is having lien in the general line. In view of the above it is not necessary to further elaborate in this point.


10. In view of what is stated above, the only direction that can be given in this case is that if there ~~is~~ are no qualified hands

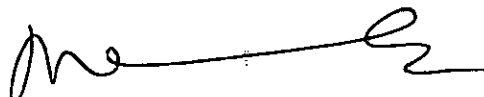
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to be posted against a sanctioned post of LSG Accountant which post needs to be operated the applicant should be continued in that post. However, if there are other qualified candidates available for posting as LSG Accountant the case of the applicant should also be considered along with them for posting as LSG Accountant by the competent authority.

11. The OA is disposed of with the above directions. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.) 21/11


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 21st November 1996.
(Dictated in the Open Court)

*Prdhy
Jmes.
DY. Registrar (S).*

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Typed By
Compared by

Checked By
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD

THE HON'BLE SHRI R. RA'NGARAJAN: M(A)
Hm no. B S. Sai Parmeswar m (5)

DATED: 21/11/96

ORDER/JUDGEMENT
R.A/C.P./M.A.NO.

O.A.NO. 987/93

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS.

YLKR

II COURT

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
ब्रेषण/DESPATCH
18 DEC 1996
हैदराबाद न्यायपीठ
HYDERABAD BENCH