

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

G.A.1278/93 &
R.A. 99/93 in
O.A.701/89.

Dt. of Decision : 15-09-95.

O.A.1278/93.

Smt. A. Premakumari

.. Applicant.

Vs

1. The Director,
Central Research Institute for
Dry Land Agriculture,
Santoshnagar, Hyderabad.
2. The Sr. Administrative Officer,
Central Research Institute for
Dry Land Agriculture,
Santoshnagar, Hyderabad.
3. K.Venkata Rao
4. B. Gandhi

.. Respondents.

R.A. 99/93 in OA.701/89.

Smt. A.Premakumari

.. Applicant/
3rd Respondent in
OA.No.701/89.

Vs

1. The Director,
Central Research Institute for
Dry Land Agriculture,
Santoshnagar, Hyderabad.
2. The Sr. Administrative Officer,
Central Research Institute for
Dry Land Agriculture,
Santoshnagar, Hyderabad.
3. K. Venkata Rao

.. Respondent/
Applicant in OA.
No.701/89.

Counsel for the Applicant

: Mr. K.G.Krishna Murthy

Counsel for the Respondents

: Mr. N.R.Davaraaj, Sr.CGSC.

CORAM:

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

THE HON'BLE SHRI A.B. GORTHY : MEMBER (ADMN.)

(Audit and Accounts) and was promoted, the applicant is continued in the post of Superintendent (Audit & Accounts).

6. One of the contentions for R-4 is that only three of the remaining six posts are for general, while the other three were sanctioned as Superintendent (Accounts) and hence only those who are having the requisite qualifications have to be considered for those posts, ^(Accounts) and in such case he cannot be reverted as one of the two Superintendents who is having the necessary qualifications for promotion to the said post. The further plea for R-4 is that he was recruited in the vacancy in 2/3 quota and when it is a case of abolition of one post, one who was selected or has to be selected under LDCE quota has to be reverted, and thus in either case he cannot be reverted.

7. The case of the applicant is that the vacancy was rightly notified as for DC and her plea that it ^{should} ~~could~~ not be declared as vacancy for SC, which she raised in RP.99/93 is yet to be considered and till the same is considered she cannot be reverted especially when she was promoted about more than six years back.

8. It is submitted by R-3 that even though there is ^{an} order in his favour as per judgement OA.701/89, the official respondents are not considering his case for promotion in view of the interim order in the OA.1278/93.

9. All along R-1 is treating six out of seven posts of Superintendents as Superintendents (Genl). But R-4 filed Annexure-I, ^{and VIII} II, to his reply statement dated 7-2-95 to urge that they were sanctioned as Superintendents (Accounts) and hence they have to be filled only as per rules for Superintendent (Audit and Accounts) ~~I, II & VIII~~. R-4 is also relying

to the post of Superintendent (Genl) in LOCE quota by holding it as SC vacancy.

3. R-4 herein was promoted as Superintendent (Genl) on 21-12-1992 in 2/3 quota.

4. The impugned order dated 11-10-93/^{was} issued to the applicant herein reverting ^{her} ~~him~~ as Stenographer Gr.II. It is stated therein that in pursuance of the judgement in OA. 701/89 she was reverted. When she sought interim order in RP.99/93 restraining the respondents herein from reverting her on the ground that R-4 herein is junior to her, and if reversion has to be ordered, R-4 has to be reverted, it is stated that, it was observed by the Bench that if it were to be so, it is a matter for the applicant to file ~~a~~ separate OA and hence it is submitted that this OA was filed praying for quashing the impugned order dated 11-10-1993 by holding the same as illegal, improper, unjust and arbitrary.

5. Till 1993 there were 8 posts of Superintendents in R-1 organisation. It is not in controversy that one of the posts of Superintendents is for Audit and Accounts. The Recruitment Rules for promotion to the post of Superintendent (Audit and Accounts) lay down that all the employees who qualify in the requisite test in ICAR Audit & Accounts Examination are eligible for consideration for promotion which is by way of seniority-cum-fitness. It is stated that the applicant and R-4 herein and two other members of the staff of R-1 organisation are having the requisite qualifications for consideration for promotion to the post of Superintendent ~~(Audit & Accounts)~~. ^{Even though} ~~when~~ one post of Superintendent was abolished, ^{as} ~~and~~ one who was holding the post of Superintendent

13. So, we feel that in order to avoid further delay in giving promotion to the applicant in OA.701/89 who is R-3 in this OA, and as the difference in emoluments between the Assistant/Stenographer Gr.II who has to be considered for promotion as Superintendent is less than Rs.100/-, and as it will take considerable time in view of the pleas and the documents yet to be filed, we feel that it is just and proper to give a direction for creation of Supernumerary post in the category of Superintendent without filling up the post of Assistants which is now vacant.

14. Sri N.R. Devaraj, learned standing counsel for R-1 and R-2 submitted that R-1 is not competent to create any post of Superintendent and it is only the Director General who is competent to create.

15. When we feel that it is necessary to give a direction for creation of supernumerary post in order to avoid delay in ^{promotion of} ~~preparing~~ R-3 herein who got the order about more than two years back, and as it will again take considerable time, for disposal of this OA as a long time will be taken for producing necessary documents, we feel it appropriate to pass the following interim order :

R-3 herein has to be promoted as Superintendent (Genl) on the basis of the order in OA.701/89 without reverting either the applicant or R-4 if necessary by creating a supernumerary post. The ^{promotion of R-3} ~~same~~ will be subject to the result in RA.99/93 and this OA. The promotion has to be given to R-3 by 16-10-95. If it is necessary to obtain the necessary orders from the Director General, the same has to be obtained by that date, and ^{if it} ~~that~~ cannot be obtained.

upon para 5 of the notification dated 1-12-1975 vide No. 2(27)74-Reorganisation(Admn), Annexure ^{to use} I, that the posts of Superintendent-cum-Accountant etc. are designated as Superintendent (Audit & Accounts). R-4 is also relying upon the various amendments to recruitment rules including Annexure-X dated 4-12-1986, wherein the remarks column it is noted that the superintendent-cum-accountant etc. shall henceforth be designated as Superintendent (Accounts). Unless all the amended notifications that were issued from time to time from 1974 onwards are looked into, it cannot be stated as to when the designation Superintendent (Audit & Accounts) was redesignated as Superintendent (Accounts).

10. It may be noted that even though R-3 passed the test in December, 1994 whereby he had to be given promotion in pursuance of the order in OA.701/89, R-1 and R-2 are not in a position to comply with the same in view of the interim order in OA.1278/93. When this matter had come up ~~for the first time~~ before the other Bench, of which one of us (Sri A.B. Gorthi) was a Member, it became necessary to adjourn it number of times as each time one or the other was coming up with a new plea or document. It cannot be known as to when all the ~~necessary~~ amendments to the relevant Recruitment Rules can be produced.

11. As the applicant herein was not served with the amendment in OA.701/89, it is necessary to re-hear ^{OA 701/89} and it will naturally take considerable time.

12. It is stated that another post of Superintendent is going to fall vacant in November, 1996. The difference in emoluments of the one who is promoted from the post of Accountant/Stenographer Gr.II to the post of Superintendent will be about Rs.100/- p.m. It is submitted for R-1 and R-2 that ^{one} the post of Assistant is vacant.

by then the supernumerary post has to be sanctioned with retrospective effect from 16-10-1995.

15. Post OA.1278/93 ~~for hearing~~ on 30-10-1995 *for hearing.*

CERTIFIED TO BE TRUE
[Signature]
 Date.....
 Court Officer
 Central Administrative Tribunal
 Hyderabad Bench
 Hyderabad.

11/11/95

To

1. The Director, Central Research Institute for Dry Land Agriculture, Santoshnagar, Hyderabad.
2. The Sr.Administrative Officer,
sk Central Research Institute for Dry Land Agriculture, Santoshnagar, Hyderabad.
3. One copy to Mr.K.G.Krishna Murthy, Advocate
16-2-147/55/C, Anand Nagar, New Malakpet, Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. Mr.K.Venkat Rao, Stenographer, CRIDA, Santoshnagar, Hyderabad.
6. Mr.B.Gandhi, Superintendent, CRIDA, Santoshnagar, Hyderabad.
7. One copy spare.

pvm