

39

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A. NO. 1329/93.

DATE OF JUDGMENT: 5.7.94.

BETWEEN:

Mr. P. Balraj

.. Applicant

AND

1. Chief Personnel Officer,
SC Rly, Secunderabad-371.

2. Chief Medical Officer,
SC Rly, Secunderabad-371. .. Respondents.

APPEARANCE:

COUNSEL FOR THE APPLICANT(S): Mr. ~~Om Prakash~~ ..

COUNSEL FOR THE RESPONDENTS: Mr. N. V. Ramana, Adl. CGSC.

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

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

..2

contd....2

40

O.A.NO.1329/93.

JUDGMENT

Dt: 5.7.94.

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri J.Lalitha Prasad, learned counsel for the applicant and Shri N.V.Ramana, learned standing counsel for the respondents.

2. This OA was filed praying for a direction to the respondents to promote the applicant as Health Inspector Grade-II, in the pay scale of Rs.1600-2660 against the restructured post from 1.3.1993. The facts which give rise to this OA are briefly as under:-

On the basis of restructuring of posts, one vacancy had arisen with effect from 1.3.1993 in the post of Health Inspector Grade-II in the unit of R-2. Late Santhana Krishnan who was senior to the applicant was considered for the said promotion on 18.2.1993 and the order of promotion was given to him on 28.4.93. But it was not given effect to, as disciplinary proceeding was pending against him from November 1989. Late Santhana Krishnan died on 25.6.1993. Hence, the disciplinary proceeding against him was abated.

3. It is submitted for the applicant that as late Santhana Krishnan was facing disciplinary proceeding even by 18.2.1993, his case could have been considered only by adopting sealed cover procedure and then the case of the applicant also should have been considered as he was immediate next senior who was eligible for promotion to the post of Health Inspector Grade-II.

K.C.L

.. 3 ..

4. The learned standing counsel for the respondents had not drawn attention of this Bench to any OM, Circular, letter or statutory provision whereby ~~any~~ vacancy/vacancies have to be reserved for the delinquent employees who were facing disciplinary proceeding by the time of consideration for selection for promotion. Hence, in such ^{case}, those employees who are next in the rank have to be considered for the vacancy/vacancies for which selection is made. As such, the case of the applicant also should have been considered on 18.2.1993 as late Santhana Krishnan was facing disciplinary proceeding, and when it was ~~the~~ ^{case} of selection on the basis of the modified procedure ~~as per which selection has to be made~~ ^{re consideration} only on ~~the basis~~ of the records.

5. It is submitted for the applicant that ~~after~~ ^{in view of} filling up the vacancy which had arisen on ~~the basis~~ of ~~restructure~~ ^{up} and for which alone modified procedure has to be ~~xxxxxxxxxxxxxx~~ followed, there was regular selection for the regular vacancies which had arisen later, and in the said selection, the applicant could not succeed.

6. So, the proper direction that has to be given now is ~~that~~, to convene a review DPC to consider the case of the applicant for restructured vacancy on the basis of the modified procedure and if he is selected, he has

✓

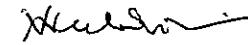
contd....

.. 4 ..

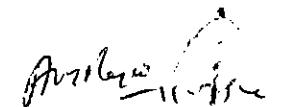
to be given seniority over those who are subsequently selected on the basis of the usual procedure for selection. In such case, the date of promotion that has to be given to the applicant is the date on which the next regular promotee assumed the charge and the monetary benefit has to be given only from 20.10.1993, the date on which this OA was filed.

7. The OA is ordered accordingly. No costs.


(R. RANGARAJAN)
MEMBER (ADMIN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

Dated: 5th July, 1994.
Open court dictation.


Deputy Registrar (J) CC

To

1. The Chief Personnel Officer, S.C.Rly,
Secunderabad-371.
2. The Chief Medical Officer, S.C.Rly.
Secunderabad-371.
vsn
3. One copy to Mr.J.Lalitha Prasad, Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Ramana, Addl.CGSC.CAT Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

pvm

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.A.B.G.RTHI : MEMBER(A)

AND

THE HON'BLE MR.T.CHANDRASEKAR REDDY
MEMBER(CUDL)

AND

THE HON'BLE MR.R.RANGARAJAN : MEMBER(R)

Dated: 5-7-1994.

~~ORDER/JUDGMENT:~~

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

in

O.A.No. 1329/93.

T.A.No. (W.P.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions

Dismissed.

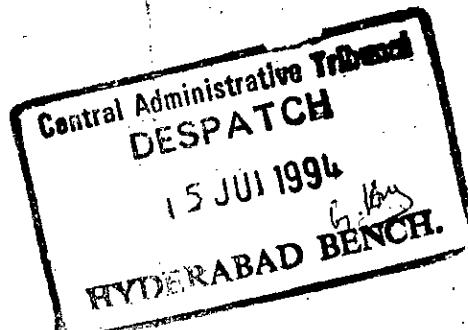
Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm



Reddy
15/7/94