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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1040/93

DATE OF ORDER : 18-12-96.

Between :-

B.S.Nageswar Rao

... Applicant

And

1. Commander Works Engineer
(Military Engineering Service),
Mudfort, Secunderabad.
2. Administrative Officer,
Office of Commander Works Engineers,
Mudfort, Sec'bad.

... Respondents

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Counsel for the Applicant : Shri M.Sudhakar Reddy

Counsel for the Respondents : Shri V.Rajeshwar Rao, CGSC

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CORAM:

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

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

(Order per Hon'ble Shri B.S.Jai Parameswar, Member (J)).

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(Order per Hon'ble Shri B.S. Jai Parameshwar, Member (J)).

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None for the applicant. Heard Shri V. Rajeshwar Rao,
learned standing counsel for the respondents.

2. In spite of adjournments, the learned counsel for the applicant is not present. Hence the Original Application is decided in terms of Rule 15(i) of C.A.T. (Procedure) Rules, 1987 after perusing the material available in the record.

3. In this Original Application the petitioner prays to hold that Memo No. 10444-B/1815/EIB dt. 23-1-93 (Annexure IV) is illegal and for a direction to the respondents to issue letter of appointment to him for the post of Electrician (Semi Skilled) in their office or to provide him an alternative suitable post.

4. The case of the applicant is that he had passed SSLC examination in the year 1988 and completed course of Wiremen-cum-Electrician / trade from Advance Training Institute, Vidhyanagar, Hyderabad, during the academic year 1989-91. That the Respondent No. 1 issued a Paper Publication in the employment News dt. 23-29th May, 1992. (Annexure-I) inviting applications from the Scheduled Tribe candidates under special recruitment drive for filling up backlog vacancies reserved for ST candidates. As the applicant belongs^{ed} to ST category, in response to Paper Publication he submitted his application and the Respondent No. 1 called the applicant for interview vide letter No. 10444-B/1759/EIB dt. 6-7-92 (Annexure-II). The respondents intimated the applicant that he was provisionally selected for the post of Electrician that the respondents instead of giving him a letter of appointment sent the impugned order informing him that the

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provisional selection for the post of Electrician has been cancelled for want of vacancies as per intimation received from the ^{higher} authorities. He has questioned the impugned order on the grounds that the same is arbitrary, ^{and} illegal. That at the time of issuing the Paper Publication the respondents ~~had not mentioned~~ that they ^{had} reserved the right ~~as~~ to revoke the selection. Apart from there ^{was} only one post of Electrician reserved for ST. That the applicant after receiving the impugned ^{order} ~~notice~~ submitted representation for revoking the notice dt.23-1-93. That they have not sent a reply.

5. The Respondents have filed their counter stating that during February, 1992 ~~intimation~~ was received from the Higher Authorities to identify backlog vacancies of SC/ST category remained unfilled as on 31-12-92 and place requisition to the Employment Exchange and by inviting application through Paper Publication that the post of Electrician (Semi Skilled) is one of the categories for filling up of one backlog vacancy of ST candidate. Accordingly, requisition was placed with Employment Exchange on 5-3-92 calling for suitable candidates. The candidates sponsored by the employment exchange were directed to appear for the interview. That none of the sponsored candidates ~~were~~ appeared for the interview. Therefore it necessitated them to issue Paper Publication and conduct interview for the above post and the applicant was at Sl.No.2 in a panel drawn by the Board. That pending verification of character and antecedents, candidates ^{were} ~~empanelled~~ on provisional basis. But subsequently the higher authorities directed to fill up SC/ST under ^{recruitment} special/drive only if vacancies ^{were} ~~are~~ available within the ceiling by their letter dt.9-12-92 (Annexure-

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R-V). Hence the provisional panel could not be acted ^{upon} and the applicant was informed about the cancellation of the vacancy. Therefore under these circumstances the letter of appointment could not be issued to them ~~applicant~~.


5. During the course of hearing, we felt that when once the respondents provisionally selected the applicant for the post of Electrician in an ST vacancy, it ^{was} ~~is~~ stated in the reply that there was surplus in the department and hence the applicant could not be posted. As the surplus was existing even before the issue of the notification, the respondents cannot say that the surplus had occurred after issuance of the notification and hence the panel cannot be honoured. The notification ¹ was issued by Respondent No.1 and he ^{was the officer in} ~~has offered~~ [✓] he is over all incharge of the cadre. Hence it cannot be stated that he was not aware of the surplus position at the time of issuing the notification at Annexure-I. Hence retracing the steps by ^{annulling} ~~canceling~~ the panel by Respondent No.1 is not acceptable. Hence there is no other go for the respondents to fill up the vacancies by posting the applicant or who were ~~excluded~~ [✓] equally eligible to be appointed. But the applicant [✓] having come to this Tribunal the order [✓] is [✓] only to him. Keeping of the panel alive is also essential as the constitutional provision in filling up the post by ST Candidates is to be fulfilled. In the above circumstances [✓] we asked the learned standing counsel for the respondents to find out whether the panel will be kept open till a clear vacancy arises for appointment of one ST Vacancy of Electrician (Semi-Skilled) to accomodate the applicant herein. The learned counsel produced letter dt.12-12-96 addressed to him today.


Respondent No.2 ⁱⁿ that letter states as follows :-

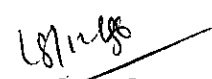
"2. Your proposal to keep the select panel open indefinitely till clear vacancy arises for the appointment of one ST Candidate for Electrician (SK) in which Petitioner is No.2 in the panel is agreed to. You are requested to defend the case accordingly in the next hearing posted for 16 December, 1996." (This letter is taken on record).


In view of the above submission of the respondents, the panel should be kept open indefinitely. However, it is to be noted that there is a demand for Scheduled Tribe candidates in other organisations also to fulfill the constitution^{al} obligation. Hence keeping the panel open indefinitely, if the applicant is not interested to join the department, may not be called for. In view of the above, the panel should be kept open for a period of 6 months from the date of receipt of a copy of this order during which period the applicant should report the authorities to express his willingness to join the post as and when next vacancy arises. If the applicant is not willing to join, the currency of the panel will be deemed to have expired after the 6 months period. If the applicant expresses his willingness in writing to join in the department, the panel shall be kept ~~vacant~~^{alive} till he ^{is} absorbed. The vacancy should be filled in accordance with the panel position.

6. The Original Application is allowed accordingly. No order as to costs.


(B.S. JAI PARAME SHWAR)
Member (J)


(R. RANGARAJAN)
Member (A)


Dated: 16th December, 1996.
Dictated in Open Court.


D. R. (J)

21/1/97
TYPED BY
COMPARED BY

CHECKED 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: 18/12/96

ORDER/JUDGEMENT

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

in
D.A.No. 1044/93

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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