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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

* * *

O.A. 1444/93

Dt. of Decision : 15.12.93

J. Venkataramana

. . Applicant

Vs

1. The Registrar General and
Census Commissioner of India,
Ministry of Home Affairs,
Government of India,
2A, Mansing Road,
New Delhi - 11.
 2. The Director of Census Operations,
Andhra Pradesh, Ministry of
Home Affairs, Government of India,
Hyderabad.
- . . Respondents.

Counsel for the Applicant : Mr. Y. Suryanarayana
Counsel for the Respondents : Mr. N.R. Devaraj
Sr. CGSC

CORAM:

THE HON'BLE JUSTICE SHRI V. NEELADRI RAO : VICE CHAIRMAN
THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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15/12/93

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O.A.NO.1444 of 1993

JUDGMENT

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

Heard Shri Y.Suryanarayana, learned counsel for the applicant and Shri N.R.Devaraj, learned Senior Standing counsel for the respondents.

2. The applicant is presently working as Consolidated employee in the Coding Cell, ^{on consolidated pay in the} office of the Director, Census Operations, Hyderabad. He is an ex-serviseman having rendered service in the Indian Air Force for 15 years. Those who are engaged on consolidated pay for census operations in 1991 are liable for retrenchment on 31.12.1993.

3. The Government of India evolved a policy to absorb the retrenched ^{or to be retrenched} census employees in various Government organisations in the Central Government offices and also in the State Government offices. As per the said policy decision, Notification No.A.12019/1/93-Estt.(DDE), dated 23.7.1993 was issued calling for applications from the retrenched employees of 1991 census for filling up 63 temporary posts of Data Entry Operators Grade-A in the pay scale of Rs.1150-25-1500. The applicant also applied for the said post. In the examination that was conducted on 24.9.1993, the applicant got 42 marks. The applicant was not selected on the basis that 55% marks were fixed as qualifying marks for selection.

4. The applicant is relying upon the notification dated 12.2.1986 (vide Annexure-F) to contend that as per Rule 6(A), candidates belonging to the category of Ex-servicemen may be selected under the relaxed standard of selection, if adequate number of ex-servicemen had not reached the regular

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standard for filling up the posts reserved for them, and as only one ex-serviceman got more than qualifying marks, the relaxed standard has to be fixed for filling up the remaining five posts reserved for ex-servicemen out of the 63 posts for which the applications were called for.

5. It is stated for the respondents that the relaxed standard ^{was} fixed at 55% in regard to the retrenched or to be retrenched ~~xxx~~ census employees while for the regular standard is 80%, and hence the question of further relaxation does not arise in regard to the ex-servicemen.

6. It is manifest from the Rule 6(A) of the Ex-Servicemen (Re-employment in Central Civil Services and Posts) (Amendment) Rules, 1986 (hereinafter referred to as the 'said rules'), that whenever some posts are reserved for ex-servicemen and if adequate ex-servicemen are not qualified for filling up of the posts reserved for them on the basis of the ^{regular} standard prescribed for selection, the standard has to be relaxed so as to make up deficiency in the reserved quota for ex-servicemen. When the respondents had ~~not~~ chosen to fix the standard for the candidates belonging to unreserved quota at 55%, and when sufficient qualified ex-servicemen are not available even on the basis of the said lower standard prescribed for unreserved candidates, it is necessary to prescribe the relaxed standard for ex-servicemen when sufficient ex-servicemen were not qualified as per the said standard, and the relaxed standard should be naturally less than 55%. Thus, there is no force in the contention for the respondents that the standard cannot be further lowered in regard to the ^{ex service} reserved

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^{men}
~~candidates~~ especially when it is ^cconceded for the respondents that 40% marks are prescribed in regard to the SC/ST candidates.

7. It is for the 1st respondent to prescribe the relaxed standard as contemplated under Rule 6(A) of the said rules and it is not for the Court or Tribunal to prescribe the same. Ofcourse, the 1st respondent has to keep in view the contention for the applicant that any relaxed standard which is fixed at a percentage more than 40% in regard to the ex-servicemen will be arbitrary and thus violative of Article 14 of the Constitution, when 40% was fixed in regard to SC/ST candidates keeping in view the minimum efficiency required for the post.

8. It is stated that when sufficient number of candidates had not got qualifying marks both in regard to the reserved and unreserved categories, the second examination was conducted on 25.11.1993. We have to make it clear that after the relaxed standard is prescribed with regard to the ex-servicemen, ^{it is found that} and if the number of ex-servicemen who got more than the said relaxed standard on the basis of their performance in the examination which was held on 24.9.93 (first examination) ^{to fill} then the remaining posts reserved for the ex-servicemen ^{The balance} can be filled up on the basis of their performance in the second examination which was held on 25.11.1993.

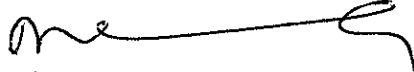
9. The relaxed standard in regard to the ex-servicemen as envisaged under Rule 6(A) of the said rules has to be prescribed by the 1st respondent by 31.1.1994. Till an order is passed in regard to the same, one post in the

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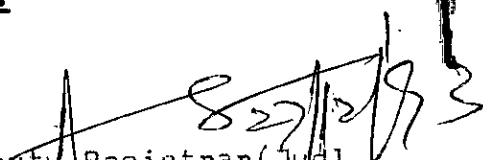
category of ex-serviceman has to be kept unfilled. The OA, (which is filed praying for declaration of the action of the respondents in depriving the applicant's appointment on a regular basis for the post of Data Entry Operator and for consequential direction to appoint the applicant on the basis of marks secured by him in the selection held on 24.9.1993 in pursuance of notification dated 25.7.1993) is ordered accordingly at the admission stage. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 15th December, 1993.
Open court dictation

vsn


Deputy Registrar (Judl.)

Copy to:-

1. The Registrar General and Census Commissioner of India, Ministry of Home Affairs, Government of India, 2A, Mansing road, New Delhi-11.
2. The Director of Census Operations, A.P. Ministry of Home Affairs, Government of India, XXX Hyderabad.
3. One copy to Sri. Y. Suryanarayana, advocate, CAT, Hyd.
4. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
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V. Urgent
O.A. 1444/93
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COMPARED BY

CHECKED BY 5/21/93

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

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

AND

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

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (J)

AND

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

Dated: 15/12/1993

ORDER/JUDGMENT:

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

in

O.A. No.

1444/93.

T.A. No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

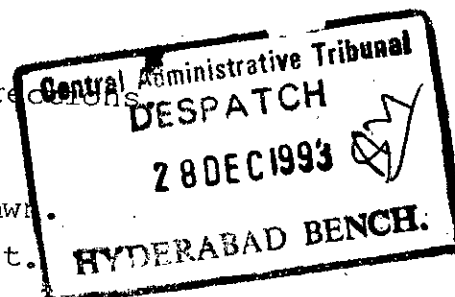
Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.



pvm

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AO