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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1594/93

DATE OF ORDER : 18-12-1996.

Between :-

D.Narayya

... Applicant

And

1. Admiral Superintendent,
Naval Dockyard, Visakhapatnam.
2. Dy.General Mager,
(Personnel & Administration),
Naval Dockyard, Visakhapatnam.
3. S.Narayana Rao,
Sr.Foreman (Mounting),
Naval Dockyard, Visakhapatnam.
4. D.V.S.N.Sarma,
Foreman (Radio),
Naval Dockyard,
Visakhapatnam.

... Respondents

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Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri N.V.Ramana, Addl.CGSE

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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 R.Rangarajan, Member (A)).

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[Signature]

...2.

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Shri G.V.Subba Rao, learned counsel for the applicant and Shri V.Rajeshwar Rao for Shri N.V.Ramana, learned standing counsel for the respondents.

2. Notice has been issued to Respondents 3 and 4. Respondent No.4 received the notice. Both Respondents 3 and 4 were called absent. Hence the O.A. is disposed of on the basis of material available on the record ^{though we} Respondents 3 & 4 ^{are} not present.

3. The applicant in this O.A. is a Foreman in Instruments & Gyro Section in the scale of pay of Rs.1600-2660. He is working in that capacity from 21-3-1978. His next avenue of promotion is to the post of Sr.Foreman in the scale of pay of Rs.2375-3500.

4. The applicant states that up to the post of Sr.Foreman, the promotion is restricted to the particular trade. Only above that of Sr. Foreman i.e. Chief Technical Asst. ^{Common} the integrated seniority should be drawn from all the Trades and on the basis of that integrated seniority the officials should be considered for promotion. The applicant further submits that 3 posts of Sr.Foreman had become vacant on 1-9-93, October, 1993 and on 1-1-94 due to retirement and promotion in the Instruments Trade. Instead of considering the applicant for the post of Sr.Foreman in the Instruments Trade, against those vacancies ⁱⁿ Respondents 3 and 4 were promoted though they belong ^{ed} to other trade i.e. Weapon and Radio. The applicant submits that the promotion of Respondents 3 and 4 in the Instruments Trade is against the Recruitment Rules and hence has to be set aside. The applicant filed representation to the Respondent No.1 on 15-11-93 (page 14 of the OA) which ^{was} not replied by the respondents.

5. This O.A. is filed praying for a direction to the Respondents to promote the applicant herein as Sr.Foreman in the Instruments Trade against the vacancy arose on 1-1-94 due to the retirement of Sri Md.

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Usman, Sr. Foreman on 31-12-93 or in alternate to fill up the post of Sr. Foreman in the trade of Instrument.

6. A reply has been filed in this connection. The reply is based on the note which is enclosed as Exhibit R-2. The salient features as noted in the Exhibit is para-3 of the note. The relevant portion is quoted below :-

(a) Vacancies of Sr. Foremen arising out of promotion and retirements in particular trade are not necessarily filled by incumbents of the same trade. The over-all requirement of the yard is assessed and accordingly allocation is made. The ratio of Tradesmen Verses Supervisor is also taken into account in this regard.

(b) The question of re-appropriation does not arise. The vacancies are to be catered for in rotation based on necessity in the various trades of the Weapon De-

(c) It is confirmed that no one junior to Shri D. Narayya in the Gyro trade has been empanelled for promotion. Hence no injustice has, therefore, been done to Shri D. Narayya, Foreman (Gyro)."

From the above it is seen that the over all requirement is assessed and the vacancies have to be catered in rotation basis on the necessity of the various trades of the Weapon Department. Since no junior to the applicant is promoted, the applicant has no justification for being promoted as Sr. Foreman.

7. A Trade Structures for Supervisory Staff in I.N.Dockyards & Bros is enclosed as exhibit R-1 to the reply. This Trade Structure ^{and} shows how promotions are to be ordered in various trades. The post of Sr. Foremen (Instruments) is one of the Departmental post for the post of Foreman (Instruments) and Foreman (Gyro). The above chart is contrary to the note, comments made in Exhibit R-2.

As per that trade structure chart, the post of Senior Forman (Instrument) can be filled by promotion only from the category of Foremen (Instrument) and Foremen (Gyro). The Formen in the other trades, namely, Weapon, Radio etc. are not eligible to be promoted as Senior Formen (Instrument). As the comments in the exhibit R-2 are contrary to the trade structure chart published under the relevant rules, the comments cannot over ride the trade structure issued in accordance with the rules. If the post of Senior formen (Instrument), then the trade structure chart ^{requires} ~~has~~ to be amended by the competent authority and normally such amendment will come into force from the date of amendment by the competent authority of that chart. As the trade chart has not been amended, it ~~has to be considered~~ ^{has to be} considered only from the category of Foremen (Instrument) and the Foremen (Gyro). As the applicant submits that he is Foreman (Gyro) ~~and~~ ^{and} it has been accepted by the commandant ~~as~~ ^{as} the post of Senior Foreman (Instrument) which became vacant from 1.1.94 should be considered only from that stream, namely Foreman (Instrument) and the Foreman (Gyro), after assessing the suitability of the concerned candidates in that wing. In view of the above, if the applicant is the senior most eligible candidate to be considered for the promotion to the post of Senior Forman (Instrument) which arose on 1.1.94, the case of the applicant should be considered in accordance with the ~~rules~~ ^{rules} of the ~~post~~ ^{post} of Senior Forman (Instrument), then promotion to the post of Senior Foreman (Instrument), then

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he should be deemed to have been promoted to the grade of Senior Foreman (Instrument) from 1.1.94 and his pay should accordingly be fixed and arrears on that basis should also be disbursed to him from 1.1.94.

The OA is ordered accordingly. No order as to costs.

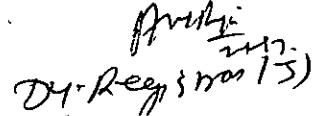


(B.S.JAI PARAMESHWAR)
28/12/96
JUDICIAL MEMBER



(R.RANGRAJAN)
ADMINISTRATIVE MEMBER

DATED: - 18th December, - 1996
Dictated in the open court.



Dr. Regis (15)

avl/vsn