

HYDERABAD

OA 356/93

Date of judgement: 27-4-93

Between

Shri K.B. Ramachandani : Applicant

And

1. Union of India represented by
Ministry of Home Affairs,
New Delhi represented by Secretary
Deptt. of Home
2. Director, Sardar Vallabhai Patel,
National Police Academy,
Shivarampally, Hyderabad-500 025.

: Respondents.

COUNSEL FOR THE APPLICANT : Shri K.S. Murthy

COUNSEL FOR THE RESPONDENT : shri N.R. Devaraj

CORAM

Hon'ble Justice Shri V. Neeladri Rao, Vice-Chairman.

Hon'ble Shri P.T. Thiruvengadam, Member (Admn.)

(Judgement of the divn. bench delivered by Justice
Shri V. Neeladri Rao, Vice-Chairman).

Heard Shri K.S. Murthy, learned counsel
for the applicant and Shri N.R. Devaraj, learned
counsel for the respondents.

The applicant joined service temporarily
as librarian Gr. III on 19-7-65 and he was confir
med in the said post on 9-12-71. On 29-7-75, he was
promoted as librarian Gr. II on ad hoc basis. The
post of librarian Gr. II was upgraded as Librarian
Gr. I on 6-1-88 and the applicant was promoted by
the Respondent 2 on ad hoc basis on 2-3-88. On
26-11-90 Respondent 2 addressed a letter to the
Ministry of Home Affairs seeking approval of the

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Government for continuation of the ad hoc promotion of the applicant to the post of Librarian Gr. I till the recruitment rules are approved and notified by the Government. In pursuance of the letter dated 10-3-93 of Ministry of Home Affairs, Respondent 3 issued the proceedings reverting the applicant from the post of Librarian Gr. I to the post of Librarian Gr. II. The same is assailed in this OA.

The applicant challenged the impugned order inter alia on the ground that there is infirmity in the issual of the impugned proceedings ^{as it was} without ^{al} issuing the show cause notice. It is evident from the note dated 8-11-90 which was approved by the Respondent 2 on 14-11-90 that the post of Librarian Gr. I is a Group B post and ^{Director is} ~~directed~~ the appointing authority ^{and} ~~that~~ as per the latest orders of the Government, any ad hoc promotion beyond one year for Group B post has to be referred to the Ministry of Home Affairs for obtaining the approval of the Department of Personnel. In pursuance of the said note, the Ministry was addressed by a letter dated 16-11-90. The Ministry did not approve for the continuation of the ad hoc promotion of the applicant to the post of Librarian Gr. I beyond one year and by order dated 10-3-93 the applicant was directed to be reverted from the post of Librarian Gr. I to the post of Librarian Gr. II and the concerned authority was directed to take steps for filling up the post of Librarian Gr. II in accordance with rules. When the promotion of the applicant to post of Librarian Gr. I is on ad hoc basis and when as per the directions of the Ministry of Home Affairs, the approval of the said Ministry has to be obtained for continuation of the ad hoc promotion to the post of Group B within which

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category the Librarian Gr. I post is included and when Ministry of Home Affairs has not granted the approval, it is not necessary to issue any show cause notice before reverting the applicant from the post of Gr. I to Gr. II. The very promotion of the applicant to the post of Librarian Gr. I post implies that the said promotion is for one year and ^{further continuation is subject} ~~it is to be submitted~~ to the approval of the Ministry of Home Affairs ~~if it has to continue for a period more than one year.~~ When the applicant was reverted as approval was not given by the Ministry of Home Affairs, the applicant has no right to claim for continuation in the post of Gr. I. Hence the question of issual of show cause notice before reversion does not arise.

It was also urged for the applicant that there was only one post of Librarian Gr. I in the establishment of Respondent 1 and there was no post of Librarian Gr. II as it was upgraded in 1988 in the said establishment, the reversion of the applicant to a post which is not existing in the establishment of Respondent 2 is illegal. But there is a practice in the Central Government establishments whereby one can be appointed in a lower post in view of the vacancy in a higher ^{shown} post. It is not ~~for~~ for the respondents ~~that~~ while issuing the impugned order, the post of Librarian Gr. I was down-graded to the post of Librarian Gr. II. In fact, the order dated 10-3-93 is to the effect that steps have to be taken for filling up the post of Librarian Gr. II. Any how, there is no formal order from Respondent 2 down-grading the post of Librarian Gr. I to that of Librarian Gr. II in their establishment. Be that as it may, in view of the practice in the Central Govt.

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establishments, the contention that there cannot be appointment to the lower post when there is no such post is not tenable. No other point is argued for the applicant.

As there are no grounds to interfere with the impugned order, the OA is liable to be dismissed and accordingly the OA is dismissed with no costs.

P. J. Thiruvengadam
(P.T. Thiruvengadam)
Member (Admn.)

V. Neeladri Rao
(V. Neeladri Rao)
Vice-Chairman.

Open Court dictation

Dated 27th April, 1993.

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Dy.Registrar(J)

To

1. The Secretary, Union of India,
Ministry of Home Affairs,
Dept.of Home, New Delhi.
2. The Director, Sardar Vallabhai Patel,
National Police Academy, Shivarampally, Hyd-25.
3. One copy to Mr.K.S.Murthy, Advocate, 3-5-926/19/A, Ist floor.
mainroad, Himayatnagar, Hyd.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

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

AND

P.T. Tiruvengadu
THE HON'BLE MR. R. BALASUBRAMANIAN :
MEMBER (AIMN)

AND

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

DATED: 27-4-1993

~~ORDER~~ JUDGMENT

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

in

O.A.No. 356/93.

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

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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