

44

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.NO.78/94

Date of Order: 17.2.97

BETWEEN:

C.A.Vijay Kumar

.. Applicant.

AND

The Director of Census Operations,
Panjagutta, Hyderabad.

.. Respondent.

Counsel for the Applicant

.. Mr.C.A.Vijaya Kumar
(Party-in-Person)

Counsel for the Respondents

.. Mr.V.Rajeswara Rao

CORAM:

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

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

JUDGEMENT

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

The applicant is to appear party-in-person in this case. But he was absent. Heard Mr.V.Rajeswara Rao, learned standing counsel for the respondents.

2. The applicant in this OA joined as a Data Entry Operator in the year 1983. His next promotion is to the post of Junior Supervisor. There is reservation for filling up the vacancies of Junior Supervisor for SC/ST candidates. The applicant submits that in the selection held for the post of Junior Supervisor in the year 1990 October, 1992 September and again 1993 November he was not empanelled for the post of Junior Supervisor, but his juniors namely S/s Vedavrath, Lakshminarayana and Yadagiri were posted. As ^{he} belongs to SC community and senior amongst the SC candidates for consideration to the post of Junior Supervisor he should have been posted by promoting him to that post in the

*Submits the
applicant*

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selection held as referred to above.

3. The applicant submitted representations in this connection dt. 16.9.92 and 25.10.93. Those representations were disposed of by memo No. A.32016/1/80-Estt., dt. 25.9.92 (A-3) and memo No. A.32016/1/93-Estt., dt. 1.11.93 (A-4) rejecting his request on the ground that he has not qualified in the selection and he cannot be promoted, though his name was considered along with other SC candidates in all the selections during the year 1992 and 1993. It is further stated that the selection to the post of Junior Supervisor is to be done by a positive act of selection and as the applicant did not fulfil the criteria for selecting him in accordance with the rules he was passed over.

4. This OA is filed praying for a declaration that the respondents erred in withholding his promotion to the post of Junior Supervisor while promoting three of his juniors and for a consequential direction to promote him as Junior Supervisor with retrospective effect from 1991 when his junior was promoted.

5. The main contention of the applicant in this OA is that in terms of para-9 of the presidential order he is eligible to be promoted as he is not unfit for promotion.

6. A reply has been filed in this OA. The respondents submit that in terms of the recruitment rule notification No. 4/4/84-Ad.I, dt. 3.7.84 (page-7 of the counter), the post of Junior Supervisor is classified as a selection post and that the procedure to be observed by departmental promotions committee for selecting a candidate notified/selection is given in office memo No. F-22011/5/86-Estt(D), dt. 10.3.89 (page-11 of the counter). The respondents further submit that the case of the applicant was ~~not~~ considered along with the junior SC candidates namely

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S/s Vedavrath, Lakshminarayana and Yadagiri for the years 1990, 1992 and 1993 respectively. In all these 3 years the applicant was given the bench mark of "average". Minimum bench mark required for promotion in a selection post is "good". Since his junior SC candidate had acquired the minimum bench mark of "good" they were empanelled against the SC roaster point and the applicant having failed to get the minimum bench mark he has no claim for empanellment through selection to the post of Junior Supervisor. Para-9 of presidential order quoted by him is not relevant to this case as his case is governed by para-9.2(c) of the presidential order which governs promotion by selection in Group-C and D appointment for reserved candidates.

7. The applicant has filed a rejoinder. He has not rebutted any of the contentions made by the respondents in the reply. It is a fact that the vacancy of the post of Junior Supervisor is to be filled by means of positive act of selection as provided for in the recruitment rule. Nobody can overlook the recruitment rule for selection and promote a candidate who does not fulfil the criteria laid down in this connection. The circular dt. 10.3.89 clearly indicates that the minimum bench mark required for selection to the post of Junior Supervisor is "good". The applicant having obtained only "~~average~~" assessment by the DPC cannot demand empanellment for the post of Junior Supervisor. The rule of reservation to the SC/ST has been fulfilled by the ~~respondents~~ ^{family} other SC candidates though junior to him but qualified in getting the minimum bench mark. Hence constitutional obligation thrust on the respondents have been fulfilled. The applicant having failed to get the minimum bench mark cannot ~~from him to~~ ask for ~~selection and promotion~~ to the post of Junior Supervisor just because he belong to SC community. It is pertinent to



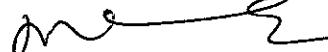
point here that the presidential order No.9 quoted by the applicant is not relevant to his case. AS stated earlier his case is covered by para-9.2(c) for promotions by selection in Group-C & D ^{appointment} for SC/ST candidates as given in Chapter-9 of the reservation brochure.

8. The applicant having failed to make the ~~grade~~ cannot complain of not empanelling him for the post of Junior Supervisor in 91-1992-93. His juniors belonging to SC community have been rightly empanelled and posted against the reserved quota ~~following~~ the extant rules.

9. In view of what is stated above, the OA is dismissed as having no merits. No costs.


(B.S. JAI PARAMESHWAR)

Member (Judl.)

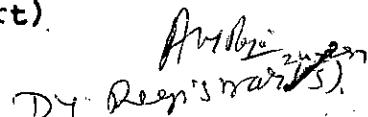

(R.RANGARAJAN)

Member (Admn.)

17/2/97

Dated: 17th February, 1997

(Dictated in Open Court)


D.Y. Deep'swaran

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