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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 810/94

DATE OF JUDGEMENT :: 22 3 1995

Between

Smt N. Suvarna .. Applicant

and

1. The Chief Postmaster General
Andhra Pradesh Circle
Hyderabad-500 001.
2. The Registrar
Central Administrative Tribunal
Hyderabad.
3. The Registrar
Central Administrative Tribunal
Principal Bench, New Delhi-1.
4. The Secretary, Deptt. of Personnel & Training (Administrative
Tribunals Division) Ministry of Personnel, Public Grievances
& Pension, North Block, New Delhi.
5. Smt A. Vijayalakshmi
Stenographer Gr. 'D'
CAT, Hyd Bench, Hyd-4. .. Respondents

Counsel for the Applicant :: Mr TVVS Murthy

Counsel for the Respondents :: Mr NV Raghava Reddy - R-1
Mr NR Devraj, R-2&R3
Mr Y. Suryanarayana
for Mr S. Ramkrishna Ra-
R-5

CORAM:

HON'BLE SHRI A.V. HARIDASAN, MEMBER (J)

HON'BLE SHRI A.B. GORTHI, MEMBER (A)

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suffering from hypertension, hyper-dis-orders, her presence at Hyderabad is essential for the benefit of the applicant had been legitimately excused in the Central Administrative Tribunal the inaction on the part of the respondent considering her case for absorption decision and in the insistence on the respondent for re-patriation accorded unjustified and unreasonable. With the applicant has filed this application as aforesaid.

3. The first respondent, Chief of Hyderabad Circle, has filed a reply. 2 and 3, The Registrar of the Central Hyderabad Bench and the Registrar of Tribunal, Principal Bench respectively, have not filed any reply. The name of the fourth respondent has been deleted from the array of parties. Smt A. Vijayalekshmi got herself impeded as she felt that the grant of relief to the applicant may jeopardise her chances.

4. The first respondent in the further extension of that the deputation of the applicant is acute shortage of stenographers has been further contended that it was on representations that the first respondent during the period of deputation of the applicant condition that if she could not be accommodated she should be repatriated.

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Administrative Tribunal, pursuant to an advertisement in the year 1992. Having been selected in an examination, the applicant joined the Central Administrative Tribunal on 1.9.1992. Though the initial term of deputation was one year, it was likely to be extended further for a period of three years. Pursuant to her repeated representations, the period of deputation of the applicant was extended from time to time and at last, the Chief Postmaster General, AP Circle, Hyderabad, vide his letter dated 25.1.1994, ~~xxx~~ agreed to extend the period of her deputation upto 30.6.94 with a condition that if she did not get absorbed permanently in the Central Administrative Tribunal, by that date, she should be relieved to join the Postal Department. on 1.7.1994 The Deputy Registrar, Central Administrative Tribunal Hyderabad vide his office order dated 1.2.1994, extended the period of deputation of the applicant upto 30.6.1994. The applicant submitted/representation dated 27.1.1994 to the Hon'ble Vice-Chairman of the Central Administrative Tribunal, Hyderabad Bench to consider her case for absorption in Central Administrative Tribunal, Hyderabad on permanent basis as her parent department had no objection for such absorption. She made another representation on 1.6.1994 to the third respondent for extension of her deputation beyond 30.6.1994 pending consideration of her case for absorption. As the respondents have not extended the period of deputation of the applicant beyond 30.6.1994 and as the first respondent is insisting ^{on} her repatriation the applicant has filed this application. It is also alleged in the application that as the applicant has got an infant child aged one year, her continuance at Hyderabad is absolutely essential for the bringing up of the child. She has further alleged that as her husband is

State Government/or in High Court, etc.

(ii) Persons holding the post of Stenographer Gr.'D' with five years regular service in the Central Government/State Government or High Court, etc. and,

(b) Possessing the qualifications prescribed for direct recruitment

Note: The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/Department of the Central Government, shall ordinarily not exceed three years.

Admittedly, there are only four vacancies of Courtmasters in the Hyderabad Bench of the Central Administrative Tribunal, of which, two posts, in accordance with the recruitment rules as quoted above, have been filled by direct recruitment. The method of recruitment for the remaining two posts, according to recruitment rules is by promotion and failing which by transfer or transfer on deputation ordinarily for a period of three years. It is obvious from the above quoted schedule of the recruitment rules that absorption of ~~Z~~ deputationists is not mentioned as a method of recruitment. If there are eligible employees in the lower grade for promotion, the posts are to be filled by promotion. The posts can be filled up by deputation only in the absence of eligible officials to the feeder category for promotion, and that too only ordinarily for a period of three years. Even if the deputations under extra-ordinary circumstances continue beyond the period of three years, the recruitment rules do not provide for absorption of deputationists on permanent basis. As and when officials in the feeder category cadre become available for promotion, the post has to be filled, according to recruitment rules, by considering them for promotion. The 5th respondent who was regularly appointed to the post of Stenographer Gr.'D' with effect from 1.12.1989 would be eligible for consideration for promotion with effect from 1.12.1994. The 5th respondent is not being

since

5. The fifth respondent has contended that out of the four posts of Courtmasters, in the Hyderabad Bench of the Central Administrative Tribunal, two have been filled by direct recruitment as provided under Recruitment rules, the remaining two 2 vacancies are to be filled by promotion from among the eligible categories including stenographers Gr.'D' failing which by deputation, and that as she is qualified to be promoted to ~~be~~ one of the posts, it is not permissible to absorb the applicant jeopardising her chances of promotion.

6. Having heard the learned counsel for the respondent, perused the recruitment rules and other relevant materials on record, we find that the applicant has no right to claim absorption in the post of Courtmaster. A copy of the Central Administrative Tribunal, Stenographer's services (Group 'B' & 'C' posts) Recruitment Rules, 1989 published in the Gazette of India-Extraordinary-Part II-Section 3 Sub-section (i) dated 14.3.1987 has been produced by the standing counsel for respondent 2 & 3 along with MA 739/94.

← → Item no.3 in the schedule relates to the post of Courtmasters (Stenographer Gr.'C') the method of recruitment for the post according to Col.11 of the schedule is 50% by direct recruitment and 50% by promotion failing which by transfer or transfer ^{on} deputation.

Col.12 reads as follows:

"Promotion:

- (i) 25% of vacancies shall be filled in by promotion from amongst Gr.'D' Stenographers who have rendered not less than 5 years' regular service in the Grade in the order of their seniority (subject to the rejection of the unfit.)
- (ii) 25% of the vacancies shall be filled in from amongst Grade 'D' Stenographers who have rendered less than 3 years of service in the order of merit on the result of the departmental competitive examination held from time to time for this purpose by the Tribunal.

Transfer/Transfer on deputation

- a(i) Persons holding analogous posts in Central Government

(A3)

8. Shri TVVS Murthy, learned counsel for the applicant then referred to Rule 7 of the recruitment rules which ~~stands as follows:~~

"7. Powers to relax: Where the Chairman, Central Administrative Tribunal is of the opinion that it is necessary or expedient so to do, he may, by order for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons."

and argued that the Chairman has got powers under this rule to absorb the deputationist though they were brought on deputation after the commencement of the recruitment rules and that, as the applicant had ~~an~~ a legitimate expectation of being permanently absorbed and as it is evident from the pleadings that the second respondent had made the applicant to believe that her case for absorption would be considered, the respondents 2 and 3 are estopped by principles of estoppel from contending that the applicant is not entitled to be absorbed. This argument also has no force at all. The residuary powers conferred on the Chairman under Rule 7 of the Recruitment Rules is only to relax any of the provisions of the rule with respect to any class or category of persons for reasons to be recorded and not to ignore any of the recruitment rules or to act against the provisions of the recruitment rules. Relaxation of provisions of the recruitment rules does not mean acting against recruitment rules; but relaxing any condition mentioned in the recruitment rules. As the method of recruitment after the commencement of the recruitment is only by direct recruitment and by promotion failing which transfer or transfer on deputation, it appears that the Chairman cannot ~~fail~~ fill the vacancies against the provisions of the recruitment rules but can only relax conditions in the recruitment rules that are in respect of any specified class or category of persons. What the applicant seeks is totally disregard

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considered for promotion on account of the fact that the applicant has filed this application; as also, Shri Kailasam, another deputationist has filed OA 558/94. Therefore, the apprehension of the 5th respondent that her chances for promotion in accordance with the recruitment rules is likely to be jeopardised by grant of relief prayed for in the application is well-founded.

7. Shri TVVS Murthy appearing ---

that it is not correct to say that the recruitment rules do not provide for absorption of the deputationist. He referred to Rule 5 of the Recruitment Rules which reads as follows:

"5. Absorption/regularisation of existing employees --

(1) Notwithstanding anything contained in the provisions of these rules, the persons holding the posts of Private Secretary, Senior Personal Assistant, Stenographer Gr.'C' and Stenographers Gr.'D' in the Central Administrative Tribunal on the date of commencement of the rules either on transfer or on deputation basis and who fulfill the qualifications and experience laid down in these rules and who are considered suitable by Departmental Promotion Committee shall be eligible for absorption/regularisation in the respective grade subject to condition that such persons exercise their option for the absorption fixx and that their parent departments do not have any objection to their being absorbed in the Tribunal."

Recruitment Rules came into effect from 14.3.1989. A reading of Rule 5 of the Recruitment Rules would make it clear that this rule provides for absorption of the deputat:

who were existing in the Tribunal on the date on which the recruitment rules came into force only. It does not provide for absorption of a deputationist who came on deputation after the commencement of recruitment rules. []

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highly inconvenient to her and that, was the prime reason that the applicant wishes to get absorbed in the Hyderabad Bench of the Central Administrative Tribunal, so that, she could live in Hyderabad with her family. But, that does not justify any action against the recruitment rules. However, we hope that on repatriation to the parent department, the first respondent would, taking note of the family background of the applicant, consider the feasibility of accommodating her in a post at Hyderabad.

11. With the above observation, the application is dismissed leaving the parties to bear their own costs.

RECORDED & TRUE COPY
Dated..... 3/3/95
Court Officer
Central Admin. Tribunal
Hyderabad Bench
Hyderabad

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Copy to:-

1. The Chief Postmaster General, Andhra Pradesh Circle, Hyd-001
2. The Registrar, Central Administrative Tribunal, Hyd.
3. The Registrar, Central Administrative Tribunal, Principal Bench, New Delhi-1.
4. The Secretary, Deptt. of Pers. & Trg. (Administrative Tribunals Division) Ministry of Personnel, Public Grievances & pension, North Block, New Delhi.
5. One copy to Sri. N.V.Raghava Reddy, for R-1, CAT, Hyd.
6. One copy to Sri. N.R.Devaraj, Sr. CGSC, for R-2&3, CnT, Hyd
7. One copy to Sri. S.Ramakrishna Rao, advocate, for R-5, CAT, Hyd.
8. One copy to Sri. T.V.V.S.Murthy, advocate, CAT, Hyd.
9. One copy to Library, CAT, Hyd.
10. One spare copy.

Rsm/-