

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
 AT HYDERABAD

C.A. 1096/94.

Dt. of Decision : 02-07-97.

M.P.Krishna

.. Applicant.

1. The Director General of Works,
 Central Public Works Deptt.,
 Nirmah Bhavan, New Delhi.

(Co-ordination), South Zone,
 Central Public Works Deptt.,
 Egmore, Madras.

3. The Chief Engineer (C),
 South Zone-II, Church Building,
 Tilak Road, Hyderabad.

3. The Superintending Engineer,
 Hyderabad Central Circle,
 Central Public Works Department,
 Hyderabad.

.. Respondents.

Counsel for the applicant : Mr.P.B.Vijaya Kumar

Counsel for the respondents : Mr.K.Bhaskara Rao, Addl.CGSC.

CORAM:-

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

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

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ORDER

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

None for the applicant. Heard Mr.K.Bhaskara Rao, learned counsel for the respondents.

2. The applicant who was a Group-D staff was promoted on adhoc basis as LDC on the basis of the examination held on 26-12-79 by proceedings No.9(6)/80-NCE/964-80, dated 20-05-80 (Annexure-VIII). He was regularised vide proceedings No.9/18/Coord./SZ/784 dated 3-5-90 (Annexure-VII) in the post of LDC. The applicant submits that he was posted even though on adhoc basis, in the year 1980 itself on the basis of his passing the examination and hence he should be treated as regularly appointed LDC w.e.f., the date of his appointment in 1980 and on that basis he should be given consequential benefits. The applicant was informed by the office memorandum No.5/102/92-ECIV(C) dated 4-2-93 (Annexure-I) and memo No.9/18/92/Coord/SZ/2094 dated 16-09-92 (Annexure-II) that he was promoted as LDC only on adhoc basis on the condition that he ~~should~~ have no claim over the seniority in the post and his continuance will ~~last~~ till the Staff Selection Commission ~~candidate~~ joining in that post.

3. This OA is filed for setting aside the proceedings No. 5/102/92-ECIV(C) dated 4-2-93 (Annexure-I) by holding it as arbitrary, illegal and discriminatory and for a consequential direction to the respondents to count his services in the cadre of LDC w.e.f., 31-05-80 for the purpose of seniority with all consequential and attendant benefits.

4. The main contention of the applicant in this OA is that he was promoted as LDC against the 10% quota earmarked for eligible Group-D staff on 20-5-80 on the basis of the examination merit list in that held on 26-12-79. He was ~~higher~~ in the examination and hence

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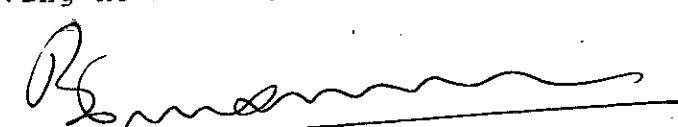
he should be treated as regularly appointed LDC grade from the date of his joining i.e., from 20-5-80. As he fulfilled the recruitment rules before appointing him he should be treated as the ^{official} regularly appointed from 20-5-80 though the proceedings by which he was promoted shows that he was an adhoc promotee.

5. A reply has been filed in this OA. It has been stated that the applicant was promoted ⁱⁿ excess to the 10% quota as the recruits from the SSC Selection Board had not joined. Against the 10% quota for the examination held in 1979 there were 10 vacancies. The applicant stood at Sl.No.1st and was promoted and appointed as LDCs on the basis of the examination regularly. As the applicant had not come within that number of vacancies to be filled by promotees, he was promoted on adhoc basis as the recruits from the SSC Selection Board had not joined by then. Hence, he was continued on adhoc basis. In the year 1982 there was an examination held for the post of LDC against the 10% quota in terms of office order No.9/Coord/BCCI/1(A)/82/246 dated 8-3-82 (Annexure-IV). In that examination, the name of the applicant did not appear in the list of successful candidates. Mr. N. Viswamitra (SC candidate), permanent Peon, referred to by the applicant in his OA stood at Sl.No.9 in the order out of a total of 28 successful candidates in the examination held in the year 1982 and hence he was appointed regularly as LDC on the basis of the examination. Another examination was conducted on 25-5-89 and the applicant came out successful in that examination and stood second in the order of seniority. Thus, the applicant was promoted as LDC and regularised in terms of office order No.9(18)89/Coord./SZ/784 dated 3-5-90. Hence he was treated as ^a regular incumbent in the post of LDC from 3-5-90. Earlier to that he was only on adhoc promotion and hence he cannot claim seniority earlier to his regular promotion as LDC.

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6. No rejoinder has been filed in this OA. When the applicant had not come within the number of vacancies earmarked for 10% quota in the year 1980 the applicant cannot ask for regularisation against the post which are not earmarked for promotee candidates. The ~~ad hoc~~ promotion of the applicant has been done purely on adhoc basis subject to the arrival of ~~the~~ ~~ad hoc~~ ~~selected~~ by the SSC Selection Board. As the applicant was appointed against the quota not earmarked for promotee Group-D employees he has no right to ask for regularisation from the date. He has to give way when the candidates from ~~the~~ ~~ad LDC~~ ~~selection~~ Board join the post. As he was promoted ~~regularly~~ only on 3-5-90 he was rightly given ~~the~~ ~~the date~~ of his regular absorption in that grade. The action of the respondents is in tune with the observations of the Apex Court in Direct Recruit Class-II Engineering Officer's Association Vs. State of Maharashtra and Others (AIR 1990 SC 1607). The very fact that the applicant had appeared for LDC examination ~~against~~ 10% quota in 1982 and 1989 goes to prove that he was only on adhoc appointment from 1980 and because of that only he ~~had~~ appeared for the later examinations without protest. If he ~~had~~ been regularly appointed there ~~is~~ ^{was} no need for him to appear for the subsequent examination and that he should have protested when called for the later examinations. But he did not do so.

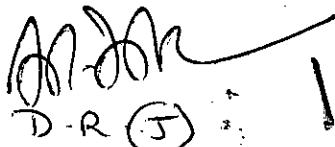
7. In view of what is stated above, the OA is dismissed as having no merits. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER(JUDL.)


(R. RANGARAJAN)
MEMBER(ADMN.)

Dated : The 2nd July 1997.
(Dictated in the Open Court)

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D.R. (J)

Sub 21/7/97 (B)
TYPED BY
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CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI N. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI D.S. JAI PARAMESHWAR: M
(J)

DATE: 21/7/87

ORDER/JUDGEMENT

M.A./M.J./C.A. NO.

Case No. 1086/84

~~Administrative and Interim Directions
Issued.~~

~~Allowed~~

~~Disposed of with directions.~~

~~Dismissed~~

~~Dismissed as withdrawn~~

~~Dismissed for default~~

~~Ordered/Rejected~~

~~No order as to costs~~

YLR

II Court.

केन्द्रीय प्रशासनिक विधिकरण
Central Administrative Tribunal
देश/DESPATCH

21 JUL 1997

हैदराबाद बैठकाल
HYDERABAD BENCH