

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No. No.111 of 1994.

(per Hon'ble Sri R.Ranga Rajah, Member (A)).

Date: 26-3-1997.

Between:

A. Ananda Rao. .. Applicant.

And

1. Admiral Superintendent,
Naval Dockyard,
Visakhapatnam
2. Deputy General Manager (P&R)
Naval Dockyard, Visakhapatnam 530014.
3. Administrative Officer (Personnel),
Naval Dockyard, Visakhapatnam 5300014.

Respondents.

Name of the counsel for Applicant: Sri G.V.Subba Rao.

Name of the counsel for Respondents: Sri N.V.Raghava Reddy.

CORAM:

HON'BLE SRI R.RANGARAJAN, Member (A)
HON'BLE SHRI B.S.JAI PARAMESHWARA, Member (J).

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Heard Sri G.V.Subba Rao for the applicant and
Sri N.V.Raghava Reddy for the respondents.

The applicant joined as a skilled Grade II Turner
on ~~24-6-1977~~ ^{13.6.1977}. He was promoted as Highly Skilled Grade II
from 1-11--1987. It is submitted by both sides that there
was a cadre review of the posts for the turners and other
skilled artisan and that upgradation was ordered with effect
from 1-1-1984. But that order was implemented in May, 1985.

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For the category of Highly Skilled Grade II, the applicant was not considered, as a minor penalty charge sheet was issued to him on 4-5-1985.

This O.A., is filed challenging his non-promotion to the post of Highly Skilled Grade II in the pay scale of Rs. 330-480 with effect from 15-1-1984 on par with his juniors and also praying for his further promotion to the Highly skilled Grade I by granting him all consequential benefits on par with his juniors who were promoted from 15-1-1984.

It is an admitted fact that as on 1-1-1984 when the upgradation orders ^{were} ~~are~~ to take place the applicant was not issued with any charge sheet. On that day he was free from any disciplinary proceedings. The DPC which met in February, 1985 for considering the promotion of turners to the post of highly skilled Grade II with effect from 1-1-1984, took note of the contemplation of the respondents to proceed against the applicant on certain charges and passed over the applicant for promotion to the highly skilled Grade II turner. But the DPC., considered his juniors and those juniors who were found fit were given promotion with effect from 1-1-1984 against the restructured posts to the post of highly skilled Grade II Turner by Order dated 15-10-1985.

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The DPC., should not have taken note of contemplation of the Disciplinary Proceedings when no charge sheet was issued to the applicant on the date when ^{the} DPC met. Further, on the date when the upgradation is ordered i.e., on 1-1-1984 there was no charge sheet pending against the applicant. Hence the DPC should have considered the case of the applicant for promotion with effect from 1-1-1984 and if he was found fit he should have been promoted. But that promotion will not stand in the way of the respondents to proceed against him in the Higher Grade. But erroneously the respondents denied promotion to the applicant from 1-1-1984 even though he was free from disciplinary proceedings and was free from any charge-sheet on that day. Hence it has to be directed that the applicant is to be considered ~~fit~~ for promotion to the post of Highly Skilled Grade II Turner with effect from 1-1-1984 on par with his juniors who were promoted against the upgraded post.

The applicant came to know of promotion of his juniors against the upgraded posts sometime in 1985. He submits that he submitted representations for promoting him on par with his juniors. If the applicant had not obtained any suitable reply within a stipulated period or no reply was issued to him in time then the applicant should have approached the appropriate judicial forum.



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for redressal of his grievance. The applicant was issued with a charge-sheet subsequently and hence he states that he was waiting for the disposal of the charge-sheet. The Charge-sheet was disposed of in 1989. Even then the applicant has not taken action to approach the judicial forum in time. He approached this Tribunal only on 2-2-1994. Hence it has to be held that the applicant cannot get full monetary benefits of his promotion from 1-1-1984 though the learned counsel for the applicant submits that non-promotion of the applicant by the respondents is erroneous and hence he should not be penalised. We do not accept this contention of the counsel for the applicant. The applicant should have represented his grievance at the appropriate time by approaching the appropriate judicial forum in time if the respondents failed to consider his case. But the applicant kept quiet for long period. As stated earlier, the applicant has approached this forum much later after the event was over. Hence, we feel that the applicant is entitled to get monetary benefits, only from the date of his shouldering higher responsibility as Highly Skilled Grade II Turner i.e., from the date he was promoted, but his notional pay has to be fixed on par with his juniors from the date of promotion of his immediate junior in the year, 1984. It is stated that

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his juniors were also given promotion from the Post of Highly skilled Grade II to Grade I Turner. In that case the applicant is also eligible for consideration for promotion to the higher grade post of Grade I Turner on par with his juniors on the basis of his seniority to be assigned to him now in the Grade II Turners' Category.

In the result the following direction is given:

The case of the applicant for promotion to the post of Highly Skilled Grade II Turner against the upgraded post which arose as on 1-1-1984 should be considered by a Review DPC on the same basis as was done in the case of his juniors who were promoted with effect from that date. If the applicant is found fit for promotion in all respects, then he should be deemed to have been promoted to that grade against the upgraded post on par with his juniors and his seniority should be fixed on that basis in the category of Highly Skilled Grade II Turners. The pay of the applicant in the category of Highly Skilled Grade II Turners should be fixed notionally on par with his juniors as per the above direction and he is entitled for monetary benefits, if any, arising of the said promotion as above from the date he shouldered the higher responsibility as Highly Skilled Grade II Turner. His further promotion

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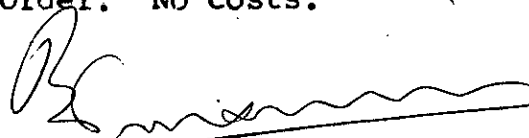
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to the category of Highly Skilled Grade I Turner
should be considered in accordance with the
regained seniority as indicated above.

The O.A., is disposed of with the above directions.

Time for compliance four months from the date of receipt of
this Order. No costs.


B.S. JAI PARAMESHWARA

Member (J)

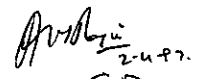
26.3.97


R. RANGARAJAN,

Member (A)

Date: 26--3--1997.

Dictated in open Court.


D.R. (J)

SSS.

23/4/97

TYPED BY
COMPILED BY.

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED:

26/3/97

ORDER/JUDGEMENT

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

O.A.NO. 111/94 in

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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