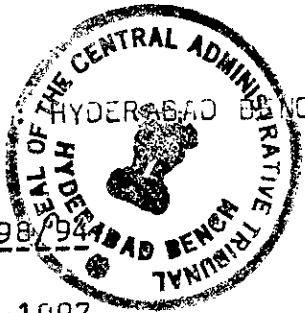


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT HYDERABAD

ORIGINAL APPLICATION NO. 998/94

DATE OF ORDER : 04-04-1997.



Between :-

1. U.V.Koteswar Rao
2. A.Sambasiva Rao
3. P.Sree rama Murthy
4. S.Lakshmayya
5. N.V.Subba Rao

... Applicants

And

1. The Director General, Telecommunications, Sanchay Bhawan, New Delhi.
2. Union of India, rep. by its Secretary to the Department of Telecommunications, New Delhi.

... Respondents

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Counsel for the Applicants : Shri K.Venkateswar Rao

Counsel for the Respondents : Shri N.R.Devaraj, Sr.CBSC

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CORAM:

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Vacancy related. The officer's name should be kept in the sealed cover till the proceedings are finalised.

2.4.4. While promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where the vacancies relate to earlier year (s).

3. Non-Selection Method: Where the promotions are to be made on 'non-selection' basis according to Recruitment Rules, the DPC need not make a comparative assessment of the records of officers and it should categorise the officers as 'fit' or 'not yet fit' for promotion on the basis of assessment of their record of service. While considering an officer 'fit', guidelines in para 2.1.4. should be borne in mind. The officers categorised as 'fit' should be placed in the panel in the order of their seniority in the grade from which promotions are to be made.

4. These instructions will take effect from 1st April, 1989.

5. Ministries/Departments are requested to bring these instructions to the notice of all concerned, including their attached and sub-ordinate offices, for guidance and also to ensure their compliance.

6. The applicants further submit that the DPC which met in the year February, 1994, had clubbed vacancies more than a year and thus the DPC proceedings are vitiated.

(ii) The applicants submit that the officers working on adhoc basis in higher grades when considered for promotion to the higher grade, their grading should be one grade higher than what is reported in their confidential reports. For this they rely on the judgement of the Full Bench of this Tribunal reported in 1992 (19) ATC 571 (SS Sambu Vs. Union of India). The applicants submit that while considering their cases for promotion, the grading as given in the confidential

2.4.2. Where a DPC has already been held in a year, and further vacancies arise during the same year due to death, resignation, voluntary retirement, etc. or because the vacancies were not intimated to the DPC due to error or omission on the part of the Department concerned, the following procedure should be followed:

(i) Vacancies due to death, voluntary retirement, new creations, etc., clearly belong to the category which could not be foreseen at the time of placing facts and material before the DPC. In such cases, another meeting of the DPC should be held for drawing up a panel for these vacancies as these vacancies could not be anticipated at the time of holding the earlier DPC. If, for any reason, the DPC cannot meet for the second time, the procedure of drawing up of year wise panels may be followed when it meets next for preparing panels in respect of vacancies that arise in Subsequent year (s).

(ii) In the second type of cases of non-reporting of vacancies due to errors or omissions (i.e. though the vacancies were there at the time of holding of DPC meeting they were not reported to it) it results in injustice to the officers concerned by artificially restricting the zone of consideration. The wrong done cannot be rectified by holding a second DPC or preparing an yearwise panel. In all such cases, a review DPC should be held keeping in mind the total vacancies of the year.

2.4.3. For the purpose of evaluating the merit of the officers while preparing yearwise panels, the scrutiny of the record of service of the officers should be limited to the records that would have been available had the DPC met at the appropriate time. For instance for preparing panel relating to the vacancies of 1978 the latest available records of service of the officers either upto December, 1977 or the period ending March, 1978 as the case may be, should be taken into account and not the subsequent ones. However, if on the date of the meeting of the DPC, departmental proceedings are in progress and under the existing instructions ealed cover procedure is to be followed, such procedure should be observed even if departmental proceedings were not in existence in the year to which the

called for selection. It has been done in accordance with the guidelines on the subject from the zone of consideration for the assessed vacancies. It is also an admitted fact that the applicants were considered for the selection but they did not make the requisite grade for the empanelment.

9. The next contention of the applicants is that the grading given to them in the confidential report when they were working as Chief Accounts Officers has to be up graded by one stage in view of the direction of Full Bench of this Tribunal referred to above and on that basis their eligibility for inclusion in the select list vis-a-vis others who were considered for empanelment has to be assessed. The applicants in the affidavit in page-6, para-6 (e) of the OA has clearly quoted the Full Bench Judgement in the case of SS Sambu and on that basis they have prayed this Tribunal to call for the selection proceedings to see whether the gradings have been given in accordance with the directions in SS Sambus' case.

10. In the reply we find no answer to the contention raised as above. In para-6 of the reply it is stated that the DPC was convened in accordance with the instructions contained in CM dt.10-4-89 issued by the Department of Personnel & Training. On that basis/the reply it can be inferred that the grading taken from the confidential report was without upgradation as directed by the Full Bench of this Tribunal. In view of the absence of any remark in the counter in regard to the specific grading contention, it has to be stated that the DPC missed this point and prepared panel without adhering to the

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reports is only taken in that giving advantage of the directions given by this Tribunal by upgrading their grading one step higher. In view of the above, the applicants though worked for number of years as Chief Accounts Officer on adhoc basis they have lost chance for empanelment for JTS Group-A.

6. No further contentions have been raised in this connection.
7. A reply has been filed in this O.A. In regard to the first contention, the respondents submitted in para-6 of the reply affidavit that the DPC which met in February, 1994 is to prepare the select list of the officers of the Junior Time Scale against the vacancies that arose in 1992-93. The respondents further added in their counter that there were no vacancies earlier to 1992-93 from 1989 onwards. They submit that the vacancies became available during 1992-93 consequent upon down gradation of some STS posts to JTS and also promotion of 32 JTS officers. Thus the vacancies have been assessed as 108 under the guidelines of memorandum issued by the Department of Personnel & Training. The applicants in their rejoinder disputed the fact that the assessed vacancies of 108 are not for the year 1992 but earlier to that also. But the manner in which the contention made looks as if it is only a conjecture and is not borne out by any authentic records. We cannot disprove the facts submitted by the respondents in the counter affidavit by the competent authority. Hence the DPC which met in April, 1994 is for the vacancies that arose in the 1992-93 (one year period) and the number of vacancies were correctly assessed as 108.
8. There is no dispute in regard to number of candidates

not be any difficulty to empanel the applicants against those left over vacancies.

12. In view of the foregoing, the following direction is given :-

The case of the applicants should be considered by a Review DPC for empanelling them to the JTS Group-A services following the ratio given in the Judgement in SS Sambu's case referred to above. On that basis if the applicants are entitled for empanelment for JTS Group-A services their names should be included in the panel prepared by the DPC held in February, 1994 and placed below all the officers already empanelled in that list.

13. The time for compliance is four months from the date of receipt of a copy of this order.

14. No order as to costs.

राज्यपाल द्वारा
CERTIFIED TO BE TRUE COPY

Ramdaswami

राज्यपाल
HIGH COURT OF APPEAL
Central Administrative Tribunal
Hyderabad Bench

केव संख्या	10-99894
CASE NUMBER	10-99894
निर्णय का तिथि	4/4/97
Date of Judgement	4/4/97
प्रति सम्पादन की तारीख	28/4/97
Copy Made Ready on	28/4/97

अनुपाम अद्वितीय (प्रधान)

Section Officer (J)