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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.1225/94

Date of Order: 16.7.97

BETWEEN :

N.V.G.K.Murthy

.. Applicant.

AND

1. The Chairman,
Telecom.Commission,
Department of Telecommunications,
New Delhi.
2. The Asst.Director (STC).
Ministry of Communications,
Department of Telecommunications,
Government of India,
Samacharbhavan, New Delhi.
3. The Chief General Manager,
Telecom. A.P.Circle,
Government of India, Abids,
Hyderabad.
4. The General Manager,
Telecommunications,
Guntur, A.P.
5. The Divisional Engineer,
Telecommunications,
Government of India,
Guntur, A.P.

.. Respondents.

Counsel for the Applicant

.. Mr. V.Venkateswara Rao

Counsel for the Respondents

.. Mr. NV.Raghava Reddy

CORAM:

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

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

J U D G E M E N T

X Oral order as per Hon'ble Shri B.S.Jai Parameshwar, Member(J) X

Heard Mr.V.Venkateswara Rao, learned counsel for the
applicant and Mr.N.V.Raghava Reddy, learned standing counsel
for the respondents.

2. The case of the applicant is that while he was working as Telephone Operator at Telephone Exchange, Tenali, the applicant ^{appeared for} qualified examination held on 13.6.76 for promotion to the higher post of Telephone Supervisor that he passed the said examination. Promotions to the post of Junior Supervisor was governed by the procedure prescribed by the Director General of Posts & Telegraph in letter No. 6/40/76-SPB-II, dated 12.5.76. As per the said instructions and further instructions contained in letter dt. 4.10.77, 1/3rd of the vacancies were to be filled by considering the cases of the eligible Telephone Operators in the order of seniority who passed the qualifying examination. Once an official is qualified in the examination he would be taken as qualified and ~~could~~ ^{need} not be appear again for the examination. The panel was to be prepared on the basis of assessment of CRs of the candidates who qualified the examination in accordance with the seniority. Though he passed the qualifying examination in the year 1976 his case was ignored and some of his juniors were promoted to the post of Junior Supervisor vide orders dt. 11.5.77. In the said order dt. 11.5.77 that the promotions to the persons therein are ordered on the basis of the merit obtained in the qualifying examination held in the year 1976. The method followed by the authorities in ordering promotions to the cadre of Junior Supervisors was illegal and against the instructions. The post is classified as non-selection in as much as it is to be filled ^{up} ~~in~~ on seniority-cum-fitness. 2/3rd of the posts were to be filled by seniority and 1/3rd by qualifying examination. Subsequently, he was again promoted as Junior Supervisor against 1/3rd quota on the basis of the qualifying examination passed by him in the year 1976 vide orders dt. 31.12.80 with retrospective effect and that while

he passed the passed the examination held in the year 1976 he was entitled to be shown against 1976 vacancies but he was shown against 1977 vacancies illegally. The applicant submitted a representation dt. 18.8.93 to the General Manager, Telecom. A.P.Circle and that no reply has been given to the said representation and that again he submitted reminders. However in response to his representation dt. 30.4.93 he was replied by letter dt. 26.5.93 (A-9) whereby it ^{was} ~~is~~ informed that his seniority in the circle gradation list has since been fixed among the officials of the 1977 merit quota by GMT HD letter dt. 23.2.87.

3. The applicant has filed this OA praying for calling for the records pertained to the common gradation list of Telephone Supervisors as on 1.11.91 issued by the third respondent vide his letter dt. 14.8.92 and to set aside the same in so far as it relates to the applicant and to declare that he is entitled to shown at serial no.320 against 1/3rd examination quota with all consequential benefits.

4. A reply has been filed stating that the applicant ^{was} ~~who~~ qualified against 1/3rd quota of the vacancies during the year 1976. On 9.5.77 DPC met for selection of officials against 1/3rd quota from among the officials who passed the examination during the year 1976. The said quota of vacancies were filled through the qualified examination subject to the selection by the DPC on the basis of the assesment of CRS. DPC selected 22 officials against 1/3rd quota of vacancies against 1976 vacancy that though the applicant was senior. However the applicant was provisionally selected against one of the ST vacancies subject to getting de-reservation from the Directorate. The Directorate was addressed vide letter dt. 28.5.77 for

[Signature]

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de-reservation of 3 ST vacancies. After correspondence the Directorate approved the de-reservation of 3 ST vacancies by its letter dt. 14.2.79. The rule position against 1/3rd quota of vacancies had undergone change. As per the revised instructions issued vide letter dt. 4.10.77, the officials are to be selected on the basis of the qualifying examination in the order of seniority from among the actually qualified candidates. The applicant could not be promoted against one of the de-reserved ST 1/3rd vacancies of 1976, that his juniors were promoted during that year has no basis that no examination was held for 1/3rd quota of vacancies for all cadres that subsequently it was decided that 1/3rd quota of vacancies ^{arise} ~~arise~~ during 1977-78 be filled up on regular basis from the qualified candidates of 1976 examinations and the remaining ^{... were ...} on waiting list. Accordingly on 29.10.80 DPC met and considered promotion against the promotion quota of vacancies on the basis of seniority, that the applicant submitted the representation requesting for promotion w.e.f. 1977 instead of from 31.12.80. The applicant had earlier filed OA.541/93 that ~~the~~ same was allowed that the applicant had filed this OA claiming for promotion on par with officials promoted in the year 1976 on the basis of the letter of the Directorate dt. 4.10.77. The said letter is intended to act ~~prospectively~~ ^{prospectively} that nearly after 2 decades the applicant challenged the orders. The applicant was promoted w.e.f. 27.10.77 notionally and on regular basis w.e.f. 31.12.80, that the applicant cannot claim promotion against the vacancies of 1976.

5. The main contention of the applicant in this OA is that he had qualified both in the qualifying examination as well as from the record of service for promotion to the post of Junior Supervisor in 1976 empanelled list. He also contends that

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except item No: 4 and 11 of the list dt. 11.5.77 are juniors to him. Hence the refusal of the administration to show him having come to the Junior Supervisors cadre on the basis of the 1/3rd quota examination in the year 1976 itself it^s irregular and he has to be given seniority as if he has ^{of} been promoted to the post of Telephone Supervisor in the year 1976 itself. From the reply we find that the eligibility condition in the qualifying examination has not been fully explained. In the reply it is stated that the applicant was not empanelled as there were no enough vacancies. This point requires consideration at the respondents level as reply has ^{been} ~~not~~ vague in this connection. Further it is also not clear in the reply that an employee has to qualify in the examination and also who fulfil the conditions for recommendation for empanelling him to the post of Junior Supervisor on the basis of his C.R. But we find that no specific remark in regard to the recommendations of the committee has been indicated in the reply. The applicant submits that he is senior to all the employees empanelled on 9.5.77 except item nos. 4 and 11. But we are not sure whether on the basis of the seniority list current on that date the submission of the applicant is in order or not. This point also needs verification by the respondents.

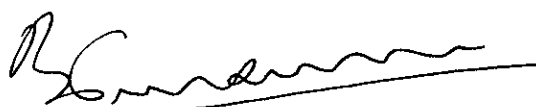
6. There is no doubt that the examination is only a qualifying one in the year 1976 as seen from DGP&Ts letter dt. 21.10.81 (A-2) para-3 of the letter is relevant which states that the competitive examination is only a qualifying one. But this point has also been clarified by the respondents themselves in their letter No.E.55/JS/XXIV/116, dt. 13.5.87 (A-6). In view of the above clarification the only point to be ascertained for giving the applicant seniority in the year 1976 list is ^{whether} ~~that~~ his name was not recommended because of non-availability of posts ^{though} ~~but~~ he qualified both in the qualifying

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examination as well as in the confidential report for
empanelling him to the post of Junior Supervisor and ^{whether he} he
is senior to any of the officials mentioned in the list dt. 11.5.77
as per the seniority list current on that date.

7. We are not inclined to give the seniority of the
applicant by interpolating him in the list dt. 11.5.77 as
it will affect those who are enlisted in that list. Our
direction is only to give him the seniority as the last person
in the list dt. 11.5.77 provided conditions ~~are~~ ^{not} stipulated
above are fulfilled. If the applicant is going to be empanelled
as above, a suitable reply should be given to him explaining
the position within the time frame stipulated. Time for
compliance is 4 months from the date of receipt of a copy
of this order.

8. With the above direction the OA is disposed of.
No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)

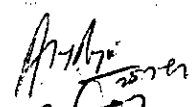
16.7.97

Dated: 16th July, 1997

(Dictated in Open Court)


(R. RANGARAJAN)
Member (Admn.)

sd


D. R. J

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18/97

(PD)

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

DATED: 16-7-97

ORDER/JUDGEMENT

~~1225/94~~ 1225/94

O.A. NO.

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

केन्द्रीय प्रशासनिक न्याय मंडल
Central Administrative Tribunal
31 JUL 1997
HYDERABAD BENCH

11 Court.