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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

O.A.No. 128/94.  
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Date: 30.6.1997

Between:

1. R. Syama Sunder Rao.
2. Smt. R. Rajyalakshmi.
3. M.V.S. Siva Subrahmanyam.
4. Smt. P.Vijayalakshmi.
5. P.Satyaprakash.
6. J.V.Muralikrishna.

Applicants.

And

1. The Union of India represented by Chairman, Telecom Commission, Department of Tourism, Ministry of Communications, No.20 Ashoka Road, Sanchar Bhavan, New Delhi.
2. Senior Deputy Director General, Department of Telecom, Ministry of Communication, No.20 Ashoka Road, Sanchar Bhavan, New Delhi.
3. Chief General Manager, Telecom, Sanchar Bhavan, Abids, Hyderabad.
4. Chief Engineer (Civil) Telecom Civil Wing, Besides City Central Library, Chikkadpally, Hyderabad.
5. Superintending Engineer, Telecom (Civil), Chikkadpally, Hyderabad.

Respondents.

Counsel for the applicants: Sri K.Lakshmi Narasimha.

Counsel for the respondents: V.Bhimanna.

CORAM:

HON'BLE SHRI R. RANGARAJAN, MEMBER (A)

B.S.JAI PARAMESHWAR,

HON'BLE SHRI B. BHIMANNA, MEMBER (J)

JUDGMENT

(per Hon'ble Shri B.S.JAI PARAMESHWAR, MEMBER (J))

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*Jm*

O.A.No.128/94.

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Date: \_\_\_\_\_

Heard Sri K.Lakshmi Narasimha, the learned counsel for the applicants and Sri V.Bhimanna, the learned counsel for the respondents.

There are six applicants in this O.A. They are all working as Stenographers under the control of the Superintending Engineer (Civil), Hyderabad. Their next promotion is to the post of Private Secretary/Stenographer Grade II.

By Proceedings No.9-3-/93-CSE dated 29-10-1993 created the posts of the respondents/Chief Engineer(Civil),Chief Engineer(Elect.) Superintending Engineer (Civil)(HQs.), Superintending Engineer(Elect.) (HQs), Superintending Surveyor of Works(Civil) Supdt. Surveyor of Works (Elect)and Stenographer Grade II at Lucknow, Madras, Bombay in the pay scale of Rs.1400-40-1600-50-2300-EB-60-2600/GCS Group 'C'. Consequent upon the creation of the said posts, posts of Private Secretary and Stenographer Grade 'C' were also created by Order No.9-3-/93-CSE dated 30-12-1993.

Apprehending that the posts created by Notification dated 30-12-1993 may be filled up from the personnel of the Central Secretariat Stenographers Service (for short /CSSS) "the " and anticipating their chances of promotion might become bleak, the applicants have filed this O.A., for a direction

*Re*

to the respondents to promote them as Private Secretaries and Stenographer Grade II in accordance with their eligibility.

It is their case that the posts created by the Notification dated 30-12-1993 are equivalent to the posts of Stenographer Grade ~~IX~~ <sup>of CSSS</sup> and the posts of Stenographers Grade II are equivalent to the posts of Stenographers Grade II ~~the~~ <sup>of</sup> CSSS. The applicants state that the respondents instead of filling up these newly created posts by promotion, they are mis-interpreting the Order dated 30-12-1993, ~~to~~ the effect ~~stating~~ that the said created posts should be filled up, from among the personnel of the CSSS, that the said posts be filled only by promotion from among the applicants, that the persons working in the respective offices alone are eligible to be promoted to the above created posts, that in similar circumstances when new posts were created in the Office of the Chief Engineer (Civil), Madras during 190-91, the Department ~~adopted to~~ <sup>then</sup> attempted to bring persons from outside, that their action was <sup>s</sup> challenged by the applicants in O.A.480/91 before the Madras Bench of the Tribunal, that the Madras Bench by its decision dated 3-12-1991 allowed the O.A., with a direction that the posts of Stenographers Grade II should be upgraded to the post of Senior Personal Assistant carrying the pay scale of Rs.2000-3200 and that in view of the newly created posts of Senior Personal Assistants in the CSSS Cadre carrying the ~~xx~~ scale of 2000--3500 the Bench held that the ~~above~~ newly created posts should be filled up in accordance with the recruitment

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rules relating to the above posts, that therefore, the posts created by the Order dated 30-12-1993 can be filled up only by way of promotion, that the said posts cannot be filled up by <sup>any other</sup> ~~any other~~ method and any action contrary to the said rule (otherwise their promotion) is illegal and contrary to law and that the respondents are attempting to fill up the posts by bringing the <sup>the</sup> persons from/CSSS.

The respondents have filed their counter denying the fact of the eligibility of the applicants to the newly created posts and contended<sup>-ing</sup> that the applicants are included in a subordinate service in General Central Service (GCS) and that therefore, they are not in<sup>the</sup> line for promotion to the grades of Private Secretary which post is included in the organised service of the CSSS in the scale of Rs.2000--3500, that the claim of the applicants has no legal basis, that the post of Private Secretary to ~~the~~ Chief Engineer(Civil), (Telecom)Hyderabad is Group 'B' Gazetted Post in the scale of Rs.2000-3500 and the Stenographer Grade "C" (Personal Assistant to Superintending Engineer(Civil) (HQs) in the office of C.E.(Civil), Telecom, Hyderabad are duty posts of<sup>the</sup> Central Secretariat Stenographers Service as per the statutory rules made by the President and hence the only personnel belonging to<sup>the</sup> CSSS are eligible to be posted against the said created posts, that they have

not mis-interpreted or mis-read the Order dated 30-12-1993, that the applicants have failed to substantiate their claim with reference to the recruitment rules and any other statutory order governing their service conditions, recruitment and scope of promotion and posting, that the averment that the word<sup>the</sup> 'CSSS' appearing in the last column of the impugned order dated 30-12-1993 refers only to the status and not the method of recruitment is not correct, that the method of recruitment has been clearly mentioned in the relevant recruitment rules of<sup>the</sup> CSSS regulations and Rules 1962 and in accordance with the said rules, the applicants are not liable to be posted against the posts of Private Secretary and Steno<sup>-grapher</sup>/Grade 'C' mentioned in the impugned order dated 30-12-1993, that there is no question of inducting Central Secretariat Personnel against the duty posts included in the service of the applicants, that the contention that even in the Central Secretariat<sup>Service Rules</sup> it is provided that the post carrying the pay scale of Rs.2000--3200 should be filled up only by promotion as per procedure is not correct, that there is no post of Private Secretary or Senior Personal Assistant with the pay scale of Rs.2000--3,200 in the CSSS. that neither the applicants nor any other person/(s) are formally posted in the newly created office of C.E.(Civil), Telecom, South Central Zone, Hyderabad, that the applicants' contention that only persons working in the new office of CE(C) should be promoted to the post of

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Private Secretary and Steno Grade 'C' in that office has no basis, that the facts and circumstances appearing in O.A.480/91 of the Madras Bench of the C.A.T., are quite different and that there has been change of circumstances subsequent to the decision in the said O.A., that five posts of C.E. (SAJ level in the scale of Rs.5900-6700 in P & T Building works Service Group 'A') were created in lieu of 5 JAG level (Supdng. Engineer's Grade in the scale of Rs.3700-5000). The new C.Es., were to be provided supporting staff from the Central Secretariat Services (CSS, CSSS and CSSS), that these posts are those of the Section Officer, Private Secretary, Steno Gr. 'C', Assistant, U.D.C., L.D.C., Daftry and Peon, that as far as the post of Private Secretary (Sr.P.A.) to C.E.(C) is the concerned, 5 such posts were created in/CSSS in lieu of 5 posts of P.A., Gr,II in GCS attached to the five erstwhile S.E. level posts, that this action of the respondents caused grievance to the applicant in O.A.480/91 of the Madras Bench, that in those circumstances, the Madras Bench insisted a valid order of the Govt., alone to give the post of Sr.P.A. (P.S. to CE) to the CSSS, that since such an order was not in existence at that time when the Bench decided the O.A., that the five posts of Sr.P.A., i.e., P.S. to CE should be in GCS only with a lesser scale of Rs.2,000-3200/ and not in CSSS carrying higher scale of Rs.2000-3500/- and these five posts should be filled up

according to new recruitment rules to be framed for them

that the Madras Bench of the C.A.T., was also pleased to pass orders that it was still open to the respondents to create the posts of Senior P.A., posts only in/CSSS after passing a valid order to that effect after taking necessary collateral measures, that in obedience with the directions given by the Madras Bench of the C.A.T., the respondents took up the matter with the Department of Personnel and Training and the UPSC., that xx with a view to protect the legitimate interests of the various Secretarial Staff posted in different C.Es., offices all over India and to protect them from being rendered surplus they had valid reasons to issue an order to the effect that all posts of supporting (non-technical) posts in CE's offices all over the country would be only in the CSS, CSSS and CSCS, that the same would be in conformity with the existing position since, 1963, that after thorough consultation with the UPSC, the Government issued necessary statutory rules declaring that the office of DG Telecom, DG Posts, Offices of C.E.(Civil)/X. C.E(Electrical) C.E.(Arbitration) and Chief Architect would be participating offices of CSS, CSSS and CSCS, that these statutory rules were gazetted on 8-1-1994 (Annexure II, pages 13-14) that in the meanwhile the five JAG(SE level) posts in lieu of 5 CE (SAB level) posts were created during 1990 were restored from 1-1-1993 along with five Stenographers, Gr.II (P.A. in GCS) during the subsequent augmentation of the Telecom, Civil Wing, that by the restoration of status quo ante, the applicants' grievance in O.A.480/91 of being rendered surplus has ceased to

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exist, that the decision in O.A.480/91 does not apply to the case on hand, that the correct position is that as per statutory rules promulgated by the President under Article 309 of the Constitution, the only/personnel belonging to the CSSS can be posted against the post of P3 to CE and Steno Grade 'C' to S.E.(C) (HQrs.) in the office of CE(C), Telecom, Civil Wing, South Central Zone, Hyderabad, that the applicants have no legal right to claim promotion to the created posts, that the facts in O.A.1277/92 (pending before the Madras Bench of this Tribunal) are relevant to consider the case of the applicants in the present O.A., that the Madras Bench of the Tribunal observed that the applicants in that case would have case only if they could prove their right to be inducted in the Secretariat posts in the C.E's offices by producing any order or Administrative instructions showing some convention, practice or precedent, that for the said purpose the Bench allowed the applicant to file a Miscellaneous Petition (M.A.154/94) for filing additional documents, that thereafter the applicants amended their prayer in O.A.1277/92, that when the M.A., came up for hearing the Madras Bench observed that the applicants have not given any proper ground to challenge the Statutory rules framed by the President, that the points mentioned by the Hon'ble Tribunal in the part-hearing are detailed in the counter. Thus the respondents claim that the

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applicants have no legal right or statutory basis and that the facts and circumstances in O.A.480/91 are different and the decision therein is not applicable to the facts of their case in this O.A., and that the O.A., be dismissed with costs.

The respondents have filed additional counter Services stating that the Central Secretariat ~~Services~~ includes (1) Central Secretariat Service (ii) Central Secretariat Stenographers Service and Central Secretariat Clerical Service, that the Officers/officials belonging to these three Central Secretariat Services are posted together in the in Ministries/Departments and participating offices which are common to all the three Central Secretariat Services, that an office which is declared<sup>as</sup> a participating office for one service say Central Secretariat Service also means<sup>at</sup> participating for other two sister services. There are no offices which are participating for one service but excluding other services, that although separate service rules are framed for each of the Central Secretariat services, there are provisions whereby L.D.Cs/U.D.Cs., of C.S., Clerical Service can move into C.S. Stenographer Service and Stenographers of C.S. Stenographer Service can move into the Central Secretariat service through Departmental examination, that the Central Secretariat Service Rules 1962 and the amended Rules of 1993 are published in the Official Gazette dated 8-1-1994 are produced to show that the officers of the Chief Engineer(Civil) located in various parts of the Country

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are participating offices, that the Central Secretariat Stenographers Service Rules, 1969 are ~~also~~ also produced, that in the Third Schedule to these rules entry at Sl.No.55 clearly mentions the post of P.A., to Chief Engineer, P & T Civil Wing as a duty post included in the service, that the applicants were locally recruited and belong to General Central Services and there is no provision for them to <sup>the</sup> ~~move into~~ <sup>and</sup> Central Secretariat Stenographers Service, /hence their claim is not tenable.

At the outset, we feel it proper to refer to the Order dated 30--12--1993 by which the posts of Private Secretary and Stenographer Grade II are created. This Order is at page 10 of the O.A. Those posts are created for each of the C.Es., (Civil and Electrical) and one each for S.C.(HQrs.) Civil and Electrical. These posts are temporary posts valid from the date of filling up the posts upto 28--2--1995. The posts are Plan posts but the expenditure should be charged to non-plan establishment. <sup>the</sup> These posts are /CSSS Group 'B' Posts. Neither the applicants nor the learned counsel for the respondents submitted whether these posts have been extended or continued beyond 28--2--1995.

The applicants in support of their claim have relied upon the Judgment in O.A.480/91 (J. Rajamani Vs. Union of India represented by Chairman, Telecom Commission, ~~Madras~~ New Delhi) decided by the Madras Bench of the Central Administrative Tribunal on 3--12--1991.

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In the said O.A., the applicant was working as Senior Grade II Stenographer in the Office of the Superintending Engineer (Civil) Telecom Civil Circle. The said post was upgraded. Therefore, the Bench observed that when a post of Head of office is upgraded then such supporting staff of the post of the Head of office may expect promotion. The Bench therefore observed that the applicant being a supporting staff of the post of Head of office which was upgraded should have been considered for promotion or upgradation. Even observing so, the Bench gave an opportunity to the respondents to create the posts belonging to the CSSS cadre after passing an order to that effect disclosing the reasons taking into account of the implications and collateral measures justifying such creation. In that case (O.A.480/91) the respondents mainly relied upon C.P.W.D.Manual(Vol.I) dealing with staff, Establishment Organisation and office procedure. The Bench considered in particular an upgradation of the post of the supporting staff and therefore, we humbly feel that the decision in O.A.480/91 has no applicability to the facts of the case on hand. In the instant case the respondents have created the posts under Order dated 30--12--1993. This creation of posts has become necessary since certain higher posts such as Chief Engineer (Civil), Chief Engineer (Elect.), Supdt.Engineer(Elect) etc., were created by the order G/29-10-1993(pages 8 & 9 of the O.A.)

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In O.A.480/91 on the file of Madras Bench of the Central Administrative Tribunal, the post was upgraded whereas in the present O.A., certain posts of Private Secretary, Stenographer Grade 'C' were created. There is much distinction between "upgradation" and "Creation". Upgradation means the existing post would carry higher scale of pay and the change of designation of that particular post, but in the case of "Creation of posts" new posts will come into existence. Therefore, there is vast difference between "Upgradation" and "Creation". In O.A.480/91 the post was upgraded in the present O.A., posts were created. Therefore, we feel the facts of O.A.480/91 may not be applicable to the facts of the present case.

The applicants claim is that they must be given promotion according to their eligibility to the posts created under the order dated 30--12--1993. Thus generally \* promotion is <sup>or</sup> stepping up to a higher post carrying higher scale of pay. Generally promotion will be given after screening the eligible candidates. The case of the applicants is that their chances for promotion are bleak. It is well established that chances of promotion are not at all be recognised or considered when the service conditions and recruitment rules do not permit a person for promotion. There is no right to an individual for promotion unless he fully satisfies the service conditions and eligibility criteria as per recruitment rules. When certain persons were inducted from different

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units or by direct recruitment/transfer to a particular unit, then such induction either by transfer or by direct recruitment would affect the existing incumbents in that particular unit, then ~~even~~ such of those persons could have a legal right to challenge such induction unless, arbitrariness, capriciousness and gross injustice, unfair results are proved. As held in GOVT. MEDICAL STORE DEPOT OFFICIALS ASSOCIATION, MADRAS vs. SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HEALTH AND FAMILY WELFARE, DEPARTMENT OF HEALTH reported in (1990) 13 ATC 305 (C.A.T, Madras Bench) unless arbitrariness, capriciousness or grossly unfair results are proved, promotion policy cannot be judicially interfered with.

The Government has a right to change the policy according to the exigencies of administration. The Tribunal cannot interfere with the change in the policy decision of the Government. The change in the policy by the Government is not a change in the service condition. The Tribunal cannot interfere with unless that change is maia fide, arbitrary, capricious or unfair. It is not necessary that promotion in a cadre must be restricted to the employees of lower rung in that cadre.

These are general guide lines required to be observed in cases of promotion. Here, the Government is yet to consider the manner in which the posts are to be filled up which are created under the Order dated 30.12.1992.

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In fact, in the order they have stated that the posts are CSSS Group 'B' Posts.

The contention of the respondents is that the applicants are not in the line of promotion, that they are in the Central General Service. Therefore, they have no claim to these posts. In support of their contention they relied upon the Central Secretariat Service Rules, 1962, the Amendment Rules and also the Annexure, Schedule III to the said Rules. It is stated that Chief Engineer (Civil) and the Chief Engineer (Electricity) are the participating posts and that by the amendment of the Central Secretariat Service Rules, 1962, the Officers of the Chief Engineer (Civil), Chief Engineer (Electrical), Chief Engineer (Arbitration) and the Chief Architect in the Department of Telecommunications have been included in the First Schedule to the said Rules, 1962. It is further stated that in the III Schedule to the Rules the posts of Private Secretaries or as also Stenographer Grade 'C' in the office of Chief Engineer (Civil), Telecom, Civil Wing, South Central Zone, Hyderabad is a duty post of CSSS under the purview of CSS Regulations (Statutory Rules) and the applicants have no legal right to object to the posting of personnel from the CSS in the office of C.E. (Civil) Telecom, Hyderabad against duty posts included in their service.

Relying upon these rules, the respondents submitted that the posts created under the order dated 30.12.1993 have to be filled up only from the Central SSS. The first contention of the respondents that the applicants are the members of Central General Service has not been disputed by the applicants. // In fact, when the respondents filed additional affidavit, the learned counsel for the applicants took time to go through the same. Thus the hearing of the O.A., was adjourned to 18--6--1997. The applicants have not chosen to file any reply rebutting the contention advanced by the respondents in their counter as well as in the additional affidavit. Therefore, it has to be held that the applicants are not in the line of promotion, that they do not come under the CSSS and that they have no legal claim to be considered for promotion for the newly created posts under the Order dated 30--12--1993.

We humbly feel that ~~the Government~~ a Government servant cannot put terms to the Government to fill up ~~our work or fill up~~ a particular post created or otherwise vacant in a particular manner.

Hence, we humbly feel that the applicants have no legal right to claim any of the reliefs in this OoA.

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It is submitted that the Union/Association to which the applicants are the Members have submitted a representation regarding their grievances. We feel it proper to direct the respondents to consider and decide the representation of the Union/Association and send a suitable reply to <sup>it</sup> ~~them~~ within three months from the date of receipt of the order in the O.A.

In the result there are no merits in this O.A., and the O.A., is liable to be dismissed. Hence, we pass the following:

O R D E R.

- (a) O.A., is dismissed.
- (b) No order as to costs.
- (c) The respondents are hereby directed to consider and dispose of the representation put in by the <sup>U</sup> Union/Association to which the applicants are members and send them a suitable reply within three months from the date of receipt of this Order.

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

  
(R. RANGARAJAN)  
MEMBER(A)

Date: 30.6.97



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16/7/97

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: 30/6/97

ORDER/JUDGEMENT

M.A./R.A/C.A. NO.

in

O.A. NO. 128/94

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

II Court.

