

(58)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 250/94

DATE OF JUDGMENT: 4.3.94

BETWEEN:

J.Venkataramana

.. Applicant

A N D

1. The Registrar General and
Census Commissioner of India,
Ministry of Home Affairs, Govt.
of India, 2A, Mansing Road, New Delhi.

2. The Director of Census Operations,
Andhra Pradesh, Ministry of Home
Affairs, Govt. of India,
Hyderabad.

.. Respondents.

APPEARANCE:

COUNSEL FOR THE APPLICANT(s):

.. Mr.Y.Suryanarayanan

COUNSEL FOR THE RESPONDENTS:

.. Mr.N.R.Devraj

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI A.B.GORTHY, MEMBER (ADMN.)

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P. J.

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O.A.NO.250/94.

JUDGMENT

DT: 4.3.1994.

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri Y.Suryanarayana, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant is an Ex-serviceman. He was appointed as Coder in the office of the 2nd respondent for Census in 1991. He appeared for the ~~Limited~~ examination conducted for the post of Data Entry Operator which was limited only for the retrenched employees of the census department. When the standard fixed for the retrenched employees was 60%, the applicant got only 42%. Then he filed OA 1444/93 praying for a direction for consideration of his case on the relaxed standard as contemplated under Rule 6(A) of the Ex-servicemen (Reemployment in Central Civil Services and Posts) (Amendment) Rules, 1986. The said OA was disposed of on 15.12.1993 with a direction to the respondents to prescribe the relaxed standard as envisaged under the above Rule 6(A). The applicant was retrenched when the posts of Coders in the office of the 2nd respondent were abolished with effect from 28.2.1994.

3. This OA was filed praying for a declaration that the action of the respondents in retrenching the applicant as a consolidated employee with effect from 28.2.1994 without taking a decision as directed by this Tribunal in OA 1444/93 is arbitrary, illegal and

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unconstitutional and for^a consequential direction to the respondents to appoint the applicant on regular basis for the post of Data Entry Operator Grade-A.

4. As the post of Coder no longer exists in the office of the 2nd respondent since 1.3.1994, action of the respondents in retrenching the applicant as Coder on consolidated pay cannot be held as illegal.

5. But when it was submitted for the applicant that as he would be facing retrenchment by 28.2.1994, this Tribunal as per the order dated 15.12.1993 in OA 1444/93 required the respondents to take necessary decision in regard to the relaxed standard for Ex-servicemen by 31.1.1994. It is submitted for the respondents that it will take one more month for finalising in prescribing the relaxed standard under ~~xx~~ Rule 6(A) referred to supra.

6. It may be noted that the relaxed standard prescribed for SC/ST standard is 40%. The applicant got 42% and ~~xxxxxxxxxxxx~~ thus more than the relaxed standard prescribed for SC/ST candidates. On the basis of the relaxed standard prescribed for the SC/ST candidates, it can be stated that one who gets ~~x~~ less than 40% cannot be held as suitable for appointment as Data Entry Operator. It has to be further ^{noted} ~~seen~~ that the relaxed standard has to be fixed by keeping in view the capacity ^{of} the standard of the reserved candidates for whom the relaxation has to be provided, and ofcourse without affecting the minimum standard required for discharging the duties. Further, the

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To

1. The Registrar General and Censes
Commissioner of India,
Ministry of Home Affairs, Govt.of India,
2A, Mansing Road, New Delhi.
2. The Director of Censes Operations,
Andhra Pradesh, Ministry of Home Affairs,
Govt.of India, Hyderabad.
3. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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applicant will be prejudiced if there is a delay in prescribing the relaxed standard and if ultimately as per the said relaxed standard the applicant can be held as qualified. One post in the category of Data Entry Operators was directed to be reserved for absorbing the applicant if he ultimately succeeds as per the order in OA 1444/93. Keeping in view the above circumstances, we feel it proper to issue the following direction:-

If for any reason the relaxed standard could not be prescribed as per the directions in OA 1444/93, by 8.4.1994, the applicant should be engaged as Data Entry Operator ^{on} temporary basis with effect from 12.4.1984 till a decision is taken as ordered in OA 1444/93. Ofcourse, if as per the relaxed standard the applicant has to be appointed, his appointment should be ^{regularised} ~~relaxed~~ with effect from 12.4.1984. In case the applicant is not qualified as per the said relaxed standard, it is open to the applicant if so advised to challenge the same by filing application under Section 19 of the Administrative Tribunals Act.

7. The OA is ordered accordingly, at the admission stage. No costs.

[Signature]
(A.B.GORTI)
MEMBER (ADMN.)

[Signature]
(V.NEELADRI RAO)
VICE CHAIRMAN

DATED: 4th March, 1994.
Open court dictation

vsn

[Signature] 7-3-94
Deputy Registrar

[Handwritten notes]

urgent.
TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. R. RANARAJAN : MEMBER
(ADMN)

Dated: 4-3-1994.

~~ORDER~~/JUDGMENT:

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

in

O.A.No.

250/94

T.A.No.

(W.P.No.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions. *at admission slip*

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

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