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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

...
O.A.No.1068/1994.

Date of decision: 10th September 1997

Between:

1. M.Ramakrishna.
2. G.V.Ramana Reddy. Applicants

And

1. Chief of Naval Staff (for Director of Civilian Personnel) Naval Headquarters, D.Wing, Sena Bhavan, New Delhi - 11.
2. The Flag Officer Commanding-in-Chief, Eastern Naval Command, Naval Base, Visakhapatnam -14.
3. The Admiral Superintendent, Naval Dock Yard, Visakhapatnam-14.

-- Respondents.
Counsel for the applicants: Sri S. Kishore.

Counsel for the respondents: Sri N.R.Devaraj, Senior Standing Counsel for the Respondents.

CORAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S. Jai Parameshwar, Member (J)

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Thus the applicants could not appear for the examination during the year, 1993. However, ignoring the earlier proceedings dated 7--10--1993 the ~~respondents~~ applicants were debarred from appearing for the subsequent examination on the ground that they/remained themselves absent for the examination conducted during the year, 1993.

A similar examination was conducted in the year, 1994. The applicants submitted their candidature. However, by the impugned proceedings dated 2-2-1994 the respondents debarred the applicants from appearing for the examination.

Then the applicants filed this O.A. praying to quash the proceedings dated 2-2-1994 and to declare the inaction on the part of the respondents without allowing the applicants to appear for the Departmental Competitive Examination of Tracers for promotion to the post of Draughtsman(Construction) and (Mechanical) without verifying the antecedents of the applicants is arbitrary, illegal and violative of the fundamental principles of natural justice.

This Bench by its interim order dated 22-3-1994 directed the Respondent No.2 to permit the applicants to appear for the Departmental Competitive Examination to be held on 25--8--1994 in regard to Draughtsman(Construction)

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2. Naval apprentices who have successfully completed at least 36 months apprenticeship and are in service in Naval Establishments and Tracers with 5 years service on the basis of Departmental Competitive examination = 90 per cent.

Note: In case Tracers with 20 years service are not available, the remaining posts shall be filled from the category at Serial No.2.

Transfer: Persons serving in similar, equivalent or higher grades in the Civil posts of the Defence Services and possessing qualifications specified in column No.8"

By circular dated 19-8-1993, applications were called for considering the eligibility ~~as per~~ for the departmental candidates for/option to the posts of Tracers through competitive examination. In response to the said circular, the applicants submitted their applications on 28-8-1993. On 10-9-1993 the respondents published a list of eligible candidates who ~~were~~ found fit for the competitive examination. In the said list, the names of the applicants ~~appeared~~ --

Proceedings dated 7-10-1993 the respondents informed the applicants that they were not eligible for appearing for the competitive examination on the ground that they had not completed the basic qualifications required for promotion.

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that the individuals were not eligible to appear for the examination and hence not allowed to appear but they were by mistake treated as absent from the examination and debarred for another one year."

However, it is their case that the applicants had not completed five years of service to enable them to appear for the examination and for consideration of their case for promotion.

... applicants were appointed on 5--7--1988 in continuous casual capacity. They were regularised in 1990. The satisfactory completion of their period of probation was declared on 11--4--1990. When once ~~examination~~ is declared to have ~~been~~ satisfactorily completed the period of probation, then the seniority has to be reckoned from ~~his~~ date of initial appointment. Thus this in case the date of the initial appointment of the applicants is considered i.e., 5--7--1988, the applicants were eligible for appearing for the examination conducted in 1994. The date of examination is the criteria for determining the eligibility. As already observed the examinations were conducted on 25--8--1994 and 1--9--1994. By then both the applicants had completed about six years of service in the cadre of Tracers. Therefore, they were eligible for consideration of their case for promotion to the post of Draughtsman. The applicants alleged certain malpractices

and on 1-9-194 in regard to Draughtsman (Mechanical).

But the respondent No.2 was directed not to declare the results of the applicants in the said examination.

A counter has been filed by the respondents.

The averments made by them in page 3 of their counter are re-produced hereunder:

"It was observed that some units could not verify the service particulars of the candidates meticulously, which resulted in allowing some candidates who had not rendered five years regular service in the grade of Tracer. Accordingly, HQ directed lower formations that those who have not completed five years regular service will not be permitted to appear --- applicants were therefore not allowed to appear in the said examination. Although it is a fact that some of the juniors to the applicants have been allowed to appear in the Departmental Examination for the post of Draughtsman (Construction) and on that qualifying the same and have been promoted to the said post. The mistakes occurred due to non-verification of the service details of those juniors. However, remedial action is being taken to undo the error. It is also not denied that applicants were inadvertently debarred from appearing in future Departmental Examination for one year. The actual position is

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had qualified themselves for appearing for the examination and for consideration of their case for promotion to the post of Draughtsman.

It is stated in the counter that certain mistakes had crept in, during the examination in 1993 and they are taking steps to rectify the same. The reply was filed on 5.4.1995. Nearly 2 years and 5 months have elapsed and nothing is heard from the respondents as to what action taken by them to rectify the mistake.

Admittedly during the year, 1993 the respondents allowed some of the juniors to the applicants to appear for the examination and promoted them to the post of Draughtsman. mistake committed in allowing the juniors to the applicants to appear for the examination without proper scrutiny.

We humbly feel that the Respondent No.1 may proceed Departmentally against the officials who were responsible in allowing the juniors to the applicants to appear for the examination during the year, 1993.

This Bench had directed the Respondent No.2 to permit the applicants to appear for the examination. Now it is for the respondents to declare their results and if they are successful in the written examination and they are otherwise eligible, the applicants be considered for promotion to the



in the examination conducted during 1993. It is stated that some persons who were junior to them were allowed to appear for the examination of 1993, that they even became successful and that they were promoted to the post of Draughtsman. In fact, this has been categorically admitted by the respondents in the reply (as extracted above.)

Even though by procedure respondents informed the applicants that they were not eligible for appearing for the examination during the year, 1993 on the ground that they had not completed the qualifying five years of service, still the respondents debarred the applicants from appearing for the future examination conducted in the year, 1993. Had the applicants filed the O.A., then itself, the matter would have been different altogether.

The learned counsel for the respondents vehemently contended that five years of qualifying service in the capacity of Tracers had to be completed to become eligible for consideration for promotion to the post of Draughtsman. Even accepting this contention of the respondents, it is clear, that the applicants were appointed on 5-8-1988 and were regularised in February, 1990 and their period of probation was declared in April, 1990. When that was so, the applicants

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date of receipt of a copy of this Order.

e) No order as to costs.

In the result the O.A., is allowed. There will be no order as to costs.

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CERTIFIED TO BE TRUE COPY

Rishabh
न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
HYDERABAD BENCH

क्रमांक 24/1668/97
निवाय 10/9/97
Date of Judgement 10-9-97
प्रति त्रिवार्षीय अवधि दिन
Copy Received on 22-9-97
Rishabh
Court Officer (U)