

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 523/94

Date of Order: 4.3.97

BETWEEN:

Sri P.Ramachandra Reddy

2. Sri T.Sri Ram

AND

1. The Union of India, rep. by
the Secretary, Ministry of
Home Affairs, Govt. of India,
New Delhi.
2. The Registrar General, Census
Government of India, 2/A,
Mansingh Road, New Delhi.
3. The Director, Census Operations,
Andhra Pradesh, Hyderabad.

.. Applicants.

.. Respondents.

Counsel for the Applicants

.. Mr.J.V.LakshmanaRao

Counsel for the Respondents

.. Mr.NV.Raghava Reddy

CORAM:

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

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

J U D G E M E N T

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

Heard Mr.J.V.Lakshmana Rao, learned counsel for the applicants and Mr.N.V.Raghava Reddy, learned standing counsel for the respondents.

2. There are two applicants in this OA. They were appointed as Computers in the Grade of Rs.330-560 in the pre-revised scale on adhoc basis on 28.1.81 and 10.2.81 respectively and were subsequently transferred to the post of Electronic Data Processing Operators in the grade of Rs.1350-2200 w.e.f. 1.4.83 and 1.2.83 respectively. It is stated that they completed

9. In OA.216/92 the question of counting the service rendered in the grade of Computer was not accorded to by the Tribunal as it was considered as a policy decision. It now transpires from the reply statement that a policy decision has been taken by the respondents to recruit Operators from the open market relaxing the conditions of sponsorship from the employment exchange. So far the applicants herein are concerned as they had worked as Computers on adhoc basis. In that view, it has to be held that a rule has been formulated to count the service for operators appointed as fresh entrants from the date of their entry as Operators and the services rendered earlier on adhoc basis cannot be considered.

10. We find no malafide intention in this rule. Further a recruitment has been made from open market as well as from the departmental candidates. It may be possible that the open market candidates would have ranked senior to them in the empanelled list. If the applicants were given the seniority ^{on the basis} of the previous service then the candidates empanelled from the open market and senior to them would be put at disadvantage and that is not contemplated in the rule. Hence we are of the opinion that the respondents' arguments that the earlier service as Computers cannot be counted for purpose of refixation of seniority in the grade of Operators is based on sound principle and cannot be questioned.

11. The next contention of the applicant's counsel is that the past service as Computer should, atleast, be considered for purpose of counting the qualifying service and on that basis demand pension and pensionary benefits. We are of the opinion that clear cut rule is there. We do not consider it necessary to give any direction. The respondents should decide this issue in regard to counting of adhoc/regularised service in accordance with the rule for purpose of counting the qualifying service and on that basis payment of pension and pensionary benefits. *in the same*

the DDE unit, that while making recruitment to the newly created posts of Operators, the temporary staff appointed on adhoc basis against 1981 census posts and who were likely to be retrenched as Computers of census operations were allowed to compete for the posts of operators as direct recruits, that the applicants appointed for the posts of Operators, that they were selected along with others and were appointed afresh to the post of Operators vide order No.A 32018/1/80 Est(1) Vol.II dated 31.1.83 in the order of merit, that they were assigned seniority in the Operators grade w.e.f. 2.4.83 and 1.2.83 respectively.

7. It is further stated that the post of Computer is a technical post having separate set of rules and promotional avenues. The services rendered in the grade of Computer cannot be considered for the purposes of seniority in the grade of Operator which post is having separate rules. The applicants are entitled for the seniority in the grade of Operators only from the date of their fresh appointment, and that thus they contend that the services rendered by the applicants as Computers cannot be considered or taken into consideration in the cadre of DPO.

8. The main contention of the applicants in this OA is that counting of the service rendered by the applicants has to be taken into consideration as refixation in some other cases had been done taking into account the past service rendered by those applicants earlier while they were working on adhoc basis. The respondents in their reply statement submit that in those cases the recruitment rules were not in existence at that time as such absence of statutory recruitment rules for various rules promotion from Ministerial cadre post to technical cadre post and vis-a-vis were considered ^{as} ~~is~~ per the instructions then in force. Hence such method of refixation of seniority cannot be adopted in the present case.

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The respondents shall inform them in regard to the counting of the service as directed above in due course.

12. In view of the above the OA is dismissed subject to the observation made as above in regard to counting of qualifying service for purpose of pension and other pensionary benefits.

13. OA is -dismissed with no costs.

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COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH

केस नम्बर
CASE NUMBER
तारीख
Date of Judgment
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