

(H)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH
AT HYDERABAD.

O.A.NO. 1589 OF 1994

BETWEEN:-

N. Prakash Rao, s/o. N.Pothuraju,
aged about 39 years, Occ: Inspector
RMS, Z-1st Sub-Division, Hyderabad-
500 036.

... APPLICANT

AND

1. The Union of India rep. by it's
Director General of Posts,
New Delhi - 110 001.
2. The Chief Post Master General,
A.P.Circle, Dak Sadan,
HYDERABAD - 500 001.
3. The Director Postal Services,
Hyderabad Region, O/o. Chief
Post Master General, Dak Sadan,
HYDERABAD - 500 001.
4. Sri G.V.Ramana, I/c. Asst.
Supdt.of RMS, Hyderabad Sorting
Division, Hyderabad - 500 027.

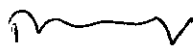
... RESPONDENTS

INDEX OF MATERIAL PAPERS RELIED ON

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DATE: 25-4-94

HYDERABAD.


COUNSEL FOR THE APPLICANT

-
1. Date of filing
 2. Date of receipt
 3. Registration No.

Signature of the Applicant

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH

AT HYDERABAD

(SEE RULE NO. 4)

APPLICATION FILED UNDER SECTION 19 OF ADMINISTRATIVE TRIBUNALS

ACT, 1985.

O.A.NO. 589 OF 1994

BETWEEN:-

N. Prakash Rao, S/o. N.Pothuraju,
aged about 39 years, Occ: Inspector
500 036. Sub-Division, Hyderabad-

APPLICANT

A N D

1. The Union of India, Rep. by its
Director General Posts,
NEW DELHI -110001.
2. The Chief Postmaster General,
A.P.Circle, Dak Sadan,
Hyderabad - 500 001.
3. The Director Postal Services,
Hyd. Region, O/o. Chief Post
Master General, Dak Sadan,
HYDERABAD - 500 001.
4. Sri G.V.Ramana, I/c. Asst. Supdt RMS
Hyderabad Stg Division, O/o The
Senior Supdt. RMS Hyd Stg Divn., o
HYDERABAD - 500 027.

RESPONDENTS

DETAILS OF APPLICATION

1. PARTICULARS OF THE APPLICANT :

- | | |
|-----------------------------|-------------------------------------------------------------------------------------------|
| i) Name of the Applicant | : N. PRAKASH RAO |
| ii) Name of the Father | : N. POTHURAJU |
| iii) Age of the Applicant | : 39 years |
| iv) Designation and Address | : Inspector of RMS,
Z-1st Sub-Division,
HYDERABAD - 500 036. |
| v) Address for Service | : B.S.A. SATYANARAYANA, Advocate
H.No. 2-1-561,
NALLAKUNTA,
HYDERABAD - 500 044. |

2. PARTICULARS OF THE RESPONDENTS :

RESPONDENT NO. 1

Name, Designation and Address : Union of India Rep. by it's
Director General Posts
New Delhi - 110 001.

Address for Service : Same as above.

RESPONDENT NO. 2

Name, Designation and Address : Chief Post Master General,
A.P. Circle, Dak Sadan,
HYDERABAD - 500 001.

Address for Service : Same as above.

RESPONDENT NO. 3

Name, Designation and Address : Director of Postal Services
Hyd City Region,
O/o Chief Post Master General
A.P.Circle, Hyderabad-1.

Address for Service : Same as above.

RESPONDENT NO. 4

Name, Designation and Address : G.V. Ramana,
I/c. Asst. Supdt. RMS,
Hyderabad Sorting Division,
O/o Senior Superintendent RMS
Hyderabad Sorting division,
HYDERABAD - 500 027.

3. PARTICULARS OF THE ORDER AGAINST WHICH
THIS APPLICATION IS MADE :

- i) Number of the Order : ST/3-2/III
- ii) Date of the order : 21-1-1994
- iii) Passed by : Chief Post Master General
A.P. Circle, Hyderabad.
- iv) Subject in Brief : Request for promotion to
the Cadre of ASRMs against
a reserved point.

4. JURISDICTION OF THE TRIBUNAL :

The applicant submits that, the subject matter of the order against which this application is made is in the jurisdiction of the Tribunal under the provisions of Section 14 of the Administrative Tribunals Act of 1985.

5. LIMITATION :

The applicant submits that the impugned order was issued by the Respondent No.2 only on 21-1-1994 and therefore the O.A. is within the Limitation period as prescribed by Section 21 of the Administrative Tribunals Act 1985.

6. FACTS OF THE CASE :

6.1. The applicant submits that he was appointed as Inspector of RMS (Circle Cadre) in Z-1st Sub-Division on 16-11-1990 and he took Charge on 21-11-1990, after he was declared successful in the competitive examination (Copy of his appointment order is enclosed herewith as Annexure 1 Page 1). He was working ever since to the satisfaction of the Superiors, without any adverse remarks.

6.2. The applicant submits that a vacancy for the post of Asst. Supdt. RMS arose in Hyderabad Sorting Division with effect from 1-6-1993 consequent to the transfer of Sri Ch.Vidya Sagar Rao on request to which the applicant became eligible, by virtue of his being the senior most official among the SC candidate and the post is reserved for Sc.

6.4. The applicant submits further that he made a representation to Chief Post Master General, A.P.Circle Hyderabad on 8-7-1993 (enclosed as Annexure No.2 Page 2-4). In his representation the applicant requested that he be promoted to the post of ASRM at point No.22 in the 40 point Roster, as it was reserved for SC candidates, and he being an SC candidate he be promoted. The Chief Post Master General and R-2 herein replied in its reply dated 21-1-1994 (enclosed as Annexure No.3, Page 5) the the posting given to the fourth Respondent herein was on adhoc basis and adhoc promotions would not be adjusted against the points in the 40 point Roster. The Respondent No.2 further declared in his reply that the applicant did not come within the zone of consideration in the last DPC meeting. It was also maintained that the promotion was not on regular basis.

a copy of the reservation roster to prove his contention. The Respondent No.2 in its reply dated 30-03-1994 (copy enclosed as Annexure No.4, Page 6) stated that his request for supply ~~for~~ of a copy of the reservation roster was being looked into, the matter being referred to Directorate, that on receipt of the necessary clarification, he would be informed accordingly. The applicant further submits that turning down his request for a copy of the reservation roster is in violation of Ministry of Personnel Public grievances & pensions Department of Personnel and Training Instructions Bearing No. 43038/2/92-Estt (SCT), dated 31-12-1992. (Copy enclosed as Annexure No.5, Page 7).

6.5. The applicant further submits that in a vacancy pertaining to SC point, SC candidates only should be promoted even on adhoc basis as per the guide lines given in Government of India Department of Personnel and AR OM No. 36011/14/83-Est (SCT), dated 30-4-83 instructions. (Copy enclosed as Annexure No.6, page 8). It was further clarified in even No. dated 30-9-1983 that if they are not adjudged unfit they should be promoted on adhoc basis. In the same memo it was also clarified that "if, however, the number of Scheduled Castes/Scheduled Tribes, candidates found fit within the range of actual vacancies is less than the number of vacancies identified as falling to their share, then additional Scheduled Castes/Scheduled Tribes candidates to the extent required should be located by going down the seniority list but within 5 times the number of vacancies being filled on a particular occasions, subject, ofcourse, to their eligibility and fitness." (copy enclosed as Annexure No.7 page 9). It was also clarified in the guidelines that adhoc promotions should not be resorted to for vacancies of more than 45 days duration. Thus the arguments advanced by Respondent No.2 are not maintainable in respect of so called "Zone of consideration" and calling the promotion of Sri G.V. Ramana on 1-6-1993 (Respondent No.4 herein) as adhoc promotion. These actions of Respondent are in clear violation of the Government of India instructions on the subject and the-refore liable to be set aside.

6.6. The applicant further submits that he approached the National Commission for Scheduled Castes and Scheduled Tribes New Delhi in a representation, and the Commission

addressed a letter to the Respondent No.2 herein on 4-10-1993 under a copy of to the applicant herein. (Copy enclosed as Annexure No.8, Page 10) . It is further submitted that the Respondent No.2 had not so far taken any action on the letter from the Commission.

6.7. The applicant further submits that the Respondents herein failed to conduct DPC meetings as laid down under Fundamental Rule No.25 and the applicant is victimised for the lapse of the Respondents. Had they conducted the DPC meeting for the vacancy which ~~was laid down in FR NO.25, the~~ applicant could have been promoted in the vacancy of ASRM Hyd. Stg Division into which the R-4 had been promoted on adhoc basis. Thus the applicant is put to irreparable pecuniary loss and damage of interests. The action of the Respondent No.2 in promoting the R-4 herein on adhoc basis, denying the promotion to the applicant herein on regular basis, is questionable on various grounds including the following.

G R O U N D S

7.1. The action of Respondent No.2 is violative of Article 15 of the Constitution of India, which provides for reservation of vacancies for SC and ST candidates.

7.2. The action of the Respondent No.2 is violative of Government of India orders and instructions mentioned above.

7.3. The action of the Respondent No.2 is violative of Art. 14 and 16 of the Constitution of India because it is discriminatory, unfair, and illegal.

8. DETAILS OF REMEDIES EXHAUSTED :

The applicant submits that he had availed all the available remedies ending with his representation dated 8-7-1995 addressed to Respondent No.2 herein.

9. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicant further declares that he had not previously filed any application with regard to the impugned order challenged in this O.A. nor he filed any writ petition or suit regarding the matter in respect of which this application is made before any court or law or any authority or any bench of this Tribunal and nor any such application, writ petition or suit is pending before any of them.

10. RELIEF(S) SOUGHT :-

In view of the facts mentioned in Para 6 and grounds in Para 7 above, the applicant prays that the Hon'ble Tribunal may be pleased to call for the relevant records of Respondent No.2 as illegal and arbitrary and in consequence direct him to promote the applicant herein to the vacancy at Roster Point No.22 which is reserved for SC with effect from the date of the vacancy with all the consequential benefits. It is also prayed that this Hon'ble Tribunal may be pleased to pass such other order or orders as deemed fit and proper in the circumstances of the case.

11. INTERIM RELIEF IF ANY PRAYED FOR :-

Pending finalisation of this O.A. the applicant prays that this Hon'ble Tribunal be pleased to direct the Respondent No.2 herein to accord adhoc promotion ~~the Respondent No.2 herein to accord adhoc promotion~~ the Respondent No.4.

12. PARTICULARS OF THE DEMAND DRAFT OR INDIAN POSTAL

ORDER :-

~~W.D.D./Removal~~

- 1. No. of Postal Order : 8-86-914.292
- 2. Date of the Postal Order : 21-4-1994
- 3. Name of the Issuing : High Comm 13/1
- 4. Name of the Post Office: Ben AAD
at which payable

13. LIST OF ENCLOSURES :

- ii. Vakalat
- iii. Crossed I.P.O.
- iv. Four Envelopes with Acknowledgements
and addressed.


: 9 :

VERIFICATION


I, N. PRAKASH RAO, S/o. N. Pothuraju, aged about 39 years, working as Inspector of RMS Z-1st Sub-Division, do hereby verify the contents of paras 1 to 6 and declare them to be true to the best of my knowledge and paras 7 to 13 are true on legal advice and I have not suppressed any material fact.

DATE : 20-4-14

HYDERABAD.


(N. PRAKASH RAO)

SIGNATURE OF THE APPLICANT



SIGNATURE OF THE COUNSEL FOR
THE APPLICANT.