

(66)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

O.A. No. 675 of 1995

Date of Decision: 9th January, 1998.

Between:

P. Aravindakshan .. Applicant.

AND

1. Union of India rep. by its  
Secretary, Dept. of Science &  
Technology, Technology Bhavan,  
New Mehrauli Road, New Delhi-110 016.
2. Surveyor General of India,  
Survey of India,  
P.B. No.37, Hathibarkala Estate,  
Dehra Dun, 248 001 (U.P.)
3. Director, South South Eastern Circle  
Survey of India, Uppal,  
Hyderabad - 500 039. .. Respondents.

Counsel for the applicant: Mr. P.B. Vijaya Kumar

Counsel for the Respondents: Mr. N.V. Ramana

CORAM:

The Hon'ble Sri R. Rangarajan: Member (Admn.)

The Hon'ble Sri B.S. Jai Parameshwar: Member (Judl.)

ORDER

(Per Hon'ble Sri B.S. Jai Parameshwar: Member (Jud1.))

1. Heard Sri P.B. Vijaya Kumar, learned counsel for the applicant and Sri V. Rajeswara Rao for the Respondents.

2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 2.6.1995.

3. The facts giving raise to this O.A. may in brief be stated thus:-

(a) The applicant was appointed as LDC under the Respondent organization with effect from 19.10.1959. He was promoted as UDC with effect from 15.6.1964. He is presently working as the Office Superintendent.

(b) It is submitted that the seniority list of UDCs was finalised by the respondents as per the directions issued by the Hon'ble High Court of Karnataka in the case of V.T. Rajendran Vs. Union of India and the same was published on 20.8.1993.

(c) The applicant submits to have made representations dated 20.3.94 and 19.8.1994 requesting the Respondents for refixation of seniority and to give promotion to him on par with his juniors who were promoted earlier.

(d) On 9.11.94 the respondents informed that the seniority list was finalised and the same could not be altered vide their letter dated 9.11.1994 (Annexure A-I). A-I).

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(e) The composition of the Ministerial Staff under the Respondents is as under:-

- a) Lower Divisional Clerk : Initial appointment
- b) Upper Divisional Clerk : By Selection through DPC (75% of the total vacancies)
  - ii) By limited Dept. Exams. from amongst LDCs who completed minimum 3 years of service as LDC of the occurring in a year).
- c) Assistants/Head Clerks : By selection through DPC.
- d) Office Superintendent : -do-
- e) Superintendent (SGD) : -do-
- f) Establishment & Accounts: Officer (Group-B.Gazetted) -do-

(f) It is stated by the applicant that by the time of revision of seniority many juniors to him were promoted to higher grade such as SGOs and E&AOs. It is claimed that the respondents have to revise the seniority list of the applicant in all these cadres.

(g) The applicant has relied upon the decision of this Tribunal Dt.6.12.94 in O.A. No.857/94 (P.K. Kutty Nair Vs. Union of India). The respondents have unjustly denied the benefits to him. (copy of the order of this Tribunal in OA 857/94 is at Annexure-10 pages 27-31 of the O.A.). The applicant claims that he is similarly placed as that of P.K. Kutty Nair and is eligible to be given all the benefits as per the order of this Tribunal in the said O.A.

(h) The applicant claims one Vilayati Ram is junior to him. The applicant submits that presently there is a vacancy of E & AO and 2 vacancies are likely to arise consequent upon the retirement of Kutty Nair and Ramakrishna.

4. The applicant has filed this O.A. for a direction to the Respondents to consider his case for promotion to the posts of Office Superintendent, SGD Superintendent and E & AO against the available vacancy at Hyderabad with effect from 14.12.87, 17.7.91 and 28.8.1992 respectively with all consequential benefits including the payment of dues in emoluments.

5. The Annexure-3 page-10 to the OA gives the comparative service particulars of the applicant and that of Sri Vilayati Ram. From the seniority list at page-15 of the O.A. it is seen that the applicant was at Sl. No.18, whereas Vilayati Ram was at Sl.No.41. Vilayati Ram is a candidate belonging to SC category.

6. The Respondents have filed a counter/that they in good faith implemented the directions given by this Tribunal in O.A. 857/94 that they had no material on hand to oppose the claim of Sri P.K. Kutti Nair that the work of DPC proceedings revising the proceedings since 1974 were voluminous, and had been time consuming and the same could not be completed during 1995 that, in the meantime, the Tribunal passed the order Dt.6.12.94, even that Sri P.K. Kutty Nair had initiated proceedings for contempt for non implementation of the order that they had no other alternative but to implement the directions given by this Tribunal on 6.12.94 that neither Vilayati Ram nor P.K. Kutti Nair nor the applicant were eligible for promotion to the post of office Superintendent as on 4.12.87 as per the revised seniority list that the promotion of Sri Vilayati Ram during 1987 was based on the then existed seniority list that P.K. Kutty Nair is the senior most amongst Vilayati Ram and applicant that his turn for promotion as OS came only during 1992 as

per the revised seniority list that actually Kutty Nair was promoted on 27.8.92 on the basis of the pre-revised seniority list that the promotion to the cadre of Office Superintendent was given on 9.7.91 and was refused by P.K. Kutty Nair that by erroneous promotion of Vilayati Ram, no right of P.K. Kutty Nair has been infringed that the applicant is junior to P.K. Kutty Nair that his turn for promotion as Office Superintendent came during 1992 that he was rightly promoted on 20.8.92 along with P.K. Kutty Nair as the Office Superintendent that the applicant also refused to accept the promotion given vide order Dt.26.6.91 that as per the revised seniority list there were about 80 officials above Sri Vilayati Ram in the grade of Head Clerk/Assistant who were senior to Vilayati Ram but were promoted later due to erroneous seniority that some of them are now not in service that they have either retired or expired that, likewise, 24 persons senior to Vilayati Ram were promoted subsequent to the date of promotion of Vilayati Ram, that by the revised seniority list which was completed during early 1995 the benefit had been bestowed on the affected persons that there were 16 persons senior to P.K. Kutty Nair and the present applicant is yet to be promoted as E&A.O. that it is only when the turn of both the persons named herein came for promotion that out of 16 persons senior to the applicant and P.K. Kutty Nair, 5 are holding the senior grade of SGOS that on account of the reasons stated above Kutty Nair and applicant have no claim even for promotion to the next grade of Superintendent (Senior grade) and also to the post of E&AO that there are 5 persons senior to the applicant in the Cadre of Sr. Grade OS (SGOS) and the said vacancies belong to them that the applicant is not entitled to any promotion with a retrospective

date as the vacancies were filled by erroneous promotion may not affect the applicant that the applicant has not yet established that the promotions given in default to Vilayat Ram and P.K. Kutty Nair do not belong to him that the applicant has not produced any rules and regulations that with respect to the promotion given to his junior due to inadvertent error given to them that in case the directions issued in OA 857/94 are repeated then an embarrassing situation would be created in that about 46 or more persons now in service or retired or dead seniors to Vilayati Ram are to be considered to the extent for not performing the duty in the higher cadre to which most of them may not be eligible to reach or would have reached and that the OA be dismissed with costs.

7. The applicant claims promotion and other benefits on par with his junior in accordance with the revised seniority list prepared as per the directions issued by the Hon'ble High Court of Karnataka. The main contention of the Respondents is that the applicant was given promotion to the post of Office Superintendent during 1992 along with P.K. Kutty Nair and that case of Kutty Nair was considered only as per the directions given by this tribunal in OA 857/94.

8. The averments made by the Respondents that they could not resist the OA filed by P.K. Kutty Nair and were constrained to implement the directions given by this Tribunal cannot be accepted. If they felt that the directions given in the OA had far reaching implications then the respondents could have filed a Review petition to review the order Dt. 6.12.94. It is stated that out of fear and respect they implemented the directions dated 6.12.94 in OA 857/94. We are not convinced with the said submission.

9. The case of the applicant should be considered at least from the date when Sri Vilayati Ram was promoted. It is not stated by the Respondents that Sri Vilayati Ram, who was junior to the applicant, was promoted against roster point. Actually the name of Vilayati Ram is at Sl. No.41 and the name of the applicant is at Sl. No.18 in the seniority list which is at page 15 of the O.A. Admittedly, the applicant was senior to Vilayati Ram. They submit that neither Vilayati Ram nor P.K. Kutty Nair nor the applicant became eligible for promotion to the post of Office Superintendent from on 14.12.1987. If that be so they can verify the records and consider the date from which the immediate junior of the applicant became eligible for promotion to the post of Office Superintendent and accordingly fix the pay of the applicant in the cadre of the Office Superintendent notionally from that date and pay him the benefits etc monetarily from the date when he actually shouldered the higher responsibilities. Likewise, the case of the applicant has to be considered for further promotions when his immediate junior was promoted in accordance with the revised seniority list of UDCs finalised on 20.8.93.

10. The revised seniority list of UDCs finalised on 20.8.93 shall be the basis for finalising the case of the applicant for consideration for, promotion to the post of Office Superintendent and next higher posts.

11. Hence we issue the following directions:-

- a) The case of the applicant shall be considered for promotion to the cadre of Office Superintendent in accordance with the revised seniority list of UDCs finalised on 20.8.93.

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b) The respondents may consider the case of the applicant accordingly and grant him further promotions from the date from which his junior was promoted on the basis of that revised seniority list.

c) The case of the applicant for further promotions shall be considered from the date from which his junior was promoted in the said revised seniority list and accordingly fix the pay of the applicant in the cadre of the Office Superintendent, notionally, from the date when his immediate junior was promoted and shall pay him monetary benefits only from the date when he shouldered higher responsibilities.

d) Time for compliance 4 months from the date of receipt of this order.

With the above directions, the O.A. is disposed of.

No order as to costs.

  
(B.S. JAI PARAMESHWAR)

MEMBER (JUDL.)

9.1.98

  
(R. RANGARAJAN)

MEMBER (ADMN.)

Date: 9TH JANUARY, 1998.

KSM

  
D.R. 15.1.98

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Copy to:

1. The Secretary, Dept. of Science & Technology,  
Technology Bhavan, New Mehrauli Road, New Delhi.
2. Surveyor General of India, Survey of India,  
P.B.No.37, Hathibarkala Estate, Dehradun.
3. Director, South South Eastern Circle, Survey of India,  
Uppal, Hyderabad.
4. One copy to Mr.P.B.Vijaya Kumar, Advocate, CAT, Hyderabad.
5. One copy to Mr.N.V.Ramana, Addl.CGSC,CAT, Hyderabad.
6. One copy to D.R(A),CAT, Hyderabad.
7. One copy to HBSJP,M,(J),CAT, Hyderabad.
8. One duplicate copy.

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28/1/98  
28/1/98  
TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

THE HON'BLE MR. B. S. DAI PARAMESHWAR :  
M(J)

DATED: 28/1/98

ORDER/JUDGMENT

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

in

C.A.NO. 675/95

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

