

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 721/95

Date of Order: 30.4.97

BETWEEN:

K.R.Prasad Rao

.. Applicant.

AND

1. Union of India, rep. by its
Secretary, Ministry of Defence,
New Delhi.
2. Chief of the Army Staff,
Army Head Quarters,
New Delhi.
3. The Commandant,
Station Head Quarters,
Secunderabad-10.
4. Sub Area Commander,
Sub Area Head Quarters,
Secunderabad.
5. Controller of Defence Accounts,
Rep. by Assistant Controller of
Defence Accounts, Area Accounts
Office (CDA), Staff Road,
Secunderabad-3.

.. Respondents.

- - -

Counsel for the Applicant

.. Mr.S.Krishna

Counsel for the Respondents

.. Mr.N.V.Raghava Reddy

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CORAM:

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

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

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J U D G E M E N T

① Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Heard Mr.S.Krishna, learned counsel for the applicant
and Mr.N.V.Raghava Reddy, learned standing counsel for the
respondents.

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2. The applicant joined as a conservancy safaiwala on 4.10.79. He was promoted as conservancy store keeper w.e.f. 20.10.90 by R-3. It is stated that he was promoted after he was interviewed and cleared by the DPC which was held on 6.10.90. The R-3 also issued part-II orders No.Civ/41/90, dt. 26.10.90 bringing into effect the promotion of the applicant as Conservancy store keeper w.e.f. 20.10.90 and his pay was also fixed in that post.

3. Certain objections were raised with regard to the promotion of the applicant from the post of conservancy safaiwala to the post of conservancy store keeper by proceedings dt. 4.9.91 (Page-15 of the OA). In that proceedings the promotion of the applicant from the post of conservancy safaiwala to the post of conservancy store keeper was objected to. On the basis of the proceedings R-3 issued the cancellation of his promotion order by impugned letter No. 1180/4/B/Adm, dt. 8.2.92 (Page-17 of the OA).

4. This OA is filed challenging the impugned order dt. 8.2.92 whereby his promotion dt. 20.10.90 was cancelled and reverting him to the post of conservancy safaiwala from the post of storekeeper and to set aside the same order and for a consequential direction to restore his promotion as conservancy storekeeper w.e.f. the date of his promotion i.e. 20.10.90 .

5. A reply has been filed in this OA. It is stated in the reply that in accordance with SRO 128/80 the conservancy safaiwala can be promoted as Sanitary Mate/Land Supervisor after they had completed 5 years of service as conservancy safaiwala. Only those who had put in 5 years of service as Mate/Land Supervisor are to be further promoted to Storekeeper. The promotion from conservancy safaiwala to the Sanitary Mate is given as per

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seniority and fitness. Hence the respondents submit that the feeder category for the post of conservatory storekeeper is from Mate/Land Supervisor with 5 years of service in that category. Safaiwalas cannot be promoted directly as storekeeper without going through intermitant land supervisor. ^{Cadre} The applicant was erroneously promoted as conservancy storekeeper and when that error was foundout he was reverted by the impugned order. Hence the respondents submit that there is no irregularity in the reversion order issued to the applicant.

6. The promotion to any post should be in accordance with the recruitment rules. The recruitment rule cannot be bypassed unless the recruitment rule is amended. In the present case SRO 128/80 which is the relevant recruitment rule for promotion to the post of storekeeper permits only Mate/Land Supervisor with 5 years of service in that cadre ^{for promotion} ~~can be promoted~~ as conservancy storekeeper. The applicant who is only the conservancy safaiwala cannot directly be promoted as storekeeper as per the SRO 128/80. Hence we do not find anything wrong in the reversion order. No doubt the error has been committed. But that error was sought to be rectified by the impugned order. It is stated that the applicant had worked as conservancy storekeeper from 28.10.90. till 8.2.92 when the impugned order was issued. The applicant having discharged ~~from~~ higher duties no recovery should be made because of his reversion.

7. The applicant submits that similar ^{promotion} ~~direction~~ was given to 2 more employees and hence he submits that his case should not be dealt with in isolation by reverting him. It is stated in the reply that the cases of those 2 employees were also under consideration as they have already promoted to the further higher grade of General Supervisor which is above that of conservancy storekeeper. It is stated that no decision has been taken in their cases. Just because somebody has been erroneously

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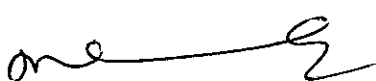
promoted it is not necessary that the same error should be perpetuated in the case of the applicant also. The Apex Court had held that errors if committed can be corrected and need not be perpetuated if similar error had enabled someone else to get promotion. In that view the present contention cannot be accepted.

8. The next contention of the applicant is that there are 2 posts of storekeeper still vacant and hence he should be retained. Whether the post is ^{the} filled or not is the point to be considered by the department. Even ^{if} the post is vacant there may not be need ^{for them to} to be ^{are} fillup. Even ^{then} ~~presumes~~ only eligible candidates ^{are} to be promoted against that post. Since the applicant is not fulfilling the eligibility condition for promotion to the post of conservancy safaiwala in accordance with SRO 128/80 he cannot demand for his retention as conservancy storekeeper. Hence this contention also fails.

9. The applicant was working as conservancy storekeeper from October 1990 to February 1992. If in the meantime some ^{his} of the juniors had been promoted to the post of ^{Mate/Land} Supervisor then the case of the applicant should also be considered for those posts in accordance with the rule and if he is found fit he should be promoted to that post on par with his junior granting him all the consequential benefits.

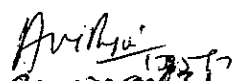
10. In the result the OA is dismissed with the observations made in the penultimate para of this judgement. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl)


(R. RANGARAJAN)
Member (Admn.)

Dated: 30th April, 1997

(Dictated in Open Court)


By Registrar

Copy to:-

1. The Secretary, Ministry of Defence, Union of India, New Delhi.
2. Chief of the Army Staff, Army Head Quarters, New Delhi Station,
3. The Commandant, ~~Sub Area~~ Head Quarters, Sec'bad.
4. Sub Area commander, Sub Area Head quarters, Sec'bad.
5. Assistant Controller of Defence Accounts, Controller of Defence Accounts, Area Accounts Office(CDA), staff road, Sec'bad.
6. One copy to Sri. S.Krishna Advocate, CAT, Hyd.
7. One copy to Bri. N.V.Raghava Reddy, Addl. CGSC, CAT, Hyd.
8. One copy to Deputy Registrar(A), CAT, Hyd.
9. One spare copy.

Rsm/-

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.R. NG. R. JAIN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED: 30/4/97

ORDER/JUDGEMENT

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

O.A. No.

721/95

ADMITTED INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS

YLKR

II COURT

