

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.89/95.

Dt. of Decision : 30-12-97.

1. R.M.L.Narayana
2. P.Rama Rao
3. R.Devaraju
4. N.Bhusanam
5. K.Venkateswara Rao
6. M.Trinadha Rao
7. P.Gangadhara Rao
8. S.Radhakrishna
9. P.Jayaratnaraju
10. L.Udayasankar
11. D.Venkateswara Rao
12. V.Sanyasiraju
13. J.Ykuntacharyulu

.. Applicants.

Vs

1. The Admiral Superintendent,
Naval Dock Yard,
Visakhapatnam.

2. Sri V.LakshminarayanaRs
3. Sri P.Sivaramaraju
4. Sri K.Ranga Rao
5. Sri M.Thomas

.. Respondents.

Counsel for the applicants : Mr.M.Panduranga Rao

Counsel for the respondents : Mr.N.V.Raghava Reddy, Addl.CGSC.

CORAM:-

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

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

ORDER

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

None for the applicant. Heard Mr.N.V.Raghava Reddy, learned counsel for the respondents. Notice has been served on the private respondents. They did not appear before us though the notice was served on them.

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2. The facts of the case are as follows:-

The applicants in this OA were all aspirants for the post of Welders (Skilled) under the respondent organisation. A requisition was placed on the District Employment Exchange, Visakhapatnam, during the year 1982 with a request to sponsor suitable candidates. The requisition was placed to fill up 35 posts of Gas Cutters trained in Welder trade in Industrial Training Institute. 42 candidates out of the sponsored candidates were selected for the post of Gas Cutter including the applicants and the unofficial respondents No.2 to 5. Though the original recruitment was projected for Gas Cutters, consequent on the receipt of sanction for additional Tradesmen on casual basis, the Selection/Recruitment Board recommended the top 11 Gas cutters to be appointed as Welders (Skilled) in the scale of pay of Rs.260-400/- ~~based on~~ ^{some} ~~the~~ remaining as Gas Cutters in the ~~same~~ skilled cadre of Rs. 210-290 as all the candidates sponsored by the employment exchange were in possession of ITI certificates in Welder Trade which is otherwise valid for recruitment to the post of Welder (Skilled). The first 11 candidates in the select list were appointed as Welders (Skilled) on casual basis in the pay scale of Rs.260-400/- w.e.f., 01-03-83. The remaining 22 candidates were appointed as Gas Cutters (Semi-Skilled) in the pay scale of Rs.210-290/- w.e.f., 01-03-83. As the private respondents No.2 to 5 figured in the select list among the first 11 candidates, they had been appointed as Welders in the pay scale of Rs.260-400/- on casual basis. The applicants' names between serial No.12 to 42 and hence they were offered the post of Gas Cutters (Semi Skilled) (Rs.210-290/-) for which they were sponsored by the employment exchange. It is stated that the applicants have accepted the said post. The proceedings in this connection are at Page-1 to the reply. The un-official respondents were regularised in the

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category of Welder w.e.f., 31-03-84 against the sanctioned billets. At that time, the applicants were continuing as Gas Cutters. They also represented to consider their cases for appointment to the post of Welder on par with their counterparts who were appointed as Welder (Skilled) as they were also in possession of the requisite qualification for the post of Welder (Skilled). As the additional manpower was sanctioned, the request of the applicants ~~was~~ considered and they were appointed as Welders (Skilled) w.e.f., first June, 1984 on regular basis. The seniority list as above showing the applicants below that of the private respondents were also circulated from time to time. A copy of the seniority list vide Note PIR/1106/SK/23 dated 11-3-93 is at Annexure-R-II to the reply.

3. A Departmental Promotion Committee was convened in January, 1994 to consider the suitable personnel for promotion to Tradesmen HSK-II in the scale of pay of Rs.1200-1800/-.. It was also decided to consider only those Welders who were appointed on or earlier to 31-3-84 ^{to} in the grade of Tradesmen (Skilled). The private respondents No.2 to 5 were covered in the seniority i.e., they ~~were~~ appointed as Welder and regularised on or earlier to 31-3-84 and they were empanelled for promotion to the grade of Welder HSK-II w.e.f., 15-02-94 in the pay scale of Rs.1200-1800/-. Since the applicants were made Welder after 31-3-84 i.e., 1-6-84 they were not considered as their appointment ^{was} after the cut off date of 31-3-84 and they ~~were~~ also juniors to the private respondents.

4. This OA is filed for a declaration that the action of the respondents in discriminating the applicants and the unofficial respondents in the matter of appointment and refusing to consider regularisation of the applicants' services in the cadre of Welders from the date of their initial appointment as has been done in the case of unofficial respondents, though all the applicants and the unofficial respondents ^{have} passed the

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trade test at the same time and were appointed to othe next higher cadre i.e., Welder (Skilled) and promoting only the unofficial respondents by the impugned proceedings No.PIR/1106/HSK-II dated 14th Feb.'94 by giving a cut of date as 31-3-84 and by considering in the DPC held in January, 1994, the Tradesmen (Skilled) with seniority of 31-3-84 and refusing to consider the case of the applicants as wholly illegal, arbitrary, discriminatory and for a consequential direction to the respondents to promote the petitioners also from the date the unofficial respondents are promoted.

5. This OA was filed on 2-12-94. The main prayer in this OA is that they also ^{should have} been posted as Welders (Skilled) along with the private respondents way back in 1984 as all of them were called for selection to the post of Gas Cutters only in the Semi ~~unofficial~~ respondents as Welder when they were called for selection to the post of Gas Cutters is irregular and hence the applicants also should be deemed to have been posted as Welder (Skilled) from that date and they should also be considered for further promotion as Highly Skilled Grade-II along with the private respondents.

6. When 1984 itself the private respondents were appointed as Welder, and the applicants were appointed as Gas Cutter, they should have protested then and their ^{ve} itself. It is not known why they ^{do} not protested that. They represented their cases and they are also promoted as Welder w.e.f., 1-6-84, by that time the unofficial respondents had already been regularised as Welder w.e.f., 31-3-84. Even otherwise, in the select list the applicants rank juniors to the private respondents even for the post of Gas Cutters. Hence even if they ^{had} requested for posting as Welder they ^{can} be posted only on the basis of the merit in the select list. Hence challenging the posting of the private respondents as Welder when the applicants ^{were} juniors ^{in the select list} to the post

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of Gas Cutters may not be appropriate. Hence on account of limitation as well as on account of the applicants having been placed juniors in the select list in the selection for Gas Cutters the ~~case~~ ^{Contention} of the applicants for treating them as Welder on par with the private respondents is not tenable.

7. The seniority of the applicants in the cadre of Welder is clearly decided by the date of entry as Welders. It is no doubt that the applicants were juniors in the cadre of Welder as they have joined as Welder later than the private respondents. That decides the inter-se seniority between the applicants and the private respondents in the cadre of Welders. The question of cut off date to the cadre of Welder for higher promotion treating 31-3-84 as cut off date i.e., those who joined as Welder on or before 31-3-84 can only be considered for the post of Highly Skilled Gr-II Welders. We do not find any irregularity in this connection. It all depends upon the number of posts ~~should~~ be filled and the availability of requisite number in the zone of consideration. The applicants have not produced any recruitment rule to show that the number to be considered in the zone of consideration for purpose of considering the candidates for the post of Highly Skilled Gr-II. When no such rule is available then we cannot question the legitimacy of the respondents in fixing the cut off date as 31-3-84. Hence the challenge to the cut off date cannot be up-held.

8. The applicants having joined as Welder have to wait for their turn for promotion as Welder Gr-II and they cannot question the promotion of private respondents when they ~~were~~ are promoted as Highly Skilled Welder Gr-II.

9. In view of what is stated above, we find no merits in this OA. Hence the OA is dismissed.

No costs.

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(R. RANGARAJAN)
MEMBER(ADMN.)

30-12-97
Dated : The 30th Dec. 1997.
(Dictated in the Open Court)

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Copy to:

1. The Admiral Superintendent, Naval Dock Yard, Visakhapatnam.
2. One copy to Mr. M. Pandurangarao, Advocate, CAT, Hyderabad.
3. One copy to Mr. D. R. A., CAT, Hyderabad.
4. One copy to D. R. A., CAT, Hyderabad.
5. One duplicate copy.

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II Court

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE

VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD, M(A)

And
The Hon'ble Mr. B.S. Parameshwar, M(J)

DATED: 30 - 12 - 1997

ORDER/JUDGMENT:

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

IN

O.A. No. 89/85

T.A. No.

(W.R.)

Admitted and Interim directions
Issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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