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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.893/95

Date of Order:19.9.96

BETWEEN:

J.Prasada Rao .. Applicant

AND

1. Director of Telecommunications,

Rep. by Director General,
Sanchar Bhavan, New Delhi.

2. Chief General Manager (Telecom),
AP Telecom Circle, Doorsanchar Bhavan,
Hyderabad.

.. Respondents.

Counsel for the Applicant .. MR.Y.Jagan Mohan
Counsel for the Respondents .. Mr. K.Bhaskara Rao
K.Bhaskara Rao

CORAM:

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

J U D G E M E N T

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

Heard Shri Y.Jagan Mohan, learned counsel for the applicant and Shri K.Bhaskara Rao, learned counsel for the respondents.

2. The facts of this case are briefly stated as follows:-

The applicant herein is an S.C.candidate. He was recruited as a Telecom Office Assistant at Guntur during 1978-79 and was appointed as Auto Technical Assistant w.e.f. 12.2.82 and thereafter he was transferred to

Hyderabad. While he was working so, R-2 called for applications for departmental competitive examination for recruitment of Junior Telecom Officers (J.T.O) against vacancies available in the year 1989. This notification also included the vacancies for Hyderabad Telecom District. The applicant was eligible for consideration for J.T.O. post against 15% quota of vacancies earmarked for secondary switching area officials and in that quota 5 vacancies were reserved for scheduled caste candidates in Hyderabad SSA. The minimum qualifying marks for SC/ST candidates are 33 in each paper in terms of DG P&T letter dated 4.5.81. The examination was conducted in February 1990 for the vacancies of the year 1989 and the result was published on 23.11.90. The name of the applicant did not find a place in that select list. He approached the authorities for empanelling him against the vacancies earmarked for SC candidates against 15% quota. It was further stated that to fill the vacancies earmarked for SC candidates a review has to be done from amongst those candidates who wrote the examinations but failed to make the grade even under the relaxed standards for empanellement. That review took place and he was empanelled by order dt. 20.7.93. Thereafter the applicant filed a representation dated 15.6.94 (page-16) for fixation of pay and inter-se seniority with those recruited against the vacancies relating to 1989. That representation was disposed of by the order No.Q-67/CXCD/JPR/17, dated 24.3.95. As per the order referred to above he was informed that his request for fixation of inter-se seniority among the recruits relating to the recruitment year 1989 based on the marks awarded at the training centre is being done and is incorporated in the next gradation list to be released.

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However, his request for stepping up of pay on par with his junior was not agreed to.

3. Aggrieved by the above reply he has filed this OA praying for a declaration that he is eligible for the vacancies for the year 1989 itself for the post of JTO in terms of the order of the P&T communicated vide the letter No.26-2/81-SPB.I, dated 4.5.81 and for a consequential direction to the respondents to forthwith fix his pay applicable to the promotees promoted against 1989 vacancies and payment of arrears thereon on that basis.

4. From the above prayer two issues are discernable. They are (1) seniority of the applicant should be interpolated in the select list of the candidates empanelled for vacancies in the year 1989 and (2) fix his pay on that basis on par with his junior and pay him the arrears accrued thereon.

5. The applicant has not challenged the order dated 24.3.95 so far it relates to the refusal of stepping up of pay. In any case the respondents themselves conceded that the inter-se seniority of the applicant will be interpolated among the recruits relating to the year 1989 based on the marks awarded at the training centre. Hence the first issue does not need any further consideration. The only issue that is left for adjudication is in regard to fixation of pay with respect to the ~~prayer~~ ^{pay} of his juniors who were promoted against the vacancies that arose in the year 1989 and included in the select list issued on 23.11.90.

6. The main contention of the applicant is that the review for interpolating the SC candidates in the select panel for vacancies that arose in 1989 should have been done within a very reasonable period and as that has not been done and as the process has been delayed till 20.7.93 he is entitled for fixation of pay on par with his junior



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in the select list dated 23.11.90. On that basis he also prays that he is entitled for arrears from that date. The learned counsel for the applicant further submits that he was representing his case for fixation of pay as above right from 1992 onwards but the department did not care to reply his representation but replied him only on 24.3.95. He further submits that the review should not be done belatedly and should have been done atleast within a year of the approval of the list which was issued on 23.11.90.

7. A reply has been filed in this connection. The main contention of the respondents in denying him the pay fixation as requested by him is due to the fact that the review had been taken place in due course and the results of review for inserting the S.C.candidates in the panel issued on 23.11.90 was done on 20.7.93. Thereafter the applicant was sent for training for 16 weeks w.e.f. 6.12.93. The Phase-1 training was completed during April 1994 and hence his pay in J.T.O. cadre was fixed from April 1994 only after he successfully completed the training. It is further stated for the respondents that there is no time limit fixed for conducting the review. The review has to be conducted by a higher committee considering the relevant C.Rs and also allowing grade marks. As there is no specific time frame fixed by DOT to finalise the review selection of JTOs to fillup the backlog, the department is not bound to fix the pay from earlier date and the pay has to be fixed only after the review selectees successfully complete the Phase-1 training. They further submit that expeditious action was taken by calling for C.Rs of the candidates along with the tabulation of the marks of the failed candidates etc. and the DOT finally cleared the results under the letter No.12-4/91-DE, dated 3.6.93. In that list cleared by the DOT the name of the applicant



figured and hence he was given seniority in 1989 batch and his pay was fixed in accordance with the rules. As the fixation of pay in JTOs cadre can only be done after the completion of the training the applicant herein cannot get fixation of pay from an earlier date earlier to the passing of the Phase-1 training.

8. After 1990 there would have been selection for purpose of recruitment to the post of JTO. The applicant could have easily appeared for the subsequent selection ~~the~~ of the examination in the subsequent year and if he had passed in that examination he could have requested the authority concerned to interpolate his name in the empanelled list for vacancies for 1989 without insisting on the review as he has qualified in subsequent years. But the applicant did not resort to that course of action. For some reasons known to him he waited till the review took place and on the basis of the review he was empanelled. That itself shows that he was not very confident of writing further examinations in the later years. Having failed to write the subsequent examinations it will not be very correct on the part of the respondents to give him the monetary benefit from an earlier date. If he has passed the examination in the subsequent attempt that could have enabled him to get the fixation from an earlier date as he has proved his mettle.

9. The learned counsel for the applicant further submits that he was representing this case right from 1992. It is not understood why he should wait from 1992 onwards if no decision has been taken in regard to the review by the respondent. If he is of the view that the review should take place within a year from the date of issue of the select list that is within one year from 23.11.90 and if the review had not taken place as per schedule indicated

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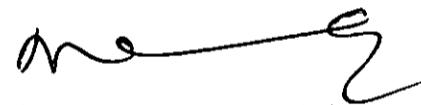
by him and his representations were also not replied in time he should have approached the proper judicial forum for expediting the review process and issue of select list as per review. But he did not approach any forum for redressal of his grievance till he filed this present OA after the review results are out. As stated earlier even in the present OA the rejection of his prayer for stepping up of pay is not challenged. The long delay on the part of the applicant to approach this forum definitely shows that he was not sure of results in regard to the empanellment in the review and has approached this forum only after the review has been finalised including his name in the select list. Such a delay cannot be accepted. However, the respondent authorities gave him the seniority on the basis of the marks obtained in the examination and interpolated his name in the select list issued on 20.7.93 at the appropriate place. That would mean that the request of the applicant had been met with partially though not fully. Because of delay and laches and also because of the fact that he has not appeared for the subsequent selection examination for promotion to JTO he cannot have any genuine reason for fixation of pay from earlier date as requested by him.

10. The learned counsel for the applicant submits that the review is to be done within one year after the issue of the select list. But no rule to that effect has been produced. The applicant submits that the D.P.C. has to be conducted once in a year as per the extant instructions of the DOT and that rule will equally apply to the review DPC also. But there is no mention in RA whether this rule is also applicable for review to be made for interpolating the SC/ST candidates who have not qualified in the initial examinations. The learned counsel for the respondents submit that there is no time frame fixed for review

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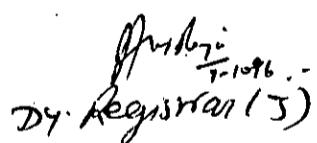
selections to be made, in case the SC/ST candidates did not qualify in the main examination even under the relaxed standard. In view of the above I do not see much force in the contention of the applicant that the review should be done within a year. In any case even though the review is delayed his prayer has been partially accepted. This partial acceptance of his prayer for seniority will definitely enable him to consider his case for higher grade selection on the basis of that seniority. I am of the opinion that itself is a good relief granted to the applicant. As non grant of monetary benefits as prayed for by him though will deprive him of some monetary gains it cannot be said that it deprived him for future promotions. In that view also I am of the opinion that the prayer of the applicant for fixation of pay cannot be acceded to.

II. In the result, I find no merit in this OA. Hence the OA is dismissed as lacking in merit. No costs.


(R. RANGARAJAN)

Member (Admn)

Dated: 19th September, 1996
(Dictated in open court)


D.Y. Registrar (J)

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DA-893/18

Typed By
Compared by

Checked By
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED:

19/9/96

ORDER/JUDGEMENT
R.A/C.P./M.A.NO.

D.A.NO.

893/95

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

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II COURT

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केन्द्रीय प्रशासनिक अधिकार सभा
Central Administrative Tribunal
Delhi/DESPATCH

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HYDERABAD BENCH