

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.No.923 OF 1995.

Date of Order: 31-3-1998 .

Between:

Md.Shafi.

.. Applicant

and

1. General Manager, Security Printing
Press, Hyderabad.

2. General Manager, India Govt.Mint,
Hyderabad.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.K.Vinay Kumar

COUNSEL FOR THE RESPONDENTS:: Mr.N.R.Devaraj

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

AND

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

(PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (J))

Heard Sri K.Vinay Kumar, learned Counsel for the
Applicant and Sri N.R.Devaraj, learned Standing Counsel
for the Respondents.

2. This is an application under section.19 of the
Administrative Tribunals Act,1985. The application was
filed on 13-12-1994.

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

a) The applicant (Token No.307) was appointed as a
Technical Labourer with effect from 27-4-1961 in the

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India Government Mint, Hyderabad. He was promoted to the post of Assistant Class-II in the scale of pay of Rs.320-400. He was deputed to work at the Security Printing Press on 19-4-1982. It is submitted that while he was working as such on deputation, he was promoted as Assistant Class-I. He submits that the post of Assistant Class-I is equivalent to the post of Sr. Checker in the scale of pay of Rs.330-480/- in the Security Printing Press.

b) It is stated that as per the decision of the Hon'ble High Court of A.P. dated:25-11-1987 in the Writ Appeals Nos.451 and 458 of 1984, the applicants and others (appellants therein) were given promotion from a retrospective date i.e., from 8-10-1983. The applicant claims for promotion even earlier i.e., from the date of entering into the service under the Respondent no.1 Organisation i.e., from 19-4-1982 or at least he should be given seniority in the cadre of Head Checker from 31-1-1983- the date on which his immediate junior was promoted. The next promotional avenue for the applicant is the post of Head Checker.

c) The applicant approached this Tribunal in OA.No.816 of 1991 seeking certain reliefs regarding his seniority in the cadre of the Head Checkers. That O.A. was dismissed on 5-9-1994 (a copy of the Order passed in the OA is at Annexure.3). The applicant submits that he is assailing the issue that was left open by this Tribunal for decision by the Departmental authorities in the said O.A.

4. The applicant claims to be entitled to promotion to the post of (a) Deputy Inspector (Control), (b) Inspector of Control; and (c) Deputy Controlling Officer. Hence he has filed this OA for the following reliefs:-

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"To issue order or direction declaring the action of the respondents for not giving the correct placement with regard to his seniority in the cadre of Head Checker and for not considering his claim, vide representation dated: 23-1-1995 for further promotion as illegal, arbitrary, discriminatory and hence violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents to issue notional seniority to the applicant in the cadre of Head Checker and also award all consequential benefits."

5. The Daily Order No.2, dated: 12-4-1988 is the order of the Security Printing Press giving adhoc promotions to 13 of its employees. The name of the applicant finds at Serial No.1. His promotion was given with retrospective effect from 8-10-1983. He was promoted from the post of Senior Checker to the post of Head Checker. The Security Printing Press in its Letter dated: 15-6-1991 (copy of which is at page.20 Annexure.VII) has stated that there was no post in the India Govt. Mint, Hyderabad, by designation "Senior Checker" and as such there was no question of promoting or appointing the applicant to the said post in the India Govt. Mint, Hyderabad. Further it is stated that the applicant was fully aware that a notice was issued by the Department inviting applications from the eligible departmental candidates who applied on par with the candidates sponsored by the Employment Exchange for the post of Head Checker against Direct Recruitment Quota and the applicant did not avail the said opportunity. Hence he cannot claim seniority over the departmental candidates viz., P.P.Bhanu Sharma and T.S.R.Murthy who were posted as Head Checker against Direct Recruitment Quota. They further clarified that as per the Judgment of the Hon'ble High

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Court of A.P. the applicant was promoted to the post of Head Checker with effect from 8-10-1983 against the promotional quota whereas P.P.Bhanu Sharma and T.S.R.Murthy and others were promoted to the post of Head Checker during January, 1983 against Direct Recruitment Quota.

6. Thus they informed the applicant that he was Junior to these two persons.

7. The respondents have filed counter stating that the O.A. is barred by Principles of resjudicata in view of the decision of this Tribunal in O.A.No.816 of 1991 decided on 5-9-1994. That during the pendency of the O.A., the applicant was promoted, vide Daily Order No.32, dated:14-3-1992 as Deputy Inspector in the scale of pay of Rs.1400-2300 on adhoc basis for 45 days but the applicant declined the offer. Again by Daily Order No.9, dated: 9-5-1992, the applicant was promoted as Dy.Inspector on adhoc basis with effect from 6-5-1992 but the applicant declined the offer.

8. That the Hon'ble High Court of A.P. in Writ Appeals Nos.451 and 458 of 1994 gave directions to the department to the effect that the seniority of the applicants and the similarly placed persons, if any, in their respective category should be considered from the date of their transfer to the Security Printing Press, for the purpose of promotion to the next higher category. If that was so, the applicant entered the Security Printing Press only on 19-4-1982. It is further stated that the Hon'ble High Court of A.P. directed that those applicants who were promoted but failed to accept such promotion should also be promoted with retrospective date date from the date they were promoted and such promotion would get consequential benefits following such promotions.

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9. As per the direction of the Hon'ble High Court of A.P. the Security Printing Press gave promotion to the applicant on two occasions. But he declined the offer. It is stated that on and from 19-4-1982, the applicant was holding a post of Asst.Class-II in the scale of pay of Rs.320-400/- which was nothing to do with the subsequent post held by him i.e., Senior Printing Press, Checker's post (Rs.330-480/-) in the Security / on transfer on selection basis. Thus they contend that the applicant was promoted to the post of Asst.Class-I post is wrong and that his transfer to the new department cannot be termed as promotion, as promotion could be given only in the parent department and not in another department in the first instance. Further, they submit that there is no subsisting legal right in that behalf with the applicant. They relied upon the decisions in the case of GURDEV SINGH Vs U.T.CHANDIGARH (1986) 2 SLJ 69 (CAT); GANESH PAL BHATT Vs UNION OF INDIA (1987) 2 ATC 177; M.PRAKASAM Vs S.RLY. (1988) 6 ATC 251, and submitted that the O.A. is liable to be dismissed.

10. Earlier the applicant had filed the O.A.No.816 of 1991 for certain reliefs. In that OA the applicant claimed seniority over the private respondents therein. This Tribunal in its decision dated:5-9-1994 considered the cases of the private respondents therein in para.7 and rightly held that the applicant could not claim seniority over the private respondents therein. However, this Tribunal gave a direction as follows:-

"Hence there is no need to consider for disposal of this OA as to whether the applicant was deputed to Printing Press after he was promoted as Assistant Clerk-I which is said to be equivalent to Senior Checker as contended for the applicant or whether he

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was selected to the said post as pleaded for R-1 to R-3 or whether the applicant is not promoted at all to the post of Assistant Clerk Category -I before he was deputed to the Printing Press as urged for R-10 to R-17 and we will leave it open for consideration if and when arises."

11. The case of the applicant is that the Security Printing Press has not considered the above direction and hence he was constrained to file this O.A.

12. We failed to understand, how the O.A. is maintainable. If the Security Printing Press failed to consider the above extracted directions of the Tribunal then he should have filed an application for implementation of that direction. A fresh O.A. in our opinion is clearly not maintainable.

13. Moreover, in the said OA this Tribunal gave a definite finding that the applicant was not senior to the private respondents therein. Further the applicant was posted to the Security Printing Press on deputation basis. It is not made clear whether at the time of his deputation he was holding the post of Assistant Clerk-I or acquired the said post during the course of deputation.

14. The respondents have specifically stated that the deputation department cannot give promotion and that only the parent department can give the promotion.

15. It is in this background this Tribunal made observations as above. Even now it is not too late for the Security Printing Press to consider the said aspect of the matter.

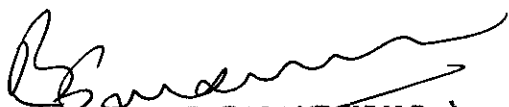
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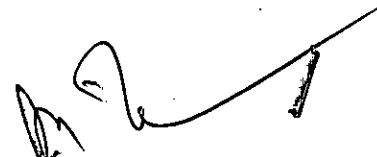
16. However, by their letter dated:15-6-1991 (Page.20) they have categorically stated the circumstances under which the private respondents F.Bhanu Sharma and T.S.R.Murthy were seniors to the applicant. They have further submitted that those two Officers were promoted to the post of Head Checker against the Direct Recruitment Quota, whereas the applicant was promoted to the said post against the promotional quota. They have further stated that the applicant failed to avail the opportunity to appear for the examination along with the Employment Exchange sponsored candidates to the post of Head Checker. That is why the applicant cannot claim seniority over the Director Recruitment Quota.

17. In this view of the matter, we feel that the applicant is not entitled to claim any of the reliefs made in this O.A. However, we leave it to the respondent-authorities to consider the observations made by this Tribunal in O.A.No.816 of 1991 and to give a suitable reply to the applicant.

18. For the above said reasons, we find no grounds to entertain this O.A. Accordingly, the O.A. is dismissed. No order as to costs.


(H.S.JAI PARAMESHWAR)
MEMBER(J) 31.3.98


(R.RANGARAJAN)
MEMBER(A)


DR

Dated: ^ The 31st March, 1998.

DA.923/95

Copy to:-

1. The General Manager, Security Printing Press, Hyderabad.
2. The General Manager, India Govt. Mint, Hyderabad.
3. One copy to Mr. K.Vinay Kumar, Advocate, CAT., Hyd.
4. One copy to Mr. N.R.Devaraj, Sr.CGSC., CAT., Hyd.
5. One copy to BSJP (J), CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate.

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II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 31/3/98

ORDER/JUDGMENT

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

in

O.A.NO. 923/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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