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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A. No. 96 OF 1995.

DATE OF ORDER: 29.4.99.

BETWEEN:

V.Venkateshwara Rao.

.....Applicant

a n d

1. The Registrar,
Central Administrative Tribunal,
Hyderabad Bench, Hyderabad.
2. The Registrar(Admn),
High Court of Andhra Pradesh,
Hyderabad.
3. A.Satyanarayana, L.D.C.,
Central Administrative Tribunal,
Hyderabad Bench, Hyderabad.

.....Respondents

COUNSEL FOR THE APPLICANT :: Mr.K.Sudhakara Reddy

COUNSEL FOR THE RESPONDENTS:: Mr.B.Narasimha Sharma for
R-1 & R-2.

: Mr.V.Venkateshwara Rao for
R-3.

CORAM:

THE HON'BLE SRI H.RAJENDRA PRASAD, MEMBER (ADMN)

A N D

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

: O R D E R :

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

Heard Mr.K.Sudhakara Reddy, learned Counsel for the
Applicant, Mr.B.Narasimha Sharma, learned Standing Coun-
sel for the Respondents 1 and 2, and Mr.V.Venkateshwara Rao
learned Counsel for the Respondent No.3.

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2. The applicant is now working as Senior Library Attendant in the Hyderabad Bench of this Tribunal. At the time of filing this OA, he was working as Junior Library Attendant. The Respondent No.3 is now working as LDC on adhoc basis in the same office.

3. The applicant was initially appointed as a Group-'D' employee in the office of the High Court of Andhra Pradesh. He came to this office on deputation basis in the year 1986. The Respondent No.3 was also initially appointed in the High Court of Andhra Pradesh and was deputed to this Bench during January, 1986. He had worked as a Group-'D' employee of this Bench at Principal Bench, New Delhi.

4. The applicant has furnished his service particulars and the service particulars of the Respondent No.3 in page.4 of the OA to submit that he is senior to the Respondent No.4 in all respects.

5. The applicant submits that he is fully eligible for consideration for promotion to the post of LDC against 5% LDCE under the CAT (Group-'B' & 'C' Misc. Posts) Recruitment Rules, 1989.

6. The applicant submits that this office issued a revised final seniority list of Peons by Office Order (Circular) No.A-23012/53/89/Establishment/Group-'D', dated: 6-1-1995. In the said seniority list, the name of the applicant was not included.

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7. He submits to have approached the office to include his name at an appropriate place in the Seniority List dated: 6-1-1995. His grievance is that his request has not been considered. He further submits that the authorities informed him that he is not eligible for promotion for the post of LDC as he has been working as a Junior Library Attendant for which a separate channel of promotion is there to the post of Senior Library Attendant. He submits that at ^{no} any time he had opted to work as a Junior Library Attendant. He submits that merely working in the Library as an Attender does not take away his right for consideration of his case for promotion to the post of LDC.

8. He has filed this OA for the following reliefs:-

- i) To quash the final seniority list issued by the 1st Respondent herein in Circular No.A-23012/53/89/Estt/Gr.'D', dated: 6-1-1995, and letter No.A-32014/11/94/Estt, dated: 20-1-1995 as illegal, arbitrary, viod ab-initio and unconstitutional; and
- ii) to direct the Respondent No.1 to prepare a fresh seniority list of Group 'D' employees as per Rules by showing the applicant's name and consider applicant's case for promotion to the post of L.D.C. in the interest of justice.

9. The respondents 1 and 2 have filed their reply stating that the applicant came on deputation basis to work in this office as Attender in the scale of pay of Rs. 775-1025/- with effect from 19-8-1986. He was promoted as Junior Library Attendant in the scale of pay of

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Rs.800-1150/- on adhoc basis with effect from 26-2-1987.

His services in the post of Junior Library Attendant were regularised with effect from 23-10-1989.

10. A draft seniority list of Peons working in the ~~Office~~ and circulated on 12-7-1991 to the Staff members. The said seniority ~~list~~ was ~~dated~~ on 3-6-1992 and ~~and~~ duly circulated. In the said seniority list, the name of the applicant was not included as by then the applicant was working as a Junior Library Attendant on regular basis. The post of Junior Library Attendant is an isolated post under Group- 'D' cadre carrying the scale of pay of Rs.775-1150/-, whereas the post of Peon carries the scale of pay of Rs.750-940/-.

11. The seniority list dated:3-6-1992 came to be revised in compliance with the directions of this Tribunal in OA.No.558 of 1992 (G.VENKATA REDDY Vs C.A.T.), and finalised on 6-1-1995. The name of the applicant was not included in the said impugned seniority list as he was working as Junior Library Attendant.

12. They submit that the following posts are ~~classified~~ as Group- 'D' (Non-ministerial):-

- i) Junior Library Attendant;
- ii) Daftry;
- iii) Peon;
- iv) Safaiwala/Chowkidar;

The classification of Senior Library Attendant is Group 'C' (Technical).



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13. On seeking clarification, the Principal Bench issued clarification to the effect that the post of LDC could be filled by seniority from amongst Group- 'D' and the senior most be promoted. In accordance with this clarification received from the Principal Bench, the Respondent No.3 was promoted as LDC on adhoc basis with effect from 20-1-1995.

14. They further submit that the applicant had earlier approached this Tribunal in OA.No.811 of 1993, seeking a direction to promote him as Senior Library Attendant. On 20-3-1995, the Tribunal gave directions that the post of Senior Library Attendant should not be filled up without considering the case of the applicant in accordance with the rules (Annexure.R-1 to the reply).

15. The post of Senior Library Attendant was abolished. However, the same was revived with effect from 1-3-1996. The applicant was promoted as Senior Library Attendant with effect from 25-7-1996.

16. It is further submitted that the applicant was permitted to appear for LDCE against 5% quota examination held on 27-2-1997. But, however, he failed to qualify for the post. They further furnished the service particulars of the applicant and the respondent no.3.



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17. The respondent no.3 has also filed the reply stating that he was in the seniority list of Peons, that he was the senior most in the said seniority list and that he was promoted to the post of LDC on adhoc basis with effect from 25-7-1996. He submits that the applicant was working in a different category as Junior Library Attendant and that in view of the clarification issued by the Principal Bench, Junior Library Attendant cannot be considered for promotion for the post of LDC. The Junior Library Attendant has got a different channel of promotion to the post of Senior

18. After hearing the learned Counsels and after going through the averments made in the OA, reply and also considering the Annexures to the records, we find that the main grievance of the applicant is that, his name is not included in the seniority list of Peons published and finalised on 6-1-1995. However, the respondents further submit that the said seniority list was again revised as per the direction of the Hon'ble Supreme Court in SLP(C) No.1441-42/95 (Civil Appeal Nos.2277-78/96), decided on 15-1-1996.

19. The respondents submit that the applicant was not in the category of Peons to include his name in the said impugned seniority list. It is now to be seen whether the applicant was working in the category of Peons for getting his name included in the impugned seniority list dated: 6-1-1995 or whether he was working as a Junior Library Attendant in altogether different category.

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20. Earlier respondents 1 and 2 had issued the seniority list of Peons dated:3-6-1992. The said seniority list also did not include the name of the applicant. It is not his case that the said seniority list dated:3-6-1992 was not circulated. However, the said seniority list dated: 3-6-1992 was issued to respondents 1 and 2 in compliance with the directions given by the Tribunal in OA.No.558 of 1992 filed by one Sri Venkata Reddy. The learned Counsel for the Applicant submits that irrespective of the fact whether he had challenged the seniority list dated:3-6-1992 or not when the respondents 1 and 2 revised the said seniority list then they were bound to include the name of the applicant in the said seniority list dated:6-1-1995. Elaborating this contention the learned Counsel for the Applicant submitted that the applicant is illiterate for all purposes, that he was not aware of the implications that on absorption in the CAT, he was asked to work in the Library and he was not aware of the implications of working in the Library. He submits, he is fully ignorant of the rules, that there is a separate channel of promotion from Junior Library Attendant to the Senior Library Attendant. Thus he submits that he must be considered for all practical purposes as a Group-'D' employee and his name must be included in the impugned seniority list dated:6-1-1995.

21. Though the argument of the learned Counsel appears to be reasonable on close scrutiny, it has no force for

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the following reasons:-

(a) The applicant had not challenged the seniority list of Peons issued by the respondents 1 and 2 on 3-6-1992;

(b) The applicant himself had filed an application in OA.No.811 of 1993, seeking direction to the respondents 1 and 2 to consider his case for promotion to the post of Senior Library Attendant. Further the respondents submit that the applicant was promoted as a Junior Library Attendant in the scale of pay of Rs.800-1150/- on adhoc basis with effect from 26-2-1987 and his services were regularised as such, with effect from 23-10-1989. Between 23-10-1989 and 3-6-1992, the applicant had not raised his little finger to contend that he is still a Group-'D' employee. The scale of pay of the Group-'D' employee is Rs.775-1025/-. It cannot be said that the applicant, though drawing more, could claim himself to be a Group-'D' employee in the scale of pay of Rs.775-1025/-. Further from his own conduct in approaching the Tribunal in OA.No.811 of 1993, seeking direction for consideration of his case for promotion to the post of Senior Library Attendant clearly amplifies that he was fully aware that he was working in the cadre of Junior Library Attendant in altogether a different cadre which had a separate avenue of promotion to the post of Library Attendant.

22. Further when the respondents 1 and 2 conducted LDCE examination against 5% quota, the applicant applied



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for the said post with the permission of the Principal Bench. Examination was held on 27-2-1997. He failed to qualify himself for the post. These are the circumstances which compel us to infer that the applicant was fully aware that he was not working as a Group-'D'

..... of day of Rs.775-1025/- for inclusion of his name in the impugned seniority list dated.....

23. The case of the applicant is that he was not aware of the implications of his working in the Library. He went on to submit that he was asked to just attend to the Library work. His contention in the circumstances of his promotion on adhoc basis as Library Attendant with effect from 26-2-1987 and his promotion on regular basis as Junior Library Attendant with effect from 23-10-1989 belie the said circumstances. His contention cannot be accepted.

24. Hence, we find no merits in this OA. There are no grounds - justifiable or otherwise to interfere with the impugned seniority list dated:6-1-1995.

25. Having regard to the educational qualifications of the Group 'D' Officials, we earnestly feel when the offic is posting/promoting a Group-'D' Official to an isolated post like the Junior Library Attendant, and the like, the Deputy Registrar(Administration) shall explain to

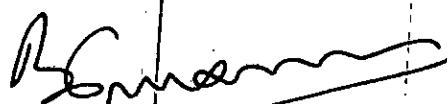


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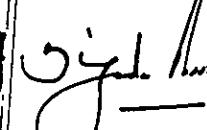
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the official the existing rule position and his future promotional prospectus and take an undertaking from the said Official that he is accepting the said isolated post on his own volition after fully understanding the rule position. By this, we hope, litigation of this type could be avoided.

26. With the above observations, the OA is dismissed. No order as to costs.


(B.S.JAI PARAMESHWAR)

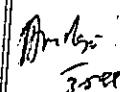
MEMBER (JUDL)


(H.RAJENDRA PRASAD)

MEMBER (ADMN)

DATED: this the 29th day of April, 1999

DSN


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