

43

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH: AT  
HYDERABAD

C.A. No. 964 OF 1995.

Date of Order: 25-2-1998.

Between:

1. D.Suryanarayana

2. R.S.Ravinder

3. K.Dwarakanath

.. Applicants

and

1. The Chairman, Ordnance Factory  
Board, Calcutta.

2. The General Manager, Ordnance Factory  
Project, Yeddu-mailaram, Medak District.

3. Smt. A. Arundathi, Chargeman-Gr.II,  
(NT/OTS), Ordnance Factory Project,  
Yeddu-mailaram, Medak District.

4. Smt. B. Chandrakala, Chargeman Gr.II  
(NT/OTS), Ordnance Factory Project,  
Yeddu-mailaram, Medak District.

5. Shri D. Muralidhar, Chargeman Gr.II,  
(NT/OTS), Ordnance Factory Project,  
Yeddu-mailaram, Medak District.

6. Shri A. Pataabhi Ramaiah, Chargeman  
Gr.II (NT/OTS), Ordnance Factory  
Project, Yeddu-mailaram, Medak District.

7. Sri Ch. Veeraiah, Chargeman Gr.II  
(NT/OTS), Ordnance Factory Project,  
Yeddu-mailaram, Medak District.

.. Respondents

(Fathers/Husbands names & ages of R-3 to R-7  
are not known to the applicants)

COUNSEL FOR APPLICANTS :: Mr. V. Venkateshwara Rao

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

CORAM:

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

AND

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

: O R D E R :

( AS PER HON'BLE SRI R. RANGARAJAN, MEMBER(A) )

Heard Mr. V. Venkateshwara Rao for the Applicant and  
Mr. N. R. Devaraj for the Respondents.

....2

2. There are three applicants in this O.A. They joined as Lower Division Clerks in the scale of pay of Rs.950-1500/- with effect from 21-7-1983, 22-7-1983 and 25-7-1983 respectively. The private respondents 3 to 7 also joined as LDCs. It is not disputed that the private respondents 3 to 7 are Juniors in the seniority list of LDCs to that of the applicants herein. The applicants gave their willingness to be promoted as Security Assistants 'B' in the scale of pay of Rs.1200-1800 with effect from 9-9-1987 whereas the private respondents 3 to 7 did not opt for promotion to the posts of Security Assistants and hence the three applicants in this OA were promoted as Security Assistants 'B' in the scale of pay of Rs.1200-1800 with effect from 9-9-1987.

3. The next promotion for the LDCs who are not opted for the post of Security Assistants was to the post of UDC in the scale of pay of Rs.1200-2040 after a minimum of 5 years of regular service. It is stated that the private respondents were promoted as UDCs in 1988-89 after they completed the eligibility period of 5 years of service as LDCs. The next promotion for the UDC is to the post of Chargeman Grade-II(NT-OTS) in the scale of pay of Rs.1400-2300 after a minimum of three years of regular service in the post of UDC or to the post of O.S. Grade-II in the same scale of pay of Rs.1400-2300 after a minimum 5 years of regular service as UDC. The next promotion for the Security Assistants 'B' is to the post of Supervisors(NT-OTS) in the scale of pay of Rs.1200-2040 after a minimum of three years of regular service as Security Assistants 'B'. Supervisors(NT-OTS) in the scale of pay of Rs.1200-2040 can aspire to become Chargeman Gr.II in the scale of pay of Rs.1400-2300 after a minimum of three years of regular service as Chargeman Grade-II. The three applicants in this OA were promoted as Supervisors(NT-OTS) in the scale of pay of Rs.1200-2040 with effect from 1-1-1991. The next promotion for the UDCs and Supervisors is to the post of Chargeman Gr.II.

*Ja*



...3

Both applicants and the respondents 3 to 7 were to be promoted to the post of Chargeman Grade-II in the scale of pay of Rs.1400-2300 after completion of three years of service as UDC or three years of service as Supervisors(NT-OTS). The applicants have completed three years as Supervisors(NT-OTS) in the year 1994, whereas the respondents 3 to 7 completed three years of regular service as UDCs some time in the year 1992. An integrated seniority list was prepared for promotion to the grade of Chargeman Grade-II.

Category for the post of Chargeman Grade-II is UDC and Supervisor(NT-OTS) provided they complete three years of regular service in the Feeder Cadre from which they are to be promoted. The next question that arises is how to draw the integrated combined seniority list for promotion to the post of Chargeman Grade-II in accordance with the Law.

5. The applicants in this OA submit that they are seniors to the respondents 3 to 7 as LDCs and hence they should be shown as seniors in the integrated combined seniority list for promotion to the post of Chargeman Grade-II.

6. The applicants submitted a representation for showing them above that of the private respondents 3 to 7, vide their representation dt 26-9-1994. That representation was disposed of by the Impugned Proceedings No.02/00088/Estt/OPFM, dt:29-9-94 (Annexure A.6 to the OA). The Impugned Proceedings read as follows:

"2. OF Board have intimated that since promotions of Lower Division Clerk to Security Asstt. were made after the individuals concerned had given their option for promotion to Security Asst. their seniority subsequent promotion to Supr/NT/OTS will be reckoned only from the date of holding the grade of Supr/NT/OTS."

7. This O.A. is filed for setting aside the Impugned Proceedings No.02/00038/Estt/OPFM, dt 29-9-1994 and the Proceedings No.F.O.Pt.No.1369, dt 30-6-1995 whereby the private respondents 3 to 7 were promoted as Chargeman Grade-II issued by R.2 by holding the above proceedings as illegal, arbitrary and unconstitutional, and for a consequential direction to the respondents to reckon their seniority in the category of Supervisors(NT-OTS) with effect from 9-9-1987, the date on which they were promoted as Security Assistants 'B' and for a further consequential direction that they are entitled for promotion to the post of Chargeman Grade-II with effect from 30-6-1995, the date on which the private respondents 3 to 7 were promoted as Chargeman Grade-II with all consequential benefits, such as, seniority, promotion, arrears of salary and allowances etc...

8. The only point for consideration is in regard to the drawing of integrated combined seniority list between UDCs and Supervisors(NT-OTS) for promotion to Grade of Chargeman Gr.II.

9. The applicants on their own volition gave their willingness to come to the Cadre of Security Assistants 'B' in the scale of pay of Rs.1200-1800. It clearly means that they have withdrawn their option to become UDCs. Once they have <sup>d</sup> become Security Assistants 'B' then their lean in the cadre of LDC ceased to exist. Hence those who are promoted as UDCs from the cadre of LDCs have to compare their seniority only with that of the UDCs in that cadre, and therefore, the seniority in the cadre of UDCs is decided on the basis of their entry in the cadre of UDC. The entry date to the cadre of LDC has got no meaning after they become regular UDCs. The seniority of the UDCs cannot also be compared with that of Security Assistants 'B' and the seniority of the Security Assistants is decided on the basis of the entry into the cadre of Security Assistants. The Security Assistants are further promoted to the post of Supervisors(NT-OTS). The

R

A

seniority of Supervisors is decided on the basis of the regular date of entry as Supervisors(NT-OTS). When the UDCs and the Supervisors(NT-OTS) who are in the Feeder Category for promotion to the post of Chargeman Gr.II, the integrated seniority list for considering their promotion to the post of Chargeman Grade-II has to be prepared on the basis of the entry of the respective candidates in their Feeder Category. The seniority of the Applicants who are Supervisors has to be decided on the basis of their regular entry into service as Supervisors(NT-OTS) whereas for the UDCs it has to be decided on the basis of their regular entry into the cadre of UDC in the scale of pay of Rs.1200-2040. The above Principle is a well settled Principle and it cannot be questioned in any Forum. If there is a mistake in reckoning the date of entry in the cadre of Supervisors or UDCs, such a mistake can be questioned. It is a fact that the applicants had entered as Supervisors(NT-OTS) some time in the year 1993 whereas the respondents 3 to 7 entered as UDCs during the year 1988-89. Their seniority is decided clearly on the basis of the entry in their respective Feeder Category. The applicants having entered their Feeder Category of Supervisors for promotion to the post of Chargeman Grade-II, later then the entry of private respondents 3 to 7 to the cadre of UDCs which is also another feeder category for the post of Chargeman Grade-II, the question of showing the applicants' seniority on the basis of the date of entry of the applicants as Security Assistants while preparing the integrated seniority list for promotion to Chargeman Grade-II does not arise.

10. The applicants further submit that the position of Security Assistants and UDCs were combined by their notification dt 4-5-1989, whereby the Security Assistants were also brought in the scale of pay of Rs.1200-2040. In that view the three year period for promotion to the post of Chargeman Grade-II should be counted from the date the applicants were promoted as Security

*R* 

Assistants at the time of consideration for promotion to Charge-man Grade-II as they were in the scale of pay of Rs.1200-2040. He also relies on the recruitment rules for promotion. It is stated that the Supervisors(NT-OTS or equivalent) and Telephone Operators Grade-II with three years of regular service in their Grade are eligible for promotion to the post of Chargeman Grade-II. If the service of the applicants are counted from the date they entered as Security Assistants in the year 1987, then they would have completed three years of service of combined cadre after the issue of notification in the year 1989. They would have shown them seniority to the private respondents R3 to R7 while drawing the integrated list for promotion to the post of Chargeman Grade-II. Their entry as Security Assistants should be taken for the purpose of counting three years period. The Security Assistants were brought in the scale of pay of Rs.1200-2040/-, in the cadre of Supervisors after 1989.

11. Till the issue of the notification dt 4-5-1989, the applicants were in the scale of pay of Rs.1200-1800 as Security Assistants 'B', whereas the respondents 3 to 7 were promoted to the post of UDC in the scale of pay of Rs.1200-2040. Hence to count the period when the applicants were promoted as Security Assistants in the scale of pay of Rs.1200/- to 1800/- treating it as equal to Rs.1200-2040 after the merger of the pay scale by notification in the year 1989 will only lead to mean inclusion of two different cadres as one. This in our opinion is not borne out by any rule. The learned Counsel for the Applicants has not produced any rule or any other departmental Circular to take that view. Hence, we are of the opinion that this contention has to be rejected.

12. In view of what is stated above, the applicants have not made out a case for showing them seniority to the UDCs for promotion to the post of Chargeman Grade-II. Hence the impugned

35

1

proceedings cannot be set aside as prayed for by them in this O.A.

13. In view of the above, it is opined that the OA is <sup>only</sup> liable ~~to~~ be dismissed, and accordingly it is dismissed.

No costs.

MEMBER (J)

MEMBER (A)

Dated: 25th day of February, 1998

-----  
Dictated in the Open Court

\*\*\*

DSN

6/10  
17/3/98

(6)

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

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

DATED: 25/2/98

ORDER/JUDGMENT

M.L.R.A.C.A.N.D.

in

C.A.N.D.

964/95

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPENSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

Central Administrative Tribunal  
Hyderabad Bench