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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.1065/95.

----- Date ----- 10/02

Between:

P.D.Sharma. Applicant.

and

1. Union of India represented by its Secretary,
Department of Science and Technology, Technology
Bhavan, New Mehrauli Road, New Delhi 110 016.

2. Surveyor General of India, Survey of India,
P.B.No.37, Hathibarkara Estate, Dehradun,
Utter Pradesh, 248 001.

3. Director, R & D Directorate,
Hyderabad 500 039.

... ... Respondents.

Counsel for the applicant: Sri P.B.Vijayakumar.

Counsel for the respondents: Sri N.V.Raghava Reddy.

CDRAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S. Jai Parameshwar, Member (J)

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O.A.No.1065/95.

Dear Hon'ble Sri B.S.Jai Parameshwar, Member (J)

Heard Sri P.Durga Rao for Sri P.B.Vijaya Kumar, the learned counsel for the applicant and Sri N.V.Raghava Reddy, the learned counsel for the respondents.

The applicant was appointed as L.D.C., with effect from 1-10-1958 and was promoted as U.D.C., with effect from 12.5.1964. It is stated that the seniority list of U.D.Cs., was prepared from 1964 onwards and the same was illegal for not following the instructions of the Government of India for the purpose of seniority and promotion. It is submitted that the method of drawing the seniority list was challenged before the Hon'ble High Court of Karnataka in the case of K. Venkateshwaran V.T.RAJENDRAN Vs. UNION OF INDIA.

The Karnataka High Court gave directions for the revision of seniority list and the Department finally published the revised seniority list of U.D.Cs., on 20.8.1993.

The applicant submits that by the time the seniority was revised many of his juniors were promoted as SGO Superintendents/E&AOs., The applicant submits that while revising the seniority list of all cadres the Department had to revise the promotion of HC with effect from 20.10.1975 instead of 12.4.1978, OS with effect from 14.12.1987 instead of 22.7.1991 and SGO Superintendent with

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effect from 17.7.1991 instead of 2.8.1993 and finally
the promotions of the junior Sri Vilayatram.

The applicant has filed the O.A., praying for a direction to the respondents to consider his case for promotion to the posts of Head Clerk, Office Superintendent, SGO Superintendent and Establishment Accounts Officer with effect from 20.10.1975, 14.12.1988, 17.7.1991, 28.8.1992 respectively with all consequential benefits including payment of arrears of difference of pay and all other attendant benefits.

The respondents have filed their counter stating that the applicant has not exhausted the remedy available to him under the provisions of the Service Rules and that the case is not similar to the case in O.A.857/94 filed by Shri P.K.Kutty Nair as the present applicant was considered for promotion along with Sri VilayatiRam way back in 1975, that inspite of the fact that the applicant was senior to Shri VilayatiRam because of the higher grading obtained by VilayatiRam in his ACRS, he was promoted and the applicant though considered was not promoted and that eversince Vilayati^{ram} remained senior to the applicant. The respondents state that they had

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no material on hand to oppose the claim of Shri P.K.K. Nair, that in the meantime ~~the~~ the ---

the order dated 6.12.1994 and that therefore they were constrained to concede the claim of ~~K.K.Nair~~ -

the applicant is not entitled to any retrospective promotion.

The learned counsel for the applicant during the course of his arguments relied upon the directions given by this Tribunal in O.A.675/95.

The contention of the respondents that they conceded the claim of the ~~K.K.Nair~~ under certain circumstances cannot be accepted. If really, P.K.K.Nair was not entitled to be considered for promotion, they could have filed a review petition for reviewing the directions given in the O.A. // The applicant claims to be senior to Vilayati Ram. The case of the applicant should be considered at least from the ~~the~~ date when Sri Vilayati Ram was promoted. It is not stated by the respondents that Sri Vilayati Ram, who was junior to the applicant was promoted against roster point. Actually the name of Vilayati Ram is at Sl.No. ~~42~~ 68 and the name of the applicant is at Sl.No.32 in the seniority list. Admittedly, the applicant was senior to Vilayati Ram. They submit that neither Vilayati Ram nor

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P.K.Kutty Nair nor the applicant became eligible for promotion to the post of Office Superintendent on 14.12.1987.

If that be so they can --- records and consider the date from which the immediate junior of the applicant

became eligible for promotion to the post of Office Superintendent and accordingly fix the pay of the applicant

Head Clerk, in the cadre of the/Office Superintendent notionally from

Said the date and pay him the benefits - monetarily from the

date when he actually shouldered the higher responsibilities.

Likewise, the case of the applicant has to be considered

for further promotions when his immediate junior was promoted

in accordance with the revised seniority list of UDCS.,

finalised ~~on~~ on 20.8.1993.

The revised seniority list of UDCs finalised on 20-8-1993 shall be the basis for finalising the case of

the applicant for consideration for promotion to the post

Head Clerk, of/Office Superintendent and next higher posts.

Hence we issue the following directions:-

- a) The case of the applicant shall be considered Head Clerk, for promotion to the cadre of/Office Superintendent in accordance with the revised seniority list of UDCS., finalised on 20.8.1993

b) The respondents may consider the case of the applicant accordingly and grant him further promotions from the date from which his junior was promoted on the basis of that revised seniority list.

c) The case of the applicant for further promotions shall be considered from the date from which his junior was promoted in the said revised seniority list and accordingly fix the pay of the applicant in the cadre of the Head Clerk, etc., Office Superintendent/notionally from the date when his immediate junior was promoted and shall pay him monetary benefits only from the date when he shouldered higher responsibilities.

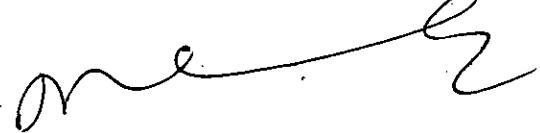
d) Time for compliance 4 months from the date of receipt of this order.

With the above directions, the O.A., is disposed of. No order as to costs.


B.S.JAI PARAMESHWAR,

Member (J)

23/3/98


R.RANGARAJAN,

Member (A)

Date: 23--3--1998.

Dictated in open Court.

sss.


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Copy to:

1. Secretary, Dept. of Science and Technology,
Technology Bhavan, New Mehrauli Road,
New Delhi.
2. Surveyor General of India, Surveyor of India,
P.O. No. 37, Hathibarkara Estate, Dehradun,
Uttar Pradesh-248 001.
3. Director, South Central Circle, Survey of India,
Barkatpura, Hyderabad.
4. One copy to Mr. P. B. Vijaya Kumar, Advocate, CAT, Hyderabad.
5. One copy to Mr. N. V. Raghava Reddy, Addl. CGSC, CAT, Hyderabad.
6. One copy to D. R. (A), CAT, Hyderabad.
7. One copy to HBSJP, M (J), CAT, Hyderabad.
8. One duplicate copy.

YLKR

15/3/1998
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II COURT

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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: 23/3/98

ORDER/JUDGMENT

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

in

C.A.NO. 1065/95

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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