

(7) (44)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA No.1071/1995

Date of Decision: 01.01.1997

BETWEEN:

T. B. Ramachander and
G.K. Yadgiri .. Applicants

AND

1. The Union of India,
reptd. by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
2. The Union of India,
reptd. by its Secretary to Government
Department of Personnel & Training,
Central Secretariat, New Delhi.
3. The Registrar General of Census Operations,
Government of India,
Ministry of Home Affairs,
2/A, Mansing Road, New Delhi.
4. The Director of Census Operations,
Andhra Pradesh,
Khairatabad,
Hyderabad.

Counsel for the Applicants: Mr. N. Rama Mohan Rao

Counsel for the Respondents: Mr. N.R. Devaraj

CORAM:

M.
THE HON'BLE JUSTICE M. B. G. SAKSENA: ACTING CHAIRMAN
THE HON'BLE MR. H. RAJENDRA PRASAD: MEMBER (ADMN.)

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Bch

ORDER

(Per Honourable Mr. Justice B.C. Saksena: Acting Chairman)

we have been also taken through the pleadings on record.

A very short question rises in the case. The applicant belongs to the schedule case, who has been ordered to be reverted along with others to the post of Statistical Assistant from the post of Investigator. The plea taken by the applicant is that, while passing orders of reversion, the reverse order of seniority cannot be the criteria but it could be the reverse order of the roster-points that would be a valid criteria.

In the counter affidavit the respondents have clearly averred that the orders for reversion have been passed on the basis of the reverse order of seniority. They have also pleaded that the reverse order of roster-point cannot be the criteria. The stand of the respondents cannot be sustained in the light of Supreme Court Decision in the Government of Andhra Pradesh and others Vs Bala-musaliyah and others reported in (1995) 1 SSC 184). In paragraph 8 of judgement in the case, their Lordships made the following observations:

"The Principle and policy behind the reservation would be adequately met and would receive constitutional approval, if, while retrenching the employees, the roster followed while making appointments is adhered to. To elucidate, if the roster is operated backwards (which we shall call recycled) and if the employees to be retrenched

as per normal principle be on a non-reserved point, a reserved category candidate would not be retrenched, even if as per general rule of " last in, first out " he would have been required to be retrenched. To state it differently, a reserved category candidate would be retrenched only when on the recycled path the reserved point is reached. This mode of following roster would adequately protect the reserved category candidates inasmuch as their percentage in the service or cadre would remain as it came to be when appointments were made. "

The pleadings of the parties do not enable us to reach a conclusion that, if the reverse order of roster point were to be adopted while passing the impugned order of reversion, the applicants would not stand reverted. In the circumstances we are of the view that the only appropriate order that can be passed is to indicate that the principles followed by the respondents on the other hand show that by so passing the order of reversion on the basis of reverse order of seniority, is clearly illegal and unsustainable. We, therefore, leave it to the authorities to reconsider in the light of the orders of the Supreme Court in the case of Government of A.P. Vs Balamusalish and others (supra) and pass fresh speaking order indicating the roster points which were reached when the applicants' promotion came to be made and the roster-point would be reached if the reverse order of roster-point is criteria for passing the order of reversion.

In view of what has been stated we do not quash the order of reversion. It will stand. It would be subject to exercise ^{required to be} undertaken as per the observations made herein above. We further direct that the exercise shall be

completed within a period of 2 months. We also provide that in the event of the reverse order of roster point being adopted, if the applicants do not fall for reversion then the respondents shall treat the applicants to have continued as Investigators. The applicants shall also be entitled for all consequential benefits.

Order is not quashed. Since we have only given a direction with regard to the principles to be followed by the respondents we have not been dissuaded for doing so by the absence of such persons who are likely to be affected if the principle laid down is followed by the respondents.

H. Rajendra Prasad
(H. RAJENDRA PRASAD)
MEMBER (ADMN.)

01 JAN 97

B.C. SAKSENA
(B.C. SAKSENA)
ACTING CHAIRMAN

KSM

Date: 1st January, 1997
Dictated in the open court

Deputy Registrar (1) cc
JAN 1997
7-1-97

0.A.1071/95

1. The Secretary to Govt.
Ministry of Home Affairs, Union of India,
New Delhi.
2. The Secretary to Govt.
Union of India, Dept. of Personnel and
Training, Central Secretariat,
New Delhi.
3. The Registrar General of Census Operations,
Govt. of India, Ministry of Home Affairs,
2/A Mansing Road, New Delhi.
4. The Director of Census Operations,
A.P. Khairatabad, Hyderabad.
5. One copy to Mr. N. Rammohan Rao, Advocate, CAT. Hyd.
6. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
7. One spare copy.
8. One copy to Library, CAT. Hyd.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

B.C. Saksena
THE HON'BLE MR.JUSTICE ~~M.C. CHAUDHARI~~
Acting ~~Chairman~~ CHAIRMAN

AND

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

Dated: 1 - 1 - 1997

ORDER JUDGMENT

M.A./R.A/C.A. No.

in

O.A.No. 1071/95

T.A.No. (W.P.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

