

(57)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD

O.A.No.1028 OF 1995.

Date of Order:23-2-1998.

Between:

R.Kanaka Raju

.. Applicant

and

1. Flag Officer Commanding-in-Chief,
HQ Eastern Naval Command(for SO(Civ)),
Visakhapatnam.
2. Admiral Superintendent, Naval Dockyard,
Visakhapatnam.
3. M.Venkatesulu, Foreman(PPC)(Elec), Naval
Dockyard, Visakhapatnam.

.. Respondents

COUNSEL FOR APPLICANT(S) :: Mr.P.B.Vijaya Kumar

COUNSEL FOR RESPONDENTS :: Mr.V.Bhimanna

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 :

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

Heard Mr.P.B.Vijaya Kumar for the Applicant and
Mr.V.Bhimanna for the Respondents.

2. Notice has been served on R.3 but neither ~~the~~ R.3 nor his
Counsel was present.

3. The applicant was selected for the post of Foreman in PPC
(Engineering) and it is stated that he was placed at serial no.1
by the said Committee ^{when issuing list} ~~when selecting~~ for the post of Foreman in PPC
(Engineering). R.3 was selected for the post of Foreman PPC(Elec-
trical) by another Board consisting of experts in Electrical Branch.
Originally both ^{the applicant & R-3} were maintained in separate seniority discipline.

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The office Order for recruitment to the post of Foreman/Senior Chargeman(PPC) cadre through direct recruitments was issued by Memo.PIR/0123/TSS, dt 19-1-1989(Annexure.12,Page 36 to the OA).

4. The applicant was shown at item no.(a) for the post of Foreman,PPC(Engg), whereas R3 was at sl.no.(b) while posting him as Foreman,PPC(Elec). By Proceedings dated:26-9-1990 a combined seniority list was drawn clubbing all disciplines, wherein the applicant was placed at sl.no.20, whereas R.3 was placed at sl.no.19. The applicant immediately represented on 16-10-1990 to revise the ^{placed} seniority list. Once again the applicant made another representation dated:30-11-1990 for the same remedy. A seniority list bearing No.PIR/1916/TSS/1, dated:7-1-1993 was issued, wherein the applicant was shown at sl.no.16 and R.3 was shown at sl.no.15. Against the seniority list, the applicant also made ^a representation dt:25-1-1993. Another seniority list dated 3-2-1994 was published and the applicant was continued to be shown as Junior to R.3 even in that seniority list. It is stated that the revision was due to the Judgment dated:16-12-1993 in OA.no.974/1990. Since the department failed to draw yearwise pannels, the Hon'ble Tribunal directed fixation of seniority by drawing yearwise pannels. The applicant further submits that the direction in OA.no.974 of 1990 ⁱⁿ no way binds him for getting seniority below the ~~name~~ of R.3. On 5-2-1995 once again, he made another representation for correcting his seniority to show him above R.3. His greivance was negatived by the Impugned Proceedings No.PIR/0505/TSS(1), dated:10-4-1995(Annexure-I to the OA). It is stated in the impugned proceedings that while considering the seniority rule during November,1990, marks obtained in the Direct Recruitment has been taken into criteria and accordingly seniority was considered and that seniority was amended subsequently also.

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5. Aggreived by the above, the applicant has filed this OA for setting aside the impugned note, vide Progs.No.PIR/0505/TSS(1), dt:10-4-1995(Annexure.1 to the OA) passed by Respondent no.1 and for a consequential direction to the respondents 1 and 2 herein to fix his seniority above that of R.3 in the category of Foreman with all consequential and attendant benefits.

6. A reply has been filed in this OA. The learned Counsel for the respondents submit that the seniority list was drawn in accordance with the direction given in OA.No.974/1990 of this Tribunal passed on 16-12-1993. The respondents do not explain as to how that direction is applicable to the applicant in this O.A. In ~~accordance~~ ³ the respondents in their reply have stated that the applicant was selected for the post of Foreman, PPC(Engg) by an Interview Board and that Interview Board awarded him certain marks. Another Interview Board selected R.3 for the post of Foreman, PPC(Electrical) and awarded certain marks to him. Both were appointed as Foreman, PPC in different disciplines viz., applicant in Engineering discipline ^{and R-3 in Electrical discipline} line. This is evident from the note No.PIR/0123/TSS, dt 19-1-1989 (Annexure.1, page 36 to the OA). When a combined and integrated seniority list was drawn, the applicant was placed below that of R.3 on the basis of the marks obtained in the Interview. Hence the question of showing the applicant above that of R.3 does not arise. The applicant was given less marks in Interview by the Selection Committee compared to that of R3. Hence the respondents submit that there is no irregularity in showing the applicant as Junior to the R3.

7. The learned Counsel for the applicant submitted that by note, dated 19-1-1989 the applicant was shown above that of R3 as the applicant is placed at sl.no.(a) whereas R3 is placed at sl.no.(b) That itself indicates that the applicant is higher in the seniority compared to that of R.3.

8. We have examined the above contention of the applicant. The note dated:19-1-1989 is only an appointment order appointing the candidates to the post of Foreman/Senior Chargeman(PPC). It no way gives any indication that the appointment order was issued on the basis of the seniority. It also does not show that the applicant ^{had} got more marks in Interview compared to R3. Further the above said note clearly indicates that the applicant was posted in the Engineering discipline, whereas the R3 was posted in Electrical discipline. At that stage, there is no need to draw a seniority list comparing the ~~seniority list~~ or integrated seniority list between various officials appointed by that note. Hence the contention that since the note dt 19-1-1989 shows the applicant above that of R3 in the ^{Combined} seniority list ~~and hence~~ the applicant should also be shown as senior to R3 is not borne by any facts on that count. Hence this contention is rejected.

9. Normally an integrated list is drawn on the basis of;

- a) date of appointment;
- b) if the date of appointment is ~~the~~ same ^{then} on the basis of marks obtained in the selection; or
- c) if the date of appointment is one and the same, then on the basis of the date of birth of the employee. An employee born earlier will be ranked senior to the employee born later, if both the employees are appointed to the post on the same date and obtained same marks in the Interview.

10. If presuming that the marks are also same and they were appointed on the same date as is evident from Ex.R1 at page 6 to the reply, then the date of birth of the respective employees decides the seniority position. The candidate who was born earlier ^{on the same date} will be ranked senior to the other one who might have joined ~~and~~ ^{the date of birth of the applicant} is later as is evident from Ex.R1. The R.3 was born earlier to the applicant. Even on that count the applicant cannot claim seniority above that of R.3.

11. When the respondents submit that both the applicant and R3 were appointed to different disciplines viz., applicant in Engineering discipline and R3 in Electrical Branch by separate Interview Boards then their seniority has been decided on the *basis of* marks obtained by them. The respondents submit that the applicant got less marks in the Interview as compared to R3. This fact is not contraverted by the applicant in this application.

12. In view of the above, we do not see any reason to alter the seniority position of the applicant vis-a-vis R.3 showing the applicant junior to R.3.

13. In that view, we find there is no merit in this O.A. hence the OA is liable only to be dismissed, and accordingly it is dismissed. No costs.



(B.S.JAI PARAMESHWAR)
MEMBER(J)

23/2498



(R.RANGARAJAN)
MEMBER(A)

MD
DR

Dated: this the 23rd day of February, 1998

Dictated in the Open Court

DSN

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Copy to:

1. Flag Officer, Commanding in Chief,
HO Eastern Naval Command(for SO(Civ)),
Visakhapatnam.
2. Admiral Superintendent, Naval Dock Yard,
Visakhapatnam.
3. Mr.M.Venkatesulu, Foreman (PPC),(Elec)
Naval Dockyard, Visakhapatnam.
4. One copy to Mr.P.B.Vijaya Kumar,Advocate,CAT,Hyderabad.
5. One copy to Mr.V.Bhimanna, Addl.CGSC,CAT,Hyderabad.
6. One copy to D.R(A),CAT,Hyderabad.
7. One duplicate copy.

YLKR

2.1/17/3/98
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: 23/2/98

ORDER/JUDGMENT

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

in

D.A.NO. 1028/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

