

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

O.A.No.1035 of 1995. Date of Order:- 02.03.1998.

Between :

Coca Satyanarayana

..Applicant

Counsel for the applicant : Mr. N.Raghavan.

A n d

Union of India and others.

... Respondents

Mr.G.Pārameśhwar, SrCGSC.

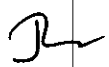
CORAM :

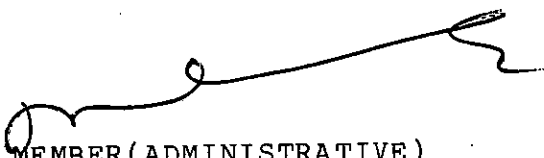
Honourable Mr.R.Rangarajan, Member (Admn.)

Honourable Mr.B.S.Jai Parameshwar, Member (Judl.)

FOR INSTRUCTIONS.

1. Whether this order be referred to the Reporters ?
2. Whether it be circulated among the other Benches of the Central Administrative Tribunal ?


MEMBER (JUDICIAL)


MEMBER (ADMINISTRATIVE)

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A. No.1035 of 1995.

Date of Order:- 02.03.1998.

BETWEEN :

COCA SATYANARAYANA,
Son of Late Coca Ramaswamy Naidu,
aged 59 years,
Occupation- Retired Senior
Audit Officer, resident of
H.No.10-3-18/A1, East Marredpally,
Secunderabad - 500 026. ... APPLICANT

A N D

1. Union of India, represented by
South Central Railway, Secunderabad.
2. Comptroller & Auditor General of India,
Bahadur Shah Jaffar Marg, New Delhi.
3. The Audit Officer(Administration),
Office of the Principal Director of Audit,
South Central Railway, Secunderabad. .. RESPONDENTS

Counsel for the applicant : Mr.N. Raghavan

Counsel for the Respondents : Mrs. G.Shakti for
Mr.G.Parameshwara Rao, SrCGSC.

CORAM :

Honourable Mr. R.Rangarajan, Member(Administrative)

Honourable Mr.B.S.Jai Parameshwar, Member(Judicial)

O R D E R.

(Per Hon.Mr.B.S.Jai Parameshwar, Member(J))

1. Heard Mr.N.Raghavan, the learned counsel for the applicant and Mrs.G.Shakti for Mr.G.Parameshwara Rao, the learned Standing Counsel for the respondents.

2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 24.8.1995.

3. The facts giving raise to this O.A. may, in brief, be stated thus :-



(a) The applicant retired as Senior Audit Officer in the scale of pay of Rs.2200-4000/- from the office of the Principal Director of Audit, South Central Railway, Secunderabad. He retired from service on 30.6.1994 on attaining the age of superannuation.

(b) It is submitted that the Comptroller and Auditor General of India issued two orders, namely, (i) No.880/GE-II/16-92 dated 21.5.1993 and (ii) No.2326/GE-II/50-90 dated 23.12.1991. The copies of those orders are at Annexures-I and II at pages 7 & 8 of the O.A.

(c) As per letter dated 21.5.1993 the following instructions were issued :-

The matter has been reviewed and it has now been decided that Accounts/Audit Officers who completed three years of regular service in the grade upto September 30, 1992 may also be considered for promotion as Senior Accounts/Senior Audit Officers during the year 1992, subject to availability of posts and fulfilment of all other conditions mentioned in the letter dated October 28, 1992. The Crucial date for determining eligibility for promotion from the subsequent panel year 1993 onwards will continue to be October 1 of the preceding year.

As per letter dated 23.12.1993, the following instructions were issued :-

It has now been decided that for promotion from the panel year 1994 onwards the crucial date for determining the eligibility of officers for promotion to the grade will be October 1 of the year to which the panel pertains. Thus, for promotion from the panel for next year, effective from January 1, 1994, Accounts/Audit Officers with a minimum of three years of regular service in the grade as on October 1, 1994 will be eligible for consideration for promotion, subject to availability of posts and fulfilment of all other conditions mentioned in this Office letter No.2558-GE.II/116-92 dated October 28, 1992. The empanelled officers will, however, be actually promoted during 1994 only after completion of three years of regular service in the grade of accounts/audit Officers, subject to availability of vacancies.

(d) These instructions were issued regarding the crucial date for promotion to the post of Senior Audit Officer in the scale of pay of Rs.2200-4000/-.

The feeder category for the said post is the post of Accounts Officer/ Audit Officer in the scale of pay of Rs.2375-3500/-. The qualifying service for promotion to the post of Senior Accounts Officer in the scale of pay of Rs.2200-4000/- is three years in the feeder category.

(e) The applicant was in the feeder category for promotion to the post of Senior Audit Officer in the scale of pay of Rs.2200-4000/-. He had completed three years qualifying service on 2.1.1993/3.1.1993.

(f) The applicant was promoted as Senior Audit Officer in the scale of pay of Rs.2200-4000/- with effect from 3.1.1994.

(g) The applicant was promoted to the post of Senior Accounts Officer in the scale of pay of Rs.2200-4000/- immediately after he completed three years of service in the feeder category i.e. from 1.2.1993. He was given promotion to the said post with effect from 3.1.1994. He feels that he was unjustifiably denied promotion from 1.2.1993 to 3.1.1994 i.e. for about 10 months.

(h) He submitted representations dated 18.7.1994 and 25.5.1995, the copies of which are at Annexures-III & V.

(i) The respondents submitted a reply to both the representations as per Annexure-IV dated 7.9.1994. In the reply they said that it was not possible to accede to his request as he did not have the requisite qualifying service in the feeder cadre on the crucial date.

Hence he has filed this O.A.

(j) The tenor of the O.A. appears to have been filed
/the O.A. in a representative capacity representing all
/Audit
those Senior Accounts /Officers who retired between

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1.10.1992 and 31.12.1993. However, in the prayer portion, the applicant has confined the relief for himself.

4. The respondents have filed their counter stating that it is the policy of the department and the applicant cannot have any grievance because he was not promoted immediately after completing the qualifying service of three years i.e. with effect from 1.2.1993. They even questioned the jurisdiction of this Tribunal to entertain the O.A. because it was entirely an administrative policy to extent certain benefits to certain officers. They have not made any discrimination in implementing the orders of the Comptroller and Auditor General of India. They submit that consequent upon restructuring of the Indian Audit and Accounts Department during 1984, 80% of the posts of Auditors and Section Officers (Audit) were placed in the higher scales of pay of Rs.425-800/- and Rs.650-1040/- respectively with effect from 1.3.1984. However, in the case of Audit Officers' cadre, no higher scale was prescribed. As the matter regarding grant of an appropriate scale of pay to the Audit Officers cadre had engaged the attention of the Government of India, it ordered vide O.M.No.F-6(82)/IC/91 dated 22.9.1992 (Annexure-I) of the Ministry of Finance, Department of Expenditure, that the Audit Officers in the scale of Rs.2375-3500/- and who had put in minimum of 3 years of regular service as on 1.4.1992 would be eligible for promotion as Senior Audit Officers in the scale of pay of Rs.2200-4000/- on the basis of seniority-cum-fitness after following the due process. It is stated that the eligibility date was determined with reference to the crucial date fixed in that regard. The crucial date was however modified to 30th September, 1993 (Annexure-III) as the Government orders creating the cadres were issued

on 22.9.1992.

They submit that as on 1.9.1992 the applicant had not completed the qualifying service of three years and hence he could not be considered for promotion. However, a clarification was issued from the Government of India in December, 1993 (Annexure-VI) with regard to the crucial date of eligibility for promotion from 1994 onwards changing the date to 1st October of the year to which promotions pertained. Thus they submit that the crucial date was modified.

During October 1993 the applicant was considered for promotion and he was given promotion effective from 3.1.1994 as 1st and 2nd January, 1994 happened to be the public holidays. Thus they contend that no injustice has been done to the applicant and that no junior to the applicant was promoted earlier to him. Thus they say that the case of the applicant merits no consideration.

5. The learned counsel for the applicant has brought to our notice the decision of this Bench in O.A.No.731 of 1995 dated 16.2.1998. That decision related to the Accounts Officers of the Telecom Department.

6. In this case, we have to consider whether the applicant was unjustifiably denied his promotion between 1.2.1993 and 31.12.1993 and whether there was a case of discrimination.

7. The applicant has submitted two representations dated 18.7.1994 and 25.5.1995.

8. The respondents in their reply in Annexure-IV have not clearly stated the reasons for rejecting the claim of the applicant, though they tried to make out in the reply that ^{no} such discrimination was meted out to the applicant. If it is an administrative policy, they must


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disclose the same to the applicant and also must categorically state that no injustice has been done to him by promoting any of his juniors earlier to him. The reply given by the respondents to the representations of the applicant appears to us to be vague. Hence we do not express any opinion on various contentions raised by the respondents in their reply and leave the department to consider the representations of the applicant afresh and give a suitable reply.

9. In this view of the matter, we feel it proper to direct the respondents to consider the representations dated 18.7.1994 and 25.5.1995 of the applicant and inform him suitably.

Time for compliance is four months from the date of receipt of a copy of this order.

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



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

2/3/98


(R. RANGARAJAN)
MEMBER (ADMINISTRATIVE)

DATED THE 2nd MARCH, 1998. .

DJ/


D.R.

OA.1035 of 1995

Copy to:-

1. The Principal Director of Audit, South Central Railway, Secunderabad.
2. The Comptroller and Auditor General of India, Bahadur Shah Jaffar Marg., New Delhi.
3. The Audit Officer (Administration), O/o The Principal Director of Audit, South Central Railway, Secunderabad.
4. One copy to Mr. N.Raghavan, Advocate, CAT., Hyd.
5. One copy to Mrs.G.Shakti for Mr. G.Parameshwara Rao, CAT., Hyd.
6. One copy to Mr. BSJP M(J), CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate.

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6/17/98
TYPED BY
COMPARED BY

(8)
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:

2/3/98

~~ORDER/JUDGMENT~~

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

in

O.A.NO.

1035/95

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

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