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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1611/95.

Dt. of Decision : 09-06-98

G.Satyanarayana Murthy

.. Applicant.

Vs

1. The Union of India, rep.
by its Secretary,
Min. of Defence,
South Block, New Delhi.
2. The Chief of Naval Staff,
Naval Headquarters,
New Delhi.
3. The General Manager,
Naval Armament Depot,

Respondents.

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

Counsel for the respondents : Mr.N.V.Raghava Reddy, Addl.CGSC

CORAM:-

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

Heard Mr.N.Rama Mohan Rao, learned counsel for the applicant and Mr.W.Satyanarayana for Mr.N.V.Raghava Reddy, learned counsel for the respondents.

2. The applicant in this OA was appointed as Assistant Store Keeper from 1-6-1981. The applicant submits that his juniors were promoted as Store Keepers ignoring his seniority. Earlier the applicant and one Mr.K.V.S.J.K.Prasad and Others filed OA.No.510/89 on the file of this Bench for fixation of their seniority in the cadre of Assistant Store Keeper. The contention therein appear to be that the applicant in this OA is senior to one Mr.CH.Alibabu and hence his case also should be considered for promotion to the post of Store Keeper along with the CH.Alibabu. That OA was allowed and direction was given to reconstruct the seniority list of Assistant Store Keepers under the control of R-3. From the reply at Page-2 it transpires that the seniority list of Asst. Store Keepers was revised by the respondent authorities and the applicant was shown above that of Mr.Ch.Alibabu but below that of Mr.K.V.S.J.K.Prasad. Thus, both the applicant as well as Mr.K.V.S.J.K.Prasad became senior to Mr.Ch.Alibabu in the cadre of Asst. Store Keeper.

3. The next question is in regard to the consideration of the applicant for promotion to the post of Store Keeper in accordance with the revised seniority list indicated above. The applicant was not selected to the post of Store Keeper and placed on par with his junior Mr.Ch.Alibabu.

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4. In view of the above circumstances, the applicant has filed this OA praying for promoting him as Store Keeper on and from the date on which his juniors were so promoted as Store Keepers and he is also entitled to have the same benefit that has been extended to Mr.K.V.S.J.K.Prasad through temporary order No.17/94 dated 19-01-1994 (Annexure-4 to the OA) ~~and~~ in pursuance of the implementation of the directions given by this Tribunal in OA.510/89 dated 4-3-1992 with all consequential benefits.

5. It is no doubt that the applicant was placed above that of Mr.Ch.Alibabu in the cadre of Assistant Store Keeper. The applicant ranks below Mr.K.V.S.J.K.Prasad in the cadre of Asst. Store Keeper. In obedience ^K ~~that~~ direction given by this Tribunal in OA.510/89 dated 4-3-1992 both the applicant as well as Mr.K.V.S.J.K.Prasad who were applicants in the above referred ~~OA were~~ considered for promotion to the post of Store Keeper on their par with ~~junior~~ Mr.Ch.Alibabu. The applicant was not empanelled for the post of Store Keeper whereas Mr.K.V.S.J.K.Prasad was found fit and promoted as Store Keeper and placed above that of Mr.Ch.Alibabu from the date Mr.Ch.Alibabu was promoted. This is evident from the Page-17 enclosures to the OA.

6. The only point for consideration in this OA is whether the rejection of the case of the applicant for promotion to the post of Store Keeper on par with Mr.Ch.Alibabu is in order and in accordance with the rule. The respondents in their reply submits that both the applicant and Mr.K.V.S.J.K.Prasad were considered in the year 1990 for promotion to the post of Store Keeper. The post of Store Keeper is a non selection post and fit candidate has to be promoted to the post of Store Keeper

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and there is no comparison between the various officials while considering the cases for promotion. The case of the applicant and others were considered on the basis of their performances as recorded in the Confidential Reports. The applicant was not found fit for promotion for the year 1990. Again he was considered for the year 1991 and 1992 and each time he was found to be unfit for promotion to the DPC which reviewed the original select list for the year 1991 and 1992. The DPC again considered the case of the applicant for the years 1993, 1994 and 1995. But still did not ^{find him} ~~found~~ fit for promotion in these years also as per the Government instructions for promotion for a non selection post. It is further stated that the applicant had secured only average performance report and that performance report is not adequate for promotion to the higher grade post of Store Keeper even though it is only a non selection post.

7. In one of the Full Bench judgement of this Tribunal it was held that average report is not a adverse confidential report and that need not be informed to the employees. However, average report cannot be considered for promotion as per the instructions of the Department of Personnel and Training. The applicant having obtained average report consistently ~~we can~~ ^{we can} to the post of Store Keeper. He was considered for promotion for the year 1990, 1991, ~~and~~ 1992, 1993, 1994 and 1995. In all these years he was found to be unfit due to his performance as recorded in the CR. From the above details it is not possible for us to come to the conclusion that the applicant was not promoted due to any malafide consideration. We cannot think that all the officers who considered his case for promotion from the year 1990 to 1995 ^{we bent} onwards ^{have} in denying him the promotion. We ~~are~~ ^{are} no other

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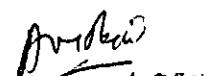
alternative except accept the submission made by the respondents in their reply in denying the promotion to the applicant due to his average performance report.

8. In view of what is stated above, we find that the applicant has not made out a case for allowing this application. Hence, the application is dismissed as having no merits. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
9.6.98


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 09th June, 1998.
(Dictated in the Open Court)


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DNO.

Copy to:

1. The Secretary, Min. of Defence,
South Block, New Delhi.
2. The Chief of Naval Staff,
Naval Head Quarters, New Delhi.
3. The General Manager, Naval Armament Depot,
Visakhapatnam.
4. One copy to Mr. N. Ram Mohan Ram, 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 duplicate copy.

YLKR

15/6/98
II COURT

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COMPARED BY

CHECKED BY
APPROVED BY

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 (3)

DATED: 9/6/98

ORDER/JUDGMENT

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

in

O.A.NO. 1611/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED ✓

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

