

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.384/1995.

Date of decision: 24--10--1997.

Between:

Chellapalli Ramarao.

.. Applicant

and

1. Union of India represented by its Secretary, Ministry of Defence, New Delhi.
2. Chief of Naval Staff, Naval Head Quarters, New Delhi.
3. Flag Officer Commanding in Chief, Eastern Naval Command, Visakhapatnam.
4. Chief Staff Officer, Eastern Naval Command, Head Quarters, Visakhapatnam.
5. Sri Ch.V.Satyanarayana, Telephone Supervisor, Eastern Naval Command Head Quarters, Visakhapatnam.

Counsel for the applicant: Sri P.B.Vijaya Kumar.

Counsel for the respondents: Sri K.Bhaskara Rao.

CORAM:

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

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

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O.A.No.384/95.

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

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Heard Sri B.M. Patro for Sri P.B.Vijaya

Kumar, the learned counsel for the applicant and Sri K.

Bhaskara Rao, the learned counsel for the respondents. Notice was served on R-5 but he was not present.

The applicant in this O.A., joined in the NavY as a Telephone Operator, Grade II on 10-5-1968. He was promoted as Grade I Telephone Operator with effect from 1-6-1978. Subsequently he was given promotion on ad hoc basis with effect from 10-11-1981 since he was seniormost on that date. Since then he is working in that post. When he was not regularised even though vacancies were there in the year 1981, the applicant filed O.A.298/86 on the file of this Bench. That O.A., was disposed of with the following direction:

"We direct that the applicant be considered for selection to the vacancy of Telephone Supervisor which arose in 1981 along with other eligible persons strictly in accordance with S.R.O.182, 3/29.6.1979 as amended by S.R.O. 9 dated 5-1-1981 on the basis of C.Rs., prior to 1982. Pending finalisation of the select list, the applicant will be restored to the position of telephone Supervisor after creation of a supernumerary post if necessary"

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Subsequently D.P.C., met in the year, 1987 and the applicant was regularised with effect from 10-11-1987.

The applicant submits that he should have been considered against the vacancy of 1981 or at least from 1983 as observed by the Tribunal but not from 1987. Showing the name of the Respondent No.5 as senior to him in the provisional seniority list on 24/28-6-1993 is incorrect. He submitted a representation dated 21-7-1993 for considering him as senior to Respondent No.5 and also give him seniority with effect from 1981, but that representation was rejected by the Order dated 8-9-1993. He also made another representation to the 3rd respondent against the rejection order on 27-9-1993. It is stated that the same is pending. The applicant submits that he is ~~the~~ senior to Respondent No.5 and he became eligible to the post of Supervisor and got promotion also earlier in point of time and more meritorious and hence he should ^{been} have/ given seniority over Respondent No.5 and he should have been promoted earlier in the year, 1981.

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This O.A., is filed praying for a direction to Respondent Nos., 1 to 4 to count the seniority of the applicant in the grade of telephone Supervisor with effect from 10-11-1981 or any other date on which his juniors have been promoted by declaring that the applicant is senior to respondent No.5 with all consequential and attendant benefits.

A reply has been filed in this O.A. The service put in by the applicant has been accepted.

It is stated that the applicant's case was considered for promotion for the post of Telephone Supervisor in the vacancy of 1981. The post of Telephone Supervisor is a selection post. As per the select list, the applicant was placed in the second position whereas Respondent No.5 was placed above the applicant in the select list. Since Respondent No.5 was placed above the applicant in the select list, even though the applicant had worked as a Telephone Supervisor on ad hoc basis earlier to Respondent No.5, the applicant cannot get the seniority above that of Respondent No.5. It is also stated that Respondent No.5

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was held to be senior in O.A.298/96 on the file of this Bench. The respondents deny the submission (the applicant) made by the applicant that he was not told regarding the seniority of Respondent No.5. The respondents submit that the selection was done in accordance with the rules and also following the judgment in

dismissed.

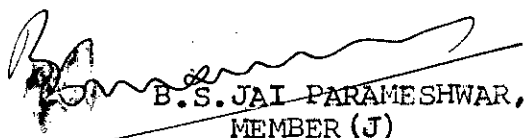
The only point for consideration is:

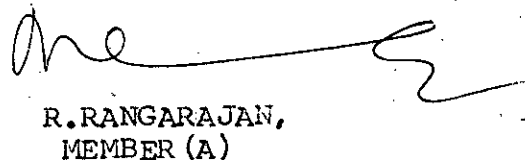
Whether the applicant, though appointed as a Telephone Supervisor in the year, 1981 on ad hoc basis, can he be given the seniority when ~~the~~ in the select list the applicant was not placed over Respondent No.5?

The applicant submits that as per the judgment of this Tribunal his ad hoc date of promotion will ~~be~~ ~~be~~ ~~determine~~ determine his seniority and that adhoc promotion was followed by a regular promotion. We have considered the above contention. In the selection post, the applicant's rank in the panel as per the Grading given by the DPC., is ~~below~~ ^{that is} below ~~to~~ Respondent No.5. If a junior is graded higher than the senior, naturally the senior will rank junior to his erstwhile junior.

If a senior who is working earlier on ad hoc basis and because of that he was given the seniority over that of the selected candidate for the selection post, the select list will lose its importance and sanctity. The contention of the applicant is tenable in case of a non-selection post but not to a selection post. Respondent No.5 in this O.A., was placed at the top in the select list though he was junior to the applicant. The applicant has not placed any authority or ruling before us to show that the junior who was given higher rank over that of his senior, the erstwhile junior who was placed at the top in the select list cannot be shown as senior.

In view of that we have the opinion that the seniority given to the Respondent No.5 cannot be questioned and hence the O.A., is to be dismissed as having no merits. Accordingly, the O.A., is dismissed. No costs.

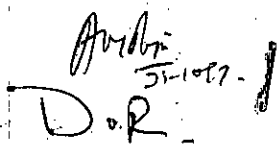

B.S. JAI PARAMESHWAR,
MEMBER (J)


R. RANGARAJAN,
MEMBER (A)

Date: 24th October, 1997.

Dictated in open Court.

SSS.


D.R.

10/11/97
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

Dated: 24-10-97

ORDER/JUDGMENT

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

in

O.A.NO. 384/95

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court

