

44

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 419/95,

Dt. of Decision : 18-03-98.

R. Sanyasi Appadu

.. Applicant.

Vs

1. The Director General of Armament Supply, R.K.Puram, New Delhi-22.
2. The Flag Officer, Commanding-in-Chief, Eastern Naval Command, Naval Base, Visakhapatnam-14.
3. The Chief Staff Officer (P&A), Eastern Naval Command, Naval Base, Visakhapatnam-14.
4. The General Manager, Naval Armament Depot, Visakhapatnam-9.

.. Respondents.

Counsel for the applicant

: Mr. P. Bhaskar

Counsel for the respondents

: Mr. N. R. Devaraj, Sr. CGSC.

CORAM:-

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

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

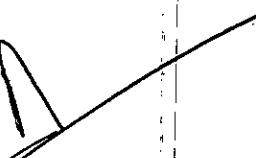
ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

Heard Mr.P.Bhaskar, learned counsel for the applicant and Mr.N.R.Devaraj, learned counsel for the respondents.

2. The applicant in this OA joined the Naval Armament Department as Sr.Chargeman (Factory) on 21-04-80. He states that he appeared for the departmental examination conducted in the year 1982 for promotion as Foreman (Factory). Even before the results could be declared the applicant was implicated in a Criminal case and was kept under suspension from 18-10-1982. The suspension was revoked on 12-3-85. The applicant further submits that in view of the pending criminal case and enquiry by the CB-CID the result of the applicant for promotion to the post of Foreman (Factory) on the basis of the examination held in 1982 was kept in a sealed cover without publication. The applicant submits that the criminal case against him was cleared by the CB-CID vide order No.VAE/1111/C/RSA dated 15-6-93 and the 4th respondent ordered that the period of suspension shall count as period spent on duty for all purposes and entitled to full pay and allowances to which he was entitled subject to the adjustment of subsistence allowance already paid.

3. The applicant now submits that his case for promotion as Foreman (Factory) was not decided by opening the sealed cover. Hence he ^{submitted a} ~~had~~ representation on 24-12-93 to R-4 but he received no reply on the same so far. It is further submitted that several of his juniors ~~were~~ who qualified in the said departmental examination held in the year 1982 were already promoted and are already working as Foreman (Factory) and some are even promoted to the next higher post.

Je



-3-

4. This OA is filed praying for a direction to the respondents to open the sealed cover containing the result of the applicant for the departmental examination conducted in the year 1982 for the post of Foreman (Factory) and for a consequential direction to promote the applicant as Foreman (Factory) on par with his juniors fixing the salary also on that basis.

5. An interim order was passed in this OA on 31-03-95 wherein it is directed that any promotions made to the post of Sr. Foreman (Factories) will be subject to the result ~~if~~ in this OA.

6. A reply has been filed in this OA. The fact that the applicant joined Naval Armament Depot on 21-4-80 and he was suspended w.e.f., 18-10-82 on the basis of the criminal case filed against him and the revocation of suspension order on 11-3-85 and the subsequent order are not disputed. But the respondents submit that the applicant never appeared for the examination for the post of Foreman (Factory) held in the year 1982. They further submit that had he appeared for the examination in the year 1982 already ~~then~~ he would not have requested to appear for the examination in the year 1985. It is further stated that the applicant was not allowed to sit for the departmental examination held in the year 1982 as he was only a casual Sr. Chargeman and hence he was not entitled for sitting for the examination for the Foreman (Factory).

7. From the above contention the only way to adjudicate this case is to peruse the document in this connection to see whether the applicant appeared for the examination for the post of Foreman (Factory) held in the year 1982. The learned counsel for the applicant emphatically submits that he did ^{not} appear for the examination and ~~now~~ that the records will prove his contention. Hence we called for the production of records in connection with the proceedings of the examination held in the year 1982 for the post •—

Jr

D

..4

Foreman (Factory) by order dated 21-01-98. On 27-02-98 the learned counsel for the respondents submitted that inspite of the best efforts they could not locate the selection proceedings for the examination for promotion to the post of Foreman (Factory) held in the year 1982. However they produced letter No. AS-2A/1175 dated 6-10-82 wherein the results of the examination held in the year 1982 was shown. On the basis of the results of the examination issued by letter dated 6-10-82 the respondents' ^{learned} counsel submitted that the applicant had not appeared for the examination. If he had appeared for the examination his name would have found a place either in the qualified list or in the unqualified list or in the with-held list. The very fact that his name was not there both in the qualified list and in the unqualified list the applicant had not appeared for the examination. There is no remark in regard to the results of the candidates with-held who appeared for that examination held in the year 1982.

8. We felt that the preserving of the records from the year 1982 till 1998 may not be in order as they are very old records and normally old records are preserved for a maximum of 10 years. Hence we took the submission of the respondents that the records were not available as unquestionable. Hence we asked the learned counsel for the applicant to produce the document which he is relying to come to a conclusion that the applicant did appear for the examination for the post of Foreman (Factory) held in the year 1982. The applicant produced an abstract from the service records. This abstract is taken on record. As per the extract it is seen that the applicant had completed one year continuous service without break and hence he has been converted to regular employee w.e.f., 12-4-81. He is eligible for all financial/leave benefits etc. vide para (2) of Min.

R

[Signature]

of Defence letter No.83482/CE-4/1284 (Civ) (d) D Civ-III dated 24-11-67. This letter abstract is not signed by anybody. It is also not known from where the applicant had procured this abstract. If he has procured it recently then he could have guided the respondents in regard to the availability of the service record. Hence how far reliance can be placed on this abstract has to be decided. ~~at that as it may, ...~~
produced by the applicant. In this letter the applicant had requested the Naval Armament Supply Officer, Naval Armament Depot, Visakhapatnam to permit him to sit for the departmental qualifying examination of Foreman (Fy) to be held in the month of June/July 1982. If the abstract from the service record is available with him and he is aware that his status has been converted to regular employee from 21-1-81 he could have clearly stated in this letter dated 6-5-82 that he is a regular employee and hence he should be allowed to sit for the qualifying examination for Foreman (Factor to be held in June/July 1982. But he has not made that remark in this letter dated 6-5-82. Though the learned counsel for the ~~applicant~~ applicant submits that it is not necessary for him to incorporate that remark as he was under the impression he being a regular employee could automatically be permitted to sit for the examination that submission does not appear to be a realistic approach especially when an employee is wanting to sit for the examination and the same was refused for some reason or other. The remark in the reply that he was a casual labour at that time is an after thought so as to demolish the case of the applicant herein submits the counsel. Hence from the above two documents the applicant concludes that it is clearly proved that he wrote the examination for the post of Foreman (Factory) held in the month of June/July 1982.

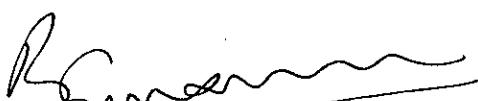
9. As stated earlier the abstract of the service record without a proper signature or authenticated by government official cannot be taken on the face value. Further the letter dated 6-5-82 in our opinion does not prove that the applicant was permitted to sit for the examination and that is why he has submitted the request to the Naval Armament Supply Officer for permitting him to sit for the examination. These two documents in our opinion do not prove the case of the applicant that he appeared for the 1982 examination.

10. The applicant further submits that in the letter dt. 6-10-82 conveying the results of the examination there is no remark in regard to the names of the candidates with-held. As there was no remark the respondents cannot submit that the results of none was with-held for the examination.

before
the applicant if he has produced some document to us ~~to~~ to prove that his result was with-held for some reason or other. As there was no document to prove that we cannot come to the conclusion that his results were with-held.

11. Rejoinder has been filed in this OA to state that the applicant is a permanent employee. No document ~~have~~ been enclosed to the rejoinder to prove that.

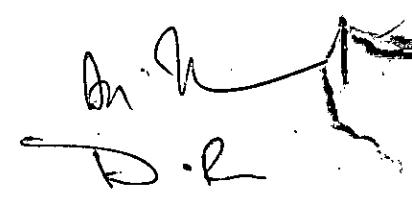
12. In view of what is stated above, we are of the opinion that the applicant has not made out a case for granting him the relief asked for in this OA. Hence the OA is only liable to be dismissed and accordingly it is dismissed. No costs.


(B.S.JAI PARAMESHWAR)
18/3/98
MEMBER(JUDL.)


(R. RANGARAJAN)
MEMBER(ADMN.)

Dated : The 18th March, 1998.
(Dictated in the Open Court)

spr


D.R.

2/3/98
8
TYPED BY
COMPLETED BY

CHIEF CLERK BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. BURANGARAJAN : M(A)

AND

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

DATED : *18/3/98*

ORDER/JUDGMENT

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

in
O.A.N.C. *419/95*

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

YLR

