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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

O.A.No. 45/95

Date of Order : 28.1.98

BETWEEN :

V.V.Venkateswara Rao

.. Applicant.

AND

Union of India represented by :

1. The Collector of Central Excise & Customs, L.B. Stadium Road, Basheerbagh, Hyderabad.
2. The Collector of Central Excise, Guntur.
3. The Collector of Central Excise, Visakhapatnam.
4. T.Jagadish

.. Respondents.

Counsel for the Applicant

.. Mr.K.S.R.Anjaneyulu

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

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

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

O R D E R

As per Hon'ble Shri B.S. Jai Parameshwar, Member (Judl.)

Heard Mr.K.S.R.Anjaneyulu, learned counsel for the applicant and Mr.N.R.Devraj, learned standing counsel for the respondents. The Respondent No.4 though served has remained absent.

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in the scale of pay of Rs.950-1400. On 5.7.94, the DPC was held and his case was considered for promotion to the post of Motor Driver Gr-II. Accordingly, he was promoted to the post of Motor Driver Gr-II vide order No. (NGO) 111/94, dated 7.7.94.

It is submitted that at that time the case of the R-4 for promotion to the post of Motor Driver Gr-II was not considered as there were adverse entries in the ACRs.

3. When the applicant was promoted by the order dated 7.7.94 the respondents did not mention anything about his promotion being subject to the case of R-4. The applicant was regularly promoted as Motor Driver Gr-II.

4. On 12.7.94 the representation of R-4 against adverse entries in the ACR was rejected confirming the adverse entries. However, he appealed against said rejection to the higher Authority and that the higher Authority had expunged the adverse entries in the ACR of R-4 by his order dated 12.8.94.

5. Subsequently, review DPC was held to consider the case of R-4 for promotion. The review DPC recommended the case of R-4 for promotion to the post of Motor Driver Gr-II. Hence by the impugned order dated 29.12.94 R-4 was promoted to the grade of Motor Driver Gr-II and as his consequential promotion, the applicant was reverted to the post of Motor Driver Gr-III.

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6. Being aggrieved the applicant has filed this OA praying to set aside the order No. (NGO) 235/94, dated 29.12.94 in so far as he was reverted from Motor Driver Grade-II to Motor Driver Gr-III and for a consequential direction to the respondents to continue the applicant as Motor Driver Gr-II.

7. A reply has been filed by the respondents stating that the adverse entries found in the ACRs of R-4 were expunged on 11.8.94, that a review DPC was conducted, that he was promoted by the impugned order, that as per para-18.4.3 of the Board's letter, an officer placed junior to the officer concerned has been promoted, he should be promoted immediately and if there is no vacancy the junior most person officiating in the higher grade should be reverted to accomodate him and thus reversion of the applicant became essential.

8. Even though the respondents relied upon the Board's letter containing para-18.4.3 they have not produced the copy of the Board's letter justifying reversion of the applicant. It is not made clear as to why they had not indicated at the time when the applicant was promoted to the post of Motor Driver Gr-II that his promotion was subject to para-18.4.3 of the Board's letter. In the absence of any such condition in the letter of promotion, we are not convinced with the stand taken by the respondents.

9. In fact, the respondents have not given any prior notice to the applicant before taking a decision to revert him.

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10. The case of the respondent No. 4 could have been considered in the next available vacancy and he could have been given notional promotion from the date his junior was promoted and his pay could have been fixed notionally on par with his junior. Such action was not taken by the respondents and they reverted the applicant without ~~informing the applicant~~.

11. We feel the applicant who is reverted needs some relief, if not full relief, of continuing him in the promoted grade. This view is taken by us in view of the fact that there was no immediate vacancy available <sup>en</sup> thus and now creation of supernumerary post involves unnecessary expenditure on the state exchequer.

12. In view of the above, the following direction is given:-

- (a) The applicant should be promoted within six months from today to the post of Motor Driver Gr-II as it is said that posts in Motor Driver Gr-II, are likely to be created shortly.
- (b) We are stipulating the six months period because the department may take necessary and urgent action to create the post.
- (c) On promotion, the applicant shall get the seniority as if he had been promoted in the panel which was approved on 5.7.94. The applicant should get the period he worked as Gr-II Driver after his promotion w.e.f. 7.7.94 till his reversion for getting annual increment when promoted to the higher grade as directed above.

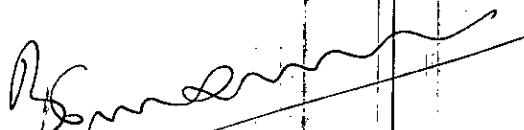
For

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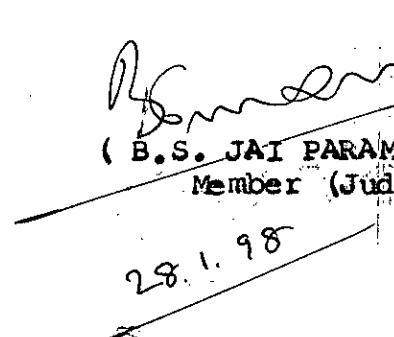
(d) It is made clear that the applicant should not be subjected to DPC while promoting him in accordance with the above directions.

13. With the above directions, the O.A. is disposed of.

No costs.

  
( B.S. JAI PARAMESHWAR )

Member (Judi.)

  
28.1.98

  
( R. RANGARAJAN )

Member (Admn.)

Dated : 28th January, 1998

(Dictated in Open Court)

  
R.R

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DA.45/95

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Copy to:-

1. The Collector of Central Excise and Customs, L.B.Stadium Road, Basheerbagh, Hyderabad.
2. The Collector of Central Excise, Guntur.
3. The Collector of Central Excise, Visakhapatnam.
4. One copy to Mr. K.S.R.Anjaneyulu, Advocate, CAT., Hyd.
5. One copy to Mr. N.R.Devaraj, Sr.CGSC., CAT., Hyd.
6. One copy to HBSJP M(J), CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

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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 PARMESHWAR :  
M(J)

DATED: 28/1/98

ORDER/JUDGMENT

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

in

C.A. NO. 45/95

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

