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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

.O.A.No.1000/96.

Date of decision: 29-1-1999.

Between:

M.V.S.Prasada Rao. .. Applicant.

And

1. The State of Andhra Pradesh represented by the Chief Secretary to Govt. of A.P., General Administration (Special-A), Secretariat, Hyderabad - 500 022.
2. The Union of India represented by the Cabinet Secretary to the Govt. of India, Rashtrapati Bhavan, New Delhi 110 011.
3. The Union of India represented by the Secretary (Personnel) to the Govt. of India, Ministry of Personnel, Public Services and Pensions, Department of Personnel, AIS-III Section, North Block, New Delhi 110 001.
4. The Principal Secretary to the Prime Minister of India, South Block, New Delhi -110 011.

Respondents.

Counsel for the Applicant: Sri S.Ramakrishna Rao

Counsel for the Respondents: Sri P.Naveen Rao for R-1
Sri B.Narasimha Sarma for R2to4.

CORUM.

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

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

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O.A.No.1000/96.

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

Heard Sri S.Ramakrishna Rao, the learned counsel for the Applicant and Sri P.Naveena Rao for Respondent No.1 and Sri B.Narasimha Sarma for Respondents 2, 3 and 4.

This O.A., is filed praying for a direction to the respondents to consider the applicant who is an I.A.S., Officer of 1962 Batch for promotion as Special Chief Secretary to the Government, State of Andhra Pradesh with retrospective effect from the date his juniors were promoted with all consequential benefits duly expunging the adverse remarks made in the ACRs of the applicant.

The Applicant submits that he had submitted representations to the Authorities and those representations were disposed of vaguely without any proper reasons. If it is so, the applicant could have challenged vague replies, if he considered them and submitted his grounds for expunging the adverse remarks from the ACRs. Unfortunately, he has not challenged the adverse remarks in his ACRs. The present prayer is a general one for expunging the adverse remarks. He has not stated in which year those ~~were~~ adverse remarks ^{were made} against him and for which year/s he ~~wants~~ ^{represented} to get them expunged at the Departmental level. He has to furnish the details to pass orders for expunging the adverse remarks and consider him for promotion to the higher post.

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The reply reveals that the case of the applicant was rejected for promotion due to the adverse entry in the Confidential reports. The reply does not contain the reasons for giving adverse remarks and why his representation was rejected. The reply given in our opinion is to the extent as stated in the O.A., Affidavit. Hence, if the respondents have not clearly explained regarding the adverse remarks, it may not be held against them as the applicant has not furnished full details in this connection.

The applicant relies on the Judgment of the Bangalore Bench reported in N.K.NARAYANAKAR vs MEMBER(TP)TELECOM BOARD, NEW DELHI & ANOTHER (1989(10)ATC 477) and SURAT PRASAD vs THE STATE OF KARNATAKA & others. (1989(1)ATC 316. These cases deal with the expunging of the remarks in the Confidential Reports. ~~probably~~ In those cases the prayer was to expunge the adverse remarks and after expunging the adverse remarks to consider the applicant therein for promotion to the Higher cadre in accordance with the rules. Hence when the applicant relies on those judgments for getting the relief in this O.A., he should have filed the O.A., similarly as was the case in those two reported cases. But in our opinion the applicant has not adhered to that course of action. Hence the relief prayed for in this O.A., cannot be given without proper details and without hearing the other side in regard to the reasons for giving

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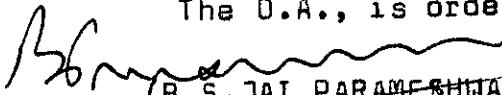
adverse remarks.

When this was pointed out to the learned counsel for the applicant, the learned counsel for the Applicant submitted that he may be permitted to withdraw the O.A., and to file a fresh O.A., with a prayer for expunging the adverse remarks ~~on the basis of the reply given to him~~ challenging the adverse remarks and for giving him promotion after expunging the adverse remarks and for consequential benefits. He also requested for ~~waiving the limitation period, if any,~~ ^{to file a fresh O.A.} from the date of filing this O.A., i.e., 14.8.1996 till to day (29-1-1999)

The learned counsel for the State of A.P., has no objection in this connection.

In view of the above, the applicant is permitted to withdraw this O.A., and giving him an opportunity to file a fresh O.A., for expunging the adverse remarks, if any, in the confidential reports of the applicant which were retained inspite of his representation and for consequential promotion and ~~its~~ benefits. The period from 14.8.1996 till today (29.1.1999) shall not be considered for purpose of limitation, if he files a fresh O.A., .

The O.A., is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)
Member (J)


(R.R. RANGARAJAN)
Member (A)

29.1.99 Date: 29-1-1999

Dictated in open Court.

1st and IIInd Court.

Copy to:

1. HDHND
2. HHRP M(A)
3. HBSOP M(J)
4. D.R. (A)
5. SPARE

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

THE HON'BLE R. RAJENDRA PRASAD
MEMBER (A)

THE HON'BLE R. RANGARAJAN
MEMBER (A)

THE HON'BLE MR. B.S. JAI PARAMESHW.R:
MEMBER (J)

DATED: 29/1/99

ORDER/ JUDGMENT

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

IN
D.A.NO : 1000/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/ REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
द्वेषण / DESPATCH

10 FEB 1999

हैदराबाद न्यायपीट
HYDERABAD BENCH