

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 1087/96

Date of Order B 22.9.98

BETWEEN :

C.H.Salaiah

.. Applicant

AND

1. The Chief Engineer,
Telecom Civil, A.P.Zone,
Hyderabad.

2. Sri N.V.S.Sastry

.. Respondents.

- - -

Counsel for the Applicant

... Mr.V.Venkateswara Rao

Counsel for the Respondent

.. Mr.N.R.Devraj
for R-1

..Mr.K.Venkateswara Rao
for R-2

- - -

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.))

- - -

Mr.V.Venkateswara Rao, learned counsel for the
applicant and Mr.N.R.Devraj, learned standing counsel for
the respondents. The learned counsel for R-2 is absent.

R

.. 2 ..

2. Both the respondents 1 and 2 have not filed any counter in this OA. However, Mr. N.R. Devraj for R-1 argued the case on the basis of the draft counter available with him.

3. The applicant was initially appointed as L.D.C. w.e.f. 23.5.69 and was promoted as U.D.C. in January 1974. Thereafter he was promoted as Head Clerk in August 1986 and as Superintendent w.e.f. 24.4.92. The applicant submits that TOA in the Telecom Civil Wing was introduced by the letter dated 17.10.95 w.e.f. 9.9.92. The applicant submits that he belongs to SC community and he was granted the scale of pay of Rs. 1600-2660 i.e. TOA Grade-III w.e.f. 9.9.92. He submits that he had completed 17 years of service as required under the BCR scheme for SC/ST officials to get the BCR scale. As per the BCR scheme, 10% of the BCR scale holders are entitled to be promoted to TOA (G) Grade-IV i.e. in the scale of pay of Rs. 2000-3200.

4. The applicant submits that as on 9.9.92 there was justification for one non functional promotion to TOA Grade-IV as there were 9 BCR scale holders^{as} on that date.

5. The applicant submitted his representation on 30.10.95. His representation was not considered. Hence he has filed this OA for a direction to R-1 to consider the case of the applicant for promotion to the post of TOA Gr-IV in the scale of pay of Rs. 2000-3200 w.e.f. 9.9.92 against the existing vacancy as per the instructions issued by the Department of

R

.. 3 ..

Telecommunications by its letter dated 19.5.94 by holding that he is entitled to be promoted to the said grade with all consequential benefits.

6. The learned counsel for the respondents on the basis of the parawise remarks submitted that the rules applicable for promotion to Gr-IV is enforceable for promotion to Gr-IV in the present case i.e. the rules applicable on the date of vacancy i.e. on 9.9.92 ^{he} is to be promoted. The DOT letter dated 19.5.94 (A-1) is relevant in this connection. It looks that there was a rule applicable to this case. Hence the applicant has to be considered for promotion against the post of TOA Gr-IV which occurred on 9.9.92. The above ~~view is~~ also in accordance with the judgement of the Supreme Court reported in 1983 (1) S1R 789 (Y.V.Rangaiah and others Vs. J.S.Srinivasa Rao and others). Though the applicant submits that he being an SC candidate, roster should be adhered to, ^{his} ~~if the~~ submission cannot be accepted as it is a ^{single cadre} ~~^~~ post and in view of the reasons stated in Supreme Court judgement when the cadre considered ^{sh} one post ^{reservation is not permissible}.

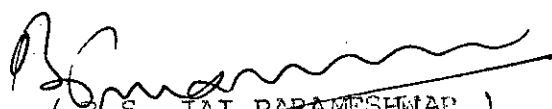
7. In view of the above the following directions are given :-

- (a) The case of the applicant should be considered for promotion to the post of TOA Gr-IV on the basis of the rules applicable for promotion to the post of Gr-IV on the date of occurrence of the vacancy.


Te

(b) The applicant is entitled for notional fixation of pay from the date of occurrence of vacancy and arrears from the date of filing of this OA.

8. The OA is disposed of accordingly. No costs.


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

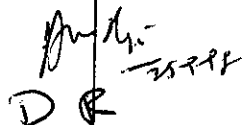
22.9.98


(R. RANGARAJAN)
Member (Admn.)

Dated : 22nd September, 1998

(Dictated in open court)

sd


D R