

25

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No. 1273/96

Date of Order : 31.8.98

BETWEEN :

1. P.V.Satyana Rayana  
2. B.Lakshmana Rao

.. Applicants.

AND

1. Union of India, rep. by  
its Secretary, Ministry of  
Defence, New Delhi.  
2. The Chief of Naval Staff,  
Naval Head Quarters,  
New Delhi.  
3. The Flag Officer Commanding  
in Chief, Eastern Naval Command,  
Naval Base, Visakhapatnam.  
4. The General Manager, Naval  
Armament Depot, Visakhapatnam.  
5. Sri V.Srinivasa Rao  
6. P.Sundara Narayana  
7. R.Srinivasa Rao

.. Respondents.

---

Counsel for the Applicants .. Mr.P.B.Vijaya Kumar  
Counsel for the Respondents .. Mr.V.Bhimanna

---

CORAM :

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

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

*R* *J*

.. 2 ..

O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

- - -

None for the applicant, Mr.V.Bhimanna, learned standing R-5 & R-6 notice sent not returned. Notice served on R-7. counsel for the respondents. As this OA was filed in the year 1996 the same is disposed of as per rule 15(1) CAT (Procedure) Rules, 1987.

2. There are two applicants in this OA. They were appointed on casual basis as skilled fitters for a period of 89 days on 16.9.86 (with intermittent breaks) and their services were regularised w.e.f. 28.3.87. A depot order No.70/90 regarding the service particulars of Torpedo Fitter (skilled) (HSK-II) was published during July 1996. The applicants submit that they were shown senior to the private respondents herein and they continued as per that seniority for a decade. Hence when they were about to be promoted as ~~HSK-II~~ to the post of Torpedo Fitters Gr-II their seniority was revised and thereby they were put into disadvantageous position. This <sup>action of the respondents they</sup> contend, <sup>an</sup> irregular, arbitrary and discriminatory. It is further stated that based on the revised seniority panel was prepared for promotion under temporary depot order No. 175/96 and their alleged juniors <sup>were</sup> promoted by order dated 23.9.96. The applicants submitted their representations but they were informed that the seniority list was revised on the basis of the panel position at the time of recruitment as skilled Gr-III and none of their juniors were promoted based on the date of birth. The error was committed in drawing the seniority list and it was rectified by revising the seniority list as per rule.

3. This OA is filed praying for a declaration that all proceedings upto including the communication order No.1236 dated 11.9.96 and 6.9.95 whereby their representation dated 2.9.96 was rejected and is irregular and retaining their

.. 3 ..

seniority position as per the earlier list which underwent the revision in 1996. They also pray for consequential benefits of promotion w.e.f. the date their juniors have been promoted.

4. In the reply it is stated that the earlier seniority was revised as it was found that the said seniority list was prepared erroneously. The seniority of the applicants herein have been placed as per the panel position at the time of recruitment. The representation had been considered and rejected and they were also informed of the same number of times. Hence the respondents submit that there is no merit in this OA.

5. Normally, the seniority is fixed on the basis of the panel position. This is a settled law. It is not understood why the respondents have prepared a seniority list which was followed till the <sup>issue of the</sup> revised seniority list was issued on the basis of probably the date of birth of the candidates. The fixation of the seniority list on the basis of date of birth is not supported by any rule. When two candidates stand on the same footing then the seniority is decided on the basis of the date of birth of the elder placed above the younger. The respondents clearly states that the panel position when the applicants were appointed was strictly followed. Hence in our opinion the respondents have not infringed the rights of the applicants and we do not see any violation of the Articles 14 and 21 of India in this case. However the respondents have delayed the revision of the seniority from 1986-96. This in our opinion is unwarranted. They could have acted immediately after the erroneous seniority list was issued. But that does not mean that the revised seniority list issued in accordance with the rule is to be set aside. We only caution the respondents to be more careful in future.

*TJ*

*Y*

.. 4 ..

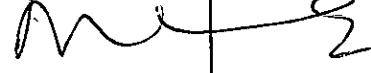
6. The applicants have not filed any rejoinder rebutting the reasons given by the respondents in revising the seniority on the basis of the panel position.

7. In view of what is stated above, we find no merit in this OA. Hence the OA is dismissed. No costs.

  
( B.S. JAI-PARAMESHWAR )

Member (Judl.)

31.8.98

  
( R.RANGARAJAN )

Member (Admn.)

Dated : 31st August, 1998

( Dictated in OpenCourt )

sdd

..5..

Copy to:

1. The Secretary, Min.of Defence, New Delhi.
2. The Chief of Naval Staff, Naval Head Quarters, New Delhi.
3. The Flag Officer, Commanding in Chief, Eastern Naval Command, Naval Base, Visakhapatnam.
4. The General Manager, Naval Armament Depot, Visakhapatnam.
5. One copy to Mr.P.B.Vijaya Kumar, Advocate, CAT, Hyderabad.
6. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
7. One copy to D.R(A),CAT, Hyderabad.
8. One duplicate copy.

YLKR

30/8/98 (8)

II COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 31/8/98

ORDER/JUDGMENT

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

in  
C.A.NO. 1273/26

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS ~~✓~~

~~DISMISSED~~

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR-

