

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A.No.1420 OF 1996.

DATE OF ORDER:21-9-1998.

Between:

Ch.Raja Rao. .. Applicant

and

1. The Telecom District Manager, Nalgonda, Nalgonda District.
2. The Chief General Manager, Telecommunication, Doosanchar Bhavan, Nampally Station Road, Hyderabad.
3. The Chairman, Telecom Commission, New Delhi.
4. Sri Y.Narasimha Rao, s/o not known, aged 54 yrs, Working as Grade-IV(O) (Chief Telephone Supervisor) under Telecom District Manager, Nalgonda.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.K.Venkateswara Rao

COUNSEL FOR THE RESPONDENTS:: Mr.V.Rajeshwara Rao

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER (AS PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.K.Venkateswara Rao for the Applicant and Mr.V.Rajeshwara Rao for the Respondents. Notice served on Respondent No.4. Called absent.

2. The applicant in this OA was a BCR Grade-III Official in the scale of pay of Rs.1600-2660/- in the unit of Telecom District Manager, Nalgonda (Respondent No.1 herein). There were five posts of BCR Grade-III in that SSA unit. In view of that, one of these posts should be operated in the higher scale of pay of Rs.2000-3200/- as Grade-IV Official.

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The respondents promoted one Sri D.Chandar to BCR Grade-IV with effect from 1-1-1994. The said Sri D.Chandar retired on 30-4-1994 and hence a vacancy arose because of that retirement. Then that post was once again filled up on 1-7-1994 by one Sri Y.Narasimha-Rao. The applicant relying on the Circular of DOT No. E.6-17/II/94-95/25, dated:9-1-1995(Annexure.A-III, Page.9 to the OA) submits that, even though it is only one post in view of the Circular referred to above, he has to be promoted against the S.C.quota as the first two points were filled by DC Officials. The applicant had filed a representation addressed to Respondent No.2 requesting him to examine his case and promote him as a Grade-IV Official. No reply has been given to that representation.

3. This OA is filed for setting aside the promotion of the unofficial respondent to Grade-IV from 1-7-1994 and in his place consider his case against the SC quota and promote him as a Grade-IV Official with effect from 1-7-1994 with all consequential benefits.

4. The Grade-IV post is only one under Respondent No.1. ^{reservation} When there is a single post, the rules of General is not attracted. It was so held by the Apex Court in POST GRADUATE INSTITUTE OF MEDICAL EDUCATION & RESEARCH, CHANDIGARH Vs FACULTY ASSOCIATION & OTHERS (reported in 1998 SCC(L&S) 961, as follows:-

"In a single post cadre, reservation at any point of time on account of rotation of roster is bound to bring about a situation where such a single post in the cadre will be kept reserved exclusively for the members of the backward classes and in total exclusion of the general members of the public. Such

total exclusion of general members of the public and cent percent reservation for the backward classes is not permissible under the constitutional framework. Until there is plurality of posts in a cadre, the question of reservation will not arise because any attempt of reservation by whatever means and even with device of rotation of roster in a single post cadre is bound to create 100% reservation of such post whenever such reservation is to be implemented. The device of rotation of roster in respect of a single post cadre will only mean that on some occasions there will be complete reservation and the appointment to such posts is kept out of bounds to the members of a large segment of the country who do not belong to any reserved class, but on some other occasions the post cadre should have been filled only by open competition amongst all segments of the society. The view taken in Chakradhar case is approved that there cannot be any reservation in a single post cadre. Contrary decisions in Madhav, Brij Lal Thakur and Bageshwari Prasad cases, upholding reservation in a single post cadre either directly or by device of rotation of roster, are not approved. The impugned decision in the case of Post Graduate Institute of Medical Education and Research (judgment dated 2-5-1997 in Civil Appeal No.3175 of 1997, reported as batch matter at (1997)6 SCC 283) cannot also be sustained. It is, therefore, set aside."

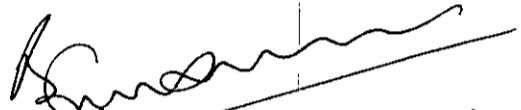
(Paras 34 to 37)

5. In view of the above, the Grade-IV post under the 1st respondent being one, the question of reservation does not arise. It has to be filled only by the Senior most eligible candidate in accordance with the rules. Hence, the question of setting aside the promotion of Respondent No.4 does not arise.

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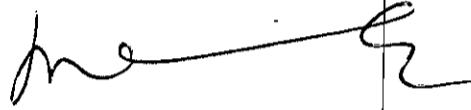
6. The applicant submits that so far the Circular dated:9-1-1995 is in force, the question of not promoting the applicant does not arise. Since the Supreme Court had held that there is no reservation in a single cadre post, the Circular dated:9-1-1995 cannot be enforced.

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)

21.9.98


(R.RANGARAJAN)

MEMBER(ADMN)

Dated: this the 21st day of September, 1998

Dictated to steno in the Open Court

DSN


D.R.

DA.1420/96

Copy to:-

1. The Telecom District Manager, Nalgonda.
2. The Chief General Manager, Telecommunication, Doorganchar Bhavan, Nampally Station Road, Hyderabad.
3. The Chairman, Telecom Commission, New Delhi.
4. One copy to Mr. K.Venkateswara Rao, Advocate, CAT., Hyd.
5. One copy to Mr. V.Rajeswara Rao, Addl.CGSC., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

srr

26/10/98
(X)

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPR VED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 21/9/98

ORDER/JUDGMENT

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

in
O.A. NO. 1420 /98

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

