

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A. 1426/96

Date of decision:

Between:

B. Ganesh

... Applicant

And

1. Union of India, rep. by
its Chairman, Department of
Atomic Energy,
(Atomic Mineral Division)
Bombay.
2. The Under Secretary (R&D-I),
Department of Atomic Energy,
Bombay.
3. The Director,
Atomic Minerals Division,
Begumpet, Hyderabad. Respondents

Mr. K.K.Chakravarthy ... Counsel for applicant

Mr. V. Rajeswar Rao ... Counsel for respondents

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HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

JUDGEMENT

The applicant's mother was regularly employed in the office of the third respondent. She took ill and passed away in 1982 while in service. The applicant was at that time only 10 years old. In course of time he passed ^{the} intermediate examination and also acquired a diploma in civil engineering and duly registered with the District Employment Exchange. In 1993 he represented to the third respondent for a suitable appointment and also filled up the prescribed form and submitted it in April 1994. He was called for ^a written examination held in August 1994 for consideration to selection to a clerical post. 5 days later he was informed that he had been duly empanelled for appointment to the post of an LDC in the pay scale of Rs 900-1500.

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He was asked to fill in an attestation form supplied by the third respondent and he submitted the same immediately. A month later he was given an appointment on adhoc basis for a period of 89 days in the pay scale mentioned above. It is the grievance of the applicant that the adhoc appointment was contrary to the assurance contained in the letter of Respondent-3 dated 25.8.94 to the effect that he was empanelled for appointment to the post of an LDC. Since, however, he was sorely in need of a job he accepted the said adhoc appointment. Subsequently the adhoc appointment continued vide orders issued on 6th October and 14th December, 1994, for a period of 89 days and 2 months, respectively. On 18th February 1995 his services were abruptly terminated whereupon he submitted representations to the same respondent. In November, 1995, the applicant was informed by the said respondent that his case had been duly forwarded to the Respondent-2 for consideration and that he would be informed of the outcome on receipt of a reply from the Department. In April, 1996, however, the applicant was informed that his request for compassionate appointment had been turned down by the Department which occasioned another representation by the applicant to Respondent-2 in July, 1996. In reply to this latest representation the applicant was informed by Respondent-2 that the case had been re-examined and turned down.

The applicant pleads that after duly allowing him to work for nearly 5 months the termination of his engagement without any reasons was arbitrary. He contends that his initial appointment even though termed 'adhoc', was in fact the result of proper selection by means of two written tests and an interview. Resultantly, the action of the respondents in giving him only an adhoc appointment and terminating the same thereafter was unjust.

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On the basis of the above facts and pleadings, the applicant prays for a direction to be issued to the respondents to provide him a job as LDC.

2. The respondents in their counter-affidavit submit that the case of the applicant was erroneously considered on receipt of his initial application. They also add that he was empanelled after due consideration by an appropriate selection committee. He was accommodated on adhoc basis for nearly 5½ months in 3 spells since a post of LDC was vacant and available. Simultaneously, his case was referred to Respondent-2 on the ground that it was a belated claim, the mother of the applicant having passed away in 1982, i.e., 12 or 13 years earlier. They further state that the mother of the applicant died after serving for only 1½ years, and that no application for compassionate appointment had been received immediately after her death, and further that the applicant's request was received only 11 years after the demise of his mother. They reiterate that his case was considered along with similar other cases on "mistaken notion".

The stand of the respondents is that the application was turned down for the reason that the request was received 11 long years after the death of the mother. They further explain that the respondent department has more than 30 such cases pending consideration and appointment.

3. It is noticed that the applicant at every stage was given an impression that his case would be duly considered in terms of a relevant scheme of the government. In fact he was asked to fill in prescribed forms, to appear for examinations, and also to fill in attestation forms. He was also informed that his name had been duly empanelled on the recommendation of the selection committee. All this, according to the respondents, was done 'erroneously'. Due to this administrative error, in the commital of which the applicant had absolutely no role to play, an anticipation

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was constantly generated in the applicant that he would be duly appointed at an appropriate time. Such being the situation, it would not seem to be correct of, or permissible for, the respondents to go back on their own word and rule out all consideration of his case. This would be against the normal concept of Legitimate Expectation. The State, which is in every way regarded a model employer, is not expected ordinarily to retract its own promise even on the ground of administrative error.

4. The main reason on which the rejection seems to have been based is that there has been an ordinate delay between the demise of the applicant's mother and his first representation for a suitable job as the applicant was a minor at the time of his mother's death. But the delay intervening the demise of his mother and his first representation is properly explained by the fact that the request was made by the applicant soon after he attained majority. This is not an inadequate or unsatisfactory reason, and provisions do exist in the instructions of the Government that representations could be duly considered on such grounds. Under the circumstances any outright rejection would be untenable even as per the instructions issued by the government. Instructions also exist regarding the powers to relax or condone delays in such cases. While the discretion to condone, or not to condone, such delays admittedly lies with the authorities, any rejection of such requests shall have to be necessarily based on facts as well as within a reasonable ambit of instructions issued by the government in this regard. In the absence of any clear statement of such reasons, an impression is likely to arise that the rejection was the result of a mechanical non-application of mind to the facts concerning an individual's claim. Such seems to be the case in the present instance.

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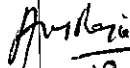
5. In the light of the discussion in the preceding paragraphs it would be necessary to direct the respondents to consider the case of the applicant strictly on its own merits and in the light of the rules and law without recourse to mere delay as ^{the} ground of rejection. Not to do so would amount to unfairness. Respondent-2 shall, therefore, be expected to review his decision and re-consider the facts of the case, take an appropriate decision, and communicate the same to the applicant within 60 days from the receipt of a copy of this order. In case there are no suitable vacancies in group C to accommodate the applicant immediately, and if he is finally adjudged unfit for such an appointment, the authorities could also examine if he can be accommodated in a lower post temporarily - if such arrangement is acceptable to the applicant - until such time that he can be regularly provided a suitable job commensurate with his qualifications and fitness. This aspect may also be examined within the same time-frame indicated above.

Thus the OA is disposed of. No costs.


(H. Rajendra Prasad)
Member (Administrative)

18 Aug 97

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Dno.

OA.1426/96.

To,

1. The Chairman, Department of Atomic Energy,
(Atomic Mineral Division) U.O.I., Bombay.
2. The Under Secretary (R&D-I),
Department of Atomic Energy, Bombay.
3. The Director, Atomic Minerals Division,
Begumpet, Hyderabad.
4. ~~The~~ One Copy to Mr.K.K.Chakravorthy , Advocate, CAT., Hyderabad.
5. One Copy to Mr.v.Rajeshwira Rao, Addl. GSC., CAT., Hyderabad.
6. One Copy to Mr.H.H.R.P.(Iem-Adm), CAT., Hyderabad.
7. One Copy to D.R.(A) ., CAT, Hyd-
8. One spare Copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 18-8-1997

~~ORDER~~ / JUDGMENT

M.A./R.A./C.A. No.

in

O.A.No. ~~1006/96~~ 1426/96.

T.A.No. (w.p.)

Admitted and Interim Directions

Issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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