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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A.No.1445 OF 1996.

DATE OF ORDER:25-1-1999.

BETWEEN:

1. Mr.P.S.R.Gandhi.
2. D.Choudhury.

... Applicants

and

1. Union of India, rep. by its Secretary, Department of Science and Technology, Ministry of S & T Technology Bhavan, New Mehrauli Road, New Delhi-110 016.
2. Surveyor General of India, Survey of India, Hathi Barkala Estate, Dehra Dun-248 001.
3. The Director, South, South Eastern Circle, Survey of India, Uppal, Hyderabad.
4. The Deputy Surveyor General, Survey Training Institute, Uppal, Hyderabad.

.... Respondents

COUNSEL FOR THE APPLICANTS::: Mr.S.Gopal Rao

COUNSEL FOR THE RESPONDENTS:: Mr.B.Narasimha Sharma

CORAM:

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

A N D

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

: ORDER :

ORAL ORDER (PERHON'BLE SRI R.RANGARAJAN, MEMBER (A) )

Heard Mr.S.Gopal Rao, learned Counsel for the Applicant and Mr.B.Narasimha Sharma, learned Standing Counsel for the Respondents.

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2. There are two applicants in this OA. Both are Surveyors. The first applicant is working in No.53 Party(SSEC) and the second applicant is working in No.39 Party(STI) as Surveyors in the Survey of India, Uppal. The Recruitment Rule for the Officer Surveyors was issued by notification No.18-46/75-SMP (Vol.II), dated:27-4-1983(Annexure.VII, page.44 to the OA). As per that notification, the short title and commencement of the notification reads as below:-

"These rules may be called the Survey of India, Officer Surveyor Recruitment Rules,1983, and they come into force on the date of their publication in the Official Gazette."

3. As per that notification, the post of Officer Surveyor is to be filled to the extent of 75% ~~of by~~ promotion quota and 25% on the basis of competitive examination. The present OA is in regard to the mode of filling up of the 75% promotion quota. Hence, the rule governing 75% promotion quota as stipulated in the notification dated:27-4-1983 is reproduced below for convenience:-

"Promotion

i) 75% of the promotion quota

By selection from Surveyors, Survey Asst., Scientific Asst., Geodetic Computers and Draughtsman Division.I with 8 years regular service in the respective grade, including service, if any, rendered in the selection grade of the above categories of posts."

4. From the above extract, it is evident that the post of Officer Surveyor to the extent of 75% is to be

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filled from five categories. They are:-

1. Surveyors;
2. Survey Assistants;
3. Scientific Assistants;
4. Geodetic Computors; and
5. Draughtsman Division.I.

All the employees belonging to those categories should put in 8 years of regular service in their respective grade including service, if any, rendered in the selection grade of the above categories of posts for consideration to the post of Officer Surveyor

5. The IVth Pay Commission had recommended for re-structuring of the cadres with a view to improve the promotional opportunities of the employees and also re-structuring on the basis of the functional nature of posts. That recommendation was accepted and hence, Departmental Order bearing No.J-144/709 Strength, dated:19-4-1996, of the various categories of the employees of the department was issued re-structuring the cadre. From this proposal, it is seen that there is a promotional post of Chief Draughtsman(Rs.2000-2600/-), Group-'B' numbering 36 posts over and above the category of Draughtsman Division-I (Rs.1400-3600/-), whose strength is revised to 300. There are other categories of staff in that order which are not relevant for the purpose of this DA. It is stated that the newly created post of Chief Draughtsman would be debited to the non-plan expenditure.

6. Subsequently, a Departmental Order bearing No.315/709-Strength, dated:30-5-1996 was issued.

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In this the Officer Surveyor, which is the promotional post for which the Recruitment Rule was issued by Order dated:27-4-1983, was shown as having a revised strength of 474. The post of Surveyor/Survey Assistant/Scientific Assistant/Geodetic Computer, were also revised as shown in that Order dated:30-5-1996. Thereafter, another Departmental Order bearing No.W-696/709-Strength, dated:6-8-1996, was issued combining certain categories and indicating the revised strength of the five categories mentioned as above.

7. The applicant in this OA submits as follows:-

- i) The post of Officer Surveyor has been reduced by taking out 36 posts from that category and is treated to be a promotional post for Draughtsman Grade-I. Thus promotional prospects of these two applicants herein who are Surveyors have been retarded.
- ii) The strength of the Officer Surveyors cannot be reduced and the Recruitment Rule for Officer Surveyors cannot be amended by executive orders unless it has been brought on the statute book as the earlier Recruitment Rule for Officer Surveyor was issued under Article 309 of the Constitution.
- iii) The above proposals inflict injury to the applicants herein, who are Surveyors aspiring to become Officer Surveyors in accordance with the Recruitment Rules of 1983.

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iv) Even if the newly created posts of Chief Draughtsman are taken as additional posts for promotion of Junior Draughtsman Grade-I, the junior Draughtsman Grade-I, junior to the Surveyors (i.e., the applicants herein) are being promoted to Group-'B', which is not called for and has been not allowed in the Judgments of the various other Tribunals.

8. The learned Counsel for the Respondents submits as follows:-

i) The 35 posts(Annexure.IV shows as 36) of Chief Draughtsman as mentioned in the letter dated:19-4-1996, has not been taken out from the total strength of Officer Surveyors, which was existing earlier to the issue of the letter dated:19-4-1996. As a matter of fact the post of Officer Surveyor which was earlier 338 has been increased to 474 as per the Departmental Order dated:30-5-1996 due to a cadre review. Thus Surveyors have been benefited by more number of posts in the post of Officer Surveyor compared to the strength earlier to the issue of the letter dated: 30-5-1996. Hence, the applicants have been benefited very much by revision of the cadre strength of Officer Surveyor to the extent of 474. The applicants' contention that the junior Draughtsman Grade-I, who are junior to the applicants herein, are being promoted to the Chief Draughtsman, a Group'B' post, has got no relevance to this issue as both belong to different functional spheres. By creating the post of Chief Draughtsman by the Order dated:19-4-1996, the applicant

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are in no way put to a disadvantage. The respondents further submit that the post of Officer Surveyor will be filled in accordance with the Recruitment Rules of 1983 till the same is amended in accordance with the rules. So far no promotion to the post of Chief Draughtsman has been made and the applicants are in no way affected because of the reasons stated above. It is also stated for the respondents that, as per the combined seniority list of the five categories of the employees eligible for consideration for promotion to the post of Officer Surveyor, employees upto serial no.56 had already been promoted regularly. Employees upto serial no.161 had been promoted on adhoc basis. The applicant no.1 stands at serial no.104 and he had been promoted on adhoc basis as Officer Surveyor already. The applicant no.2 stands beyond the serial no.300. The list is prepared only upto serial no.300. The case of the applicant no.2 will be considered either for regular or adhoc promotion as and when his turn arises.

ii) In view of the above, there is no merit in this OA. Hence, the OA has to be dismissed.

9. The creation of new posts of 36 as Chief Draughtsman in terms of the Office Order dated: 19-4-1996, does not in any way affect the applicants herein as they are not in the category of the Draughtsmen. They are in the cadre of Surveyors. The total number of posts of Officer Surveyor as was existing

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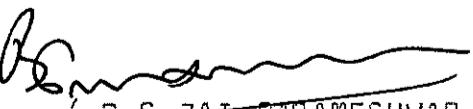
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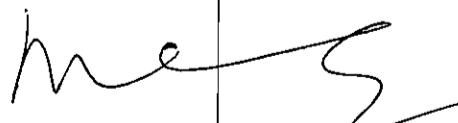
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on 19-4-1996 was not reduced by the creation of the Chief Draughtsman posts to the extent of 36 numbers. The applicants cannot question the creation of posts of Chief Draughtsman just because some of the Draughtsman Grade-I, who are likely to be promoted as Chief Draughtsman have joined later than them, as the applicants has no channel of promotion to the post of Chief Draughtsman as they belong to different category and not to the category of Draughtsman. The strength of Officer Surveyor has not been reduced and infact the strength has been increased. Hence, we find no reason to set aside the Departmental Orders dated: 19-4-1996, 30-5-1996 and 6-8-1996. On that score itself the OA is liable to be dismissed.

10. The only point for consideration in this OA is, whether the Draughtsman Grade-I can be omitted for promotion to the post of Officer Surveyor. So far the Recruitment Rule of 1983, is not amended in accordance with the rules, the Draughtsman Grade-I are eligible for consideration for promotion to the post of Officer Surveyor.

11. In view of what is stated above, the OA is dismissed subject to the observations made above. No costs.

  
 ( B.S. JAI PARAMESHWAR ) ( R.RANGARAJAN )  
 MEMBER (JUDL) MEMBER (ADMN)  
 25/1/99



Dated: this the 25th day of January, 1999  
 Dictated to steno in the Open Court

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DSN

Appl.  
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1st and IIInd Court.

Copy to :

1. HONMJ

Typed By  
Compared by

Checked by  
Approved by

2. HHRP M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH:HYDERABAD:

3. HSSJP M(J)

4.D.R.(A)

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

5. SPARE

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

THE HON'BLE R.RANGARAJAN  
MEMBER (A)

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

DATED: 25/1/99

ORDER/JUDGMENT

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

IN

C.A.NO.: 1A45/96

ADMITTED AND, INTERIM, DIRECTIONS  
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN.

ORDERED/REJECTED

NO ORDER AS TO COSTS

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