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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1482 of 1996
with
M.A.No.949 of 1997.

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Date of Order - 23rd October, 1997.

Between :

I. Rawata Ram, aged about 53 years,
Son of Valaji, Sub-Inspector(M.T.)
Sardar Vallabhai Patel National
Police Academy, Hyderabad-500 052.

... Applicant

And

The Director,
Sardar Vallabhbhai Patel
National Police Academy,
Ministry of Home Affairs,
Government of India,
Hyderabad - 500 052.

.... Respondent

Counsel for the applicant - Mr. Y. Suryanarayana

Counsel for the respondent- Mr. N.R.Devaraj, SrCGSC

Coram :

Honourable Mr.H. Rajendra Prasad, Member(Admn.)

Honourable Mr.B.S.Jai Parameshwar, Member(Judl.)

Jai

O R D E R

(Per Hon. Mr. B.S.Jai Parameshwar, Member(Judicial))

1. On 15.10.1997 this O.A. came up before us for considering the M.A.No.949/97 filed by the applicant praying this Tribunal to implead one Sri S. Rambabu who is now holding the post of Inspector (M.T.) in the Sardar Vallabhbhai Patel National Police Academy (in short, 'the Academy'), Hyderabad as a party-learned counsel for both respondent.to, the O.A. However, with the consent of parties, we heard the O.A. on merits and are now deciding the same finally.

2. This is an application under Section 19 of the Administrative Tribunals Act, 1985. The application was filed on 17.12.1996.

Heard the learned counsels for both the sides.

3. The applicant joined the service in the Academy as a Constable during 1966. He was promoted AsHead Construction Driver in 1977 and was later promoted as Sub-Inspector (M.T.) during 1988. He is a non-Matriculate and has undergone Short Course Training in the Police Transport Organisation (D&M) Training Centre, Andhra Pradesh, Hyderabad. He claims that he belongs to S.C. community. He submits that the next promotional post is the Inspector (M.T.) in the Academy. He submits that a post of Inspector (M.T.) is vacant in the Academy since 14.7.1994. He claims to have possessed the necessary qualifications to hold the said promotional post. He submitted representations to the Director of the Academy and there was correspondence between the applicant and the Academy.

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4. Having felt that the Academy may not consider his case for promotion to the post of Inspector(M.T.)
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favourably, he has filed this O.A. praying to -

- (a) call for the records relating to and connected with the Memo No.15011/19/94-Estt.II dated 8.5.1995 and 2.4.1996 and Memo No.19011/11/90-Estt. dated 7.12.1996;
- (b) declare the action of the respondent in not promoting the applicant as Inspector (Motor Transport) as per his eligibility and suitability as arbitrary, discriminatory and unconstitutional; and
- (c) consequently direct the respondent to promote the applicant in the existing vacancy with effect from 14.7.1994 with all consequential benefits.

5. His grievances against the Academy are that -

- (a) That the action of the Academy in not considering his claim for promotion to the post of Inspector (M.T.) is arbitrary and violative of Articles 14 and 16 of the Constitution of India.
- (b) That the Academy was not justified in rejecting his claim for promotion on the ground of not possessing the qualification of Matriculation for the said post; whereas on earlier occasions, the Academy had posted non-matriculates to the said post.
- (c) That the Academy on one pretext or the other is not willing to consider his case for promotion.
- (d) That the action of the Academy amounts to just denial of promotion to him.
- (e) That the action of the Academy in filling up the post of Inspector (M.T.) by bringing outsiders on deputation basis while an eligible inservice candidate is available is highly arbitrary and discriminatory.

(f) That though the Academy has not spelt out by implication it indicated to him that he was not eligible to be promoted as the Inspector (M.T.) as he did not possess an I.T.I. certificate in Motor Transport Mechanism. He further submits that in the absence of the recruitment rules or a provision governing the conditions of the service of the said post, oral insistence of the Academy for possessing such an I.T.I. certificate in Motor Transport Mechanism is unjustifiable.

6. On 3.10.1997 this Tribunal passed an interim order directing the respondent that any further orders extending the ad hoc appointment of Sri Rambabu if proposed to be issued, should be withheld until 11.10.1997. However, the said order was continued further.

7. The Academy has filed its counter contending that the said post of Inspector (MT)/Technical) was created during 1973 with an object to impart training in motor mechanism to the IPS probationers undergoing the basic training in the Academy as also to supervise the M.T. Section of the Academy for effective management of the personnel, namely, the Drivers, M.T. Jamedars and other staff working in the M.T. Section; that the duties of the Inspector M.T./Technical involve proper supervision, repair and maintenance of the vehicles numbering about 45 and also for effective utilisation of the M.T. Garage attached to the Academy; that the job of the post demands the following qualifications; namely, (a) Matriculation or its equivalent; (b) ITI Diploma Certificate in Automobile Engineering; and (c) at least 5 years experience in a M.T. Workshop; that the Academy has been in correspondence with the Ministry of Home Affairs right from 1986 for framing and notification of the necessary recruitment rules for the said post; but so far the same has not been materialised; that the

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number of Sub-Inspectors working in the Academy and aspiring for the said post are about 10; that no separate cadre, namely M.T. Section has been created and the personnel from the General Pool in accordance with their general educational and technical qualifications are drawn and posted in the M.T. Section; that with a view to provide promotional avenues to the working Sub-Inspectors in the Academy, the matter regarding clubbing up of certain posts of Sub-Inspectors in the Academy was decided at a meeting held in the Academy with the Under Secretary, Ministry of Home Affairs on 12.1.1996 which included the Sub-Inspectors in M.T. Section also; that even for the said proposal, approval of the Government of India is still awaited; that once either the rules or the proposal is approved by the Ministry, necessary action will be taken to follow the same; that the seniority^{position} of the applicant is at Sl.No.5 in the list of Sub-Inspectors working in the Academy; that the promotion of a Sub-Inspector to the post of Inspector M.T./Technical in the Academy can be considered only after the formal recruitment rules are approved or notified by the Government and till then, it is decided to fill up the post either on deputation basis or by direct recruitment purely on ad hoc basis for a specified period; that the applicant submitted representations praying to consider his case for the said post; that the applicant did not possess the necessary qualifications required for the post; that as the draft rules were sent for approval of the Government, the Academy is not inclined to fill up the post by promotion; that the Academy desires to fill up the post only by deputation; that since the post involves technical nature of duties, the Academy feels it desirable to fill up the post only by deputation; that the persons working as Sub-Inspectors in the Academy

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cadre
 were recruited in the / of Constable; that they may not be suitable to impart training to the IPS probationers in the motor transport mechanism; that the said post is a technical post; that only the person with regular qualification is to be fitted in; that the Academy has not violated any of the rights of the applicant; that the post of Inspector could not be filled up on deputation for quite sometime; that therefore, after getting the names sponsored by the Zilla Sainik Welfare Officer, R.R.District, Hyderabad, Sri Rambabu, the present incumbent of the post was selected by the Board of Members constituted for the purpose; that the said Rambabu has been appointed only on 9.9.1996 for a period of 89 days and that he has been continued to work in the Academy during different spells of 89 days each; that his appointment on ad hoc basis was in the public interest; that the various averments made by the applicant as to his qualification and capability to hold the post are denied and that there are no grounds to allow the O.A.

8. The applicant has been working as Sub-Inspector (M.T.). He is a candidate belonging to S.C. community. He is a non-matriculate and he has undergone the Short Course Training in the Police Transport Organisation. As per the draft recruitment rules proposed by the Academy, the qualification for the post of Inspector (M.T.) is Matriculation or its equivalent; I.T.I. Diploma certificate in Automobile Engineering and at least 5 years experience in a Motor Transport Workshop. The applicant admittedly does not possess any of the above qualifications. His main contention is that on previous occasions non-Matriculates were also posted to the said post; that the draft recruitment rules which

are yet to be approved by the Government of India do not prohibit the Academy to post him to that post. The applicant thus claims as a precedent to the post on the ground that on earlier occasions, the Academy had posted non-matriculates to the said post. The learned counsel for the applicant also stated an instance that ~~an officer from~~ the State of Karnataka was posted to the said post.

9. The learned counsel for the respondent submitted that the person who was posted to that post from the State of Karnataka was already holding an analogous post and that the said officer was not promoted and posted to the disputed post. Thus he contended that the posting a person holding an analogous post does not amount to any discrimination to the applicant. He further submitted that the Academy felt that the applicant is not qualified to hold the post for more than one reason. The learned counsel for the applicant submitted that the draft recruitment rules are not approved by the Ministry of Home Affairs and that therefore, those rules cannot be looked into. We agree with it, but we can say that the intention of the Academy as regards the qualification of the person who holds that post. The Academy expects some responsible job from the person who holds that post. As submitted at the Bar, that post is a technical one. The person holding that post must be in a position to impart training to the I.P.S. probationers and also to maintain and manage the M.T. Section. These are the various considerations which prompted the Academy to frame necessary recruitment rules for that post.

10. Chance of promotion is not one of the conditions of service. The Academy also made a proposal to provide the promotional avenues to the Sub-Inspectors working in the

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Academy in various disciplines. Even that proposal is yet to be considered by the Ministry. In such a situation, we find no reasons to direct the Academy to consider the case of the applicant for promotion. Presently the incumbent of the post, namely, Sri Rambabu is an ex-Serviceman. The applicant disputed the qualification of Rambabu to hold that post. We cannot go deep into that aspect. It is the Board of Members which has selected him after getting his name sponsored by the Zilla Sainik Welfare Officer, R.R. District, Hyderabad. The Board is fully aware of the needs of the Academy and has selected him. Therefore, it may not be proper for us to accept the contention of the applicant that Rambabu is not a person competent to hold that post.

11. The learned counsel for the applicant submitted that till the finalisation of the draft recruitment rules, at least, the applicant be promoted to that post on ad hoc basis. His contention rested on the premises that since 14.7.1974 only ad hoc appointments are made to that post for a period of not exceeding 89 days. Thus he claims that a chance be given to him to hold that post at least on ad hoc basis for a period of 89 days. This was strongly denied by the Academy. Their main contention is that the applicant is not qualified to hold that post. Admittedly, no rules are now in force with regard to the manner in which that post is to be filled up. The Academy has been adopting the method of posting a person to that post on ad hoc basis for a period of not exceeding 89 days. This Tribunal cannot direct or compel the Academy to fill that post in a particular manner or

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by a particular person. Moreover, the applicant is not qualified to hold that post. He is not a matriculate. Merely because he comes under S.C. community, he cannot claim that post without possessing the requisite qualification. In the absence of the rules, it may not be proper for this Tribunal to direct the Academy to promote the applicant and to post him to that post.

It is for the Academy to consider his case for promotion to that post having regard to his past record of service and experience.

12. The applicant has no legal right to claim the post of Inspector (M.T.) / Technical in the Academy. In that view of the matter, the application has no merit. Hence the O.A. is liable to be dismissed.

Accordingly the O.A. is dismissed. No order as to costs.


13. The applicant has filed M.A.No.949/97 to implead Sri Rambabu who is now working as Inspector (M.T.) in the Academy. The said Rambabu has been working in the said post since 8.9.1996. His apprehension is that the Academy may continue his service after completion of his tenure and that therefore, his presence is necessary in the O.A. As already observed, there are no rules for filling up the post in a particular manner. The Academy submits that on sponsoring the name of Rambabu by the Zilla Sainik Welfare Officer, R.R.District, Hyderabad, the Board of Members selected him and posted him on ad hoc basis. He has been continuing as such. He is an ex-Serviceman. The Academy submits that he is quite competent and qualified to hold that post.

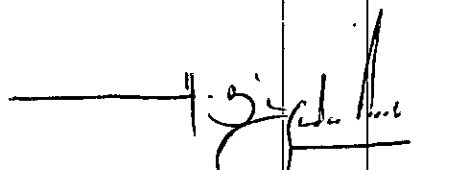
14. The learned counsel for the applicant contended that the said Rambabu had no experience in Motor Transport Workshop. We are not prepared to accept it. When the

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Academy has prescribed certain qualifications and experience in the draft rules, we hope that the Board had taken those facts into consideration while recommending his name for the post. Hence, we do not see any justification to implead Sri Rambabu as a party-respondent in the O.A. to consider the contentions advanced by the applicant. Moreover, we have formed an opinion that the applicant is not entitled to any of the reliefs and by the order we are dismissing the O.A.

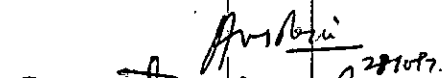
In that view of the matter, this M.A. does not survive for consideration and is accordingly disposed of.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDICIAL)
23.10.97


(H. RAJENDRAPRASAD)
MEMBER (ADMINISTRATIVE)

Dated the 23rd October, 1997.

DJ/


Deputy Registrar
23.10.97

O.A.1482/96.

To

1. The Director, Sardar Vallabhbhai Patel
National Police Academy, Min.of Home Affairs,
Govt.of India, Hyderabad-052.
2. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.
3. One copy to Mr.N.R.Devraj, Sr.CGSC. CAT.Hyd.
4. One copy to HBSJP.M.(J) CAT.Hyd.
5. One copy to D.R.(A) CAT.Hyd.
6. One spare copy.

pvm.

21/11/97

I. Court.

TYPED BY: CHECKED BY:

COMPARED BY: APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE.
VICE-CHAIRMAN

And

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

The Hon'ble Mr. B. S. Jaiparameswar, M (D).

DATED:- 23/10/97.

ORDER/JUDGMENT.

M.A.,/RA.,/C-A.No..

in

O.A.No. 1482/96.

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.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
बेचन/DESPATCH
- 3 NOV 1997
हैदराबाद न्यायपीठ
HYDERABAD BENCH