

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 508/96

Date of Order: 1-5-96

Between:

K. Subbarayudu

M. Sambasiva Rao

... Applicants

and

1. The Chairman, Telecom Commission,
Sanchar Bhavan, New Delhi.
2. Chief General Manager,
Telecom A.P. Hyderabad-1.
3. Sri B.V. Subba Rao.
Divisional Engineer,
Telecom, Nalgonda.

Respondents.

For the Applicant :- Mr. K. Lakshminarasimha, Advocate

For the Respondents: Mr. K. Ramulu,
XX./Add. CGSC
Mr. P. Naveen Rao, Advocate for R-3.

CORAM:

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

THE HON'BLE MR. RAJENDRA P. RASAD : MEMBER(ADMN)

Date of decision: 1-5-1996

MINUTES

Sri K. Lakshminarsimha for the original applicants in OA and MA. Sri V. Bhimanna for official respondents in OA and MA. Sri P. Naveen Rao for respondent No.3 and applicants in MA No.365/96.

2. Although the official respondents have not filed a reply, Sri Bhimanna, the learned standing counsel prays for vacating the interim order dt. 8-4-96. The respondent No.3 has filed a counter affidavit and he also contends that the applicants are not entitled to the interim relief. We shall deal with the application for impleadment filed by 16 persons with which we deal separately.

3. We are convinced that the ex parte interim order passed on 8-4-96 travels far beyond the scope of the original application and it will not be correct therefore to continue the same.

4. The specific grievance of the two applicants in the original application are directed against the order dt. 29-12-95 issued by the Respondent No.2 promoting the respondent No.3 and on officiating basis to the cadre of STS of ITS Group-A as Divisional Engineer. The relief, claimed inter alia is as follows:

- (i) To call for the records pertaining to Blue Book 1993 issued by the 1st respondent and quash the same insofar as the applicants and respondent No.3 is concerned revising the seniority as well as date of promotion of the applicants as Assistant Engineer vis-a-vis respondent No.3.
- (ii) Consequently quash the order dt. 29-12-95 issued by the 2nd respondent promoting the respondent No.3 as Divisional Engineer, and

[Signature]

(iii) Consequently direct official respondents to promote the applicants as Divisional Engineer in the place of respondent No.3 and consequently pass such other orders as are deemed fit and proper.

5. The reliefs sought as aforesaid when read with contents of Para 2 of the O.A. relating to particulars of orders ^{against} which the application is made leaves no manner of doubt that the grievance of the applicants ^{relates} are relied to the promotion of respondent No.3 on the ground that ^{their} (applicants) ^{the} seniority has been altered illegally in the Blue Book 1993 as a consequence of which whereas they were seniors to respondent No.3 in the 1989 list, ^{they} have been pushed down ^{the} him in 1993 list. It is pertinent to note that the entire seniority list 1993 (Blue Book) has not been challenged as illegal nor there is a prayer to quash the same. The limited relief sought is to quash the same insofar as the applicants and respondent No.3 are concerned, ^{and} it is on that basis that the promotion of the respondent No.3 has been challenged. The frame of the O.A. does not permit the applicants to seek any relief as interim relief ^{the} ~~beyond~~ scope of their case.

6. In the prayer for interim relief the main thrust is promotion on suspension of the order of ~~promotion~~ of respondent No.3 and incidentally it is also prayed that the Blue Book, 1993 may be suspended and consequently the official respondents may be directed to promote the applicants as Divisional Engineers based upon the seniority of Blue Book, 1989. The prayer for suspension of the Blue Book 1993 cannot be considered by way of interim relief when that is not the part of the main relief sought in the O.A. Likewise the interim directions sought to promote the applicants on the basis of 1989 Blue Book cannot be granted by way of interim order as that itself is a question to be resolved at the hearing of the O.A.

Similarly, as the order of promotion of respondent No.3 has already taken effect, there does not arise any question of suspending the same. With this nature of the reliefs claimed and assuming that the applicants eventually ^{may} succeed to get them. It is clearly not permissible to widen the scope ^{of} thereof and stall the promotions for some other officers on the alleged ground that they were juniors to the applicants in the 1989 Blue Book. That clearly is not the subject matter of the O.A. In the circumstances, interim relief can be considered only qua the respondent No.3.

7. Since the respondent No.3 is party to the O.A. and his promotion has been challenged, it is needless to say that it will be subject to the result of this O.A. although it will be necessary to examine at the hearing as to what is the effect of challenging it after it had become effective.

8. It has been urged by the learned counsel for the applicants that the temporary promotion of the respondent No.3 will be ending within a short time now and if the official respondents extend his promotion beyond that period that will amount to further injustice being caused to the applicants illegally. This argument pastulates that the applicants assume that they ^{have} ~~had~~ already granted the relief as prayed in the O.A. However, they have to wait till the final result of the O.A.

9. In the circumstances, we substitute the interim order dt.8-4-96 by the following order.

- (1) The promotion of the respondent No.3 which is challenged in the O.A. shall be subject to the final result of the O.A.
- (2) In the event of official respondents considering case of the respondent No.3 for extension of his ^{temporary} promotion after the present spell is over they shall not give effect to the same till the grounds

W.S.

35

raised by the applicants in their representations dt.11-3-93 addressed to the Director General, Telecom (now redesignated as Chairman, Telecom Commission described in the title of respondent No.1) are examined and reply is given to the applicants.

This direction is made as it is stated that the further representations are ^{also} not replied and before the representations have been filed on 30-1-96 by applicant No.1 on 26-10-95 by applicant No.2 ^{and as} also we think that the decision will be helpful ^{to} effectively adjudicate ^{upon} the issues arising in the O.A. at the final hearing. The official respondents may intimate the decision so taken to the Tribunal ^{also} through the learned standing counsel appearing for them ^{apart from} intimating the same to applicants and respondent no.3.

10. In the event of 1st respondent deciding to extend ^{temporary} the promotion of Respondent No.3 even after considering the ground urged in the representations of the applicants such promotion will be subject to the final result of the O.A. The applicants will be at liberty to challenge the validity of the said promotion by filing separate O.A. for the purpose.

11. The interim order dt.8-4-96 consequently stands vacated and is substituted by the aforesaid order.

separate order on M.A is passed

H. Rajendra Prasad
(H. Rajendra Prasad)
Member (A)

M.G. Chaudhari
(M.G. Chaudhari)
Vice Chairman

Dt.1-5-1996

Deputy Registrar (S)

kmv