

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.60/96

DATE OF ORDER : 06-05-1998.

Between :-

1. B.Vasu
2. K.V.S.R.A.V.Prasad
3. K.Daniel

... Applicants

And

1. The Telecom District Manager, Nalgonda.
2. The Chief General Manager, Telecom,
AP Circle, Hyderabad.
3. Union of India rep. by the Secretary
to the Department of Telecommunication,
New Delhi.

... Respondents

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Counsel for the Applicants : Shri K.Venkateswara Rao

Counsel for the Respondents : Shri N.R.Devaraj, Sr.CGSC

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CORAM:

THE HON'BLE SHRI R.Rangarajan : Member (A)

THE HON'BLE SHRI B.S.Jai Parameshwar : Member (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri K.Venkateshwar Rao, counsel for the applicants and Sri N.R.Devaraj, learned standing counsel for the respondents.

2. There are 3 applicants in this O.A. While they were working as Sr.Telecom Office Asst.(G) on officiating basis ^{had} given their option for posting as Cashiers as per the option letter at annexures R-I, R-III and R-IV respectively. On the basis of that option letter they were selected for the post of Cashier by letter No. E.4-4/III/94-95/228 dt.22-2-95 (Annexure-I page-5 to the OA). However by the impugned letter No.E.4-4/III/94-95/228 dt.22-2-95 (Annexure-I page-5 to the OA) all the 3 applicants were reverted as Telephone Office Asst.(G) with effect from 23-2-95 consequent on their selection and posting as Cashiers.

3. This O.A. is filed for a declaration that the applicants are entitled to continue as Cashiers with special pay and also as Sr.TOAs in the scale of Rs.1320-2040 with all consequential benefits by holding the action of the respondents in reverting the applicants as TOA(G) by the impugned order dt.22-2-95 is irregular and arbitrary and for a consequential direction to set aside the same.

4. The main contention of the applicants in this OA is that there is no provision in the rule for reverting them as TOA(G) from the post of Sr.TOA(G) consequent on the promotion as Cashiers. They are entitled for special pay also as Cashiers retaining them as

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Sr. TOA(6) on officiating basis. The condition No.(6) included in the option circular No.4-4/III/94-95/202 dt.2-12-94 (Annexure R-1 to the reply)^{is} in valid and is against the rules of the Postal Department as can be seen from Swamy's FR & SR special pay to Cashiers. As per this LOCs/UDCs/Assts. can perform the duties of Cashiers and special pay can be granted to them. When even Assistants can be posted as cashiers there is no rule to revert the Sr. TOAs who are below the rank of Assts. to be reverted as TOAs. Hence condition No.(6) incorporated in option letter is violative of the principles laid down by the Postal Department. This rule reads as follows :-

"Power of sanction to Ministries and Heads of Departments may at their discretion appoint LOCs/UDCs/Assts. to perform the duties of cashiers and grant special pay."

5. The applicants in the OA have not brought out the above rule. They only stated in page-2 para-6(d) of the OA that there is no ~~are~~ separate Cashiers/Assistants and the persons working as LOCs/UDCs/Assistants are required to perform the duties of cashiers with special pay. If the applicants are aggrieved by their reversion they should have been clearly brought out this rule and ask for redressal of their grievance, but in the O.A. they have not elaborated their case fully. Further it is not understood why the applicants have given option when they are aggrieved by the condition No.(6) incorporated in the option letter. When we asked the standing counsel for the respondents as to why condition No.6 had been included in the option letter circular he submits that it was done in view of letter of DGP & T letter No.13/19/81-SPB/II dt.31-5-1983. A study of this letter indicates that it is a general letter for

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promotion to the post of cashiers. It does not categorically states that an officiating Sr.TOA(G) has to be reverted when he was posted as Cashier. The learned counsel for the respondents submits that the contents of letter dt.31-5-83 are guide lines and hence that guide lines were followed, but we are not sure whether the impugned letter of reversion is in accordance with the guide lines issued by letter dt.31-5-83. Further the reply does not talk of any of the guide lines issued earlier which was followed in the inclusion of condition No.(6) in the option letter. When the reply does not give the full details and the letter dt.31-5-83 has not been enclosed, it will not be correct to pass an order on the basis of production of some circular at the time of hearing. Hence we do not place much reliance on the submission of the respondents to dispose of the OA.

6. Considering the facts and circumstances of this case we are of the opinion that an equitable order has to be given in this OA. The impugned order has to be set aside or it should be treated as a show cause notice given to the applicants for reversion. At the same time the respondents should also be permitted to re-consider the issue and come to a reasonable conclusion that the reversion is necessary on the basis of rules. In ^{order} ~~all~~ to achieve the above ^{objective}, the following direction is given :-


The impugned letter dt.22-2-95 (Annexure-I to the OA) is to be treated as a show cause notice given to the applicants purporting to revert them as TOA(G) on their posting as Cashiers. The applicants are at liberty to file a representation against that impugned letter dt.22-2-95 within a period of 30 days from the date of receipt of a copy of

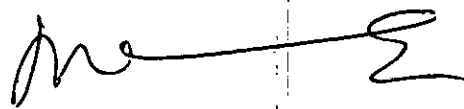
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this order detailing their contentions fully on the basis of rules and other particulars available with them. If such a representation is received by the appropriate departmental authorities, then that representation should be disposed of within a period of two months from the date of receipt of the reply to the show cause notice. Till such time the show cause notice is disposed of, the applicants should be deemed to be working as officiating Sr.TOA(G) only.

7. With the above direction, the O.A. is disposed of.

No order as to costs.


(B.S. JAI PARAMESHWAR)
Member (J)
6.598


(R. RANGARAJAN)
Member (A)

Dated: 6th May, 1998.
Dictated in Open Court.

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II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 6/5/98

ORDER/JUDGMENT

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

in

O.A.NO. 60/98

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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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद ब्याचपीठ
HYDERABAD BENCH
1277 MAY 1998
Despatch No. 1277
RECEIVED
उप विभाग/APPAL SECTION