

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD

OA. 706/96.

~~MxxxNoxx299/96 AR~~ O.A.S.R. 1272/96.

Date: 12-6-1996.

Between:

Syed Khasim Hussain.

Applicant.

And

1. Government of India,  
Dept. of Atomic Energy  
Anushakthi Bhavan, 4th Floor  
C.S.M. Marg, Bombay rep. by  
its Additional Secretary.

2. The Chief Executive  
Heavy Water Board  
Vikram Sarabhai Bhavan,  
4th Floor, Tqombay BARC  
Bombay.

3. The General Manager,  
Heavy Water Plant,  
Gouthaminagar Colony (PO)  
Asw\_puram 507 116  
Khammam District.

Respondents.

For the Applicant: Sri S.Prabhakar Reddy for  
Sri G.Vidyasagar.

For the Respondents:

CORAM:

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

THE HON'BLE MR. R. RANGARAJAN.

MEMBER (ADMN.)

(32)

Date: June 12, 1996.

O.A.S.R.1272/96

JUDGMENT

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN)

✓ The relief sought by the applicant is relating <sup>the</sup> as mentioned in the to action of the respondents' letter dated 28-8-1995 as illegal and unjust. For the reasons stated in the Order on M.A.399/96, we have not found any justification for non-production of the said letter. Thus in the absence of the impugned letter, the application is not maintainable. for the aforesaid relief.

2. Apart from the above technical consideration, we find from the application that the grievance of the applicant is that he has been denied the confirmation for which he became eligible on 31-1-1990 and he has also been denied promotion. In that connection, the applicant himself states that there were adverse remarks in his confidential record for the period 1-8-1989 to 31-7-1990 and that he had also been suspended between 21-8-1989 and 7-9-1990. It is his grievance that those adverse remarks were not communicated to him. That has to be challenged at the appropriate stage and not now. Apart from the fact, that aspect has not been specifically challenged, no relief in that respect has also been prayed for. The application <sup>application</sup> further reveals that adverse remarks were

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recorded against the applicant for the year 1993--94, that they were communicated to him and that the applicant has made a representation to expunge the said remarks and that representation is still pending undisposed before the Secretary to Government of India. That means, those adverse remarks continue to form part of the service record of the applicant for the time being.

3. It is in this back-ground, the facts stated in paragraph (C) of Annexure V dated 24--2--1996 assumes significance. It reveals that the case of the applicant was being considered from time to time from 1990 onwards for promotion by the Screening Committee and as the applicant did not meet the minimum norms, he was not screened but his case will again be considered at the appropriate time with reference to the norms. It further reveals that the applicant's probation was closed on 3--3--1989 and his case for confirmation was considered by DPC., which met on four occasions between 26--3--1991 and 17--3--1995 but he was not recommended. Once again his case was considered by DPC on 17--3--1994 and the minutes thereof were kept in a sealed cover, the reason being that a Criminal case was pending against the applicant. The fact that the applicant admittedly



leads to the  
had been placed under suspension is an ~~un~~-inevitable  
inference that he was involved in a criminal case.

The applicant has chosen to remain silent on this  
vital fact. However, it transpires <sup>that</sup> when the sealed

cover was opened on 28-8-1995 <sup>after</sup> the applicant

was acquitted from the criminal case by the Court. <sup>which</sup>

~~The fact of the criminal case has not even~~  
~~This fact has also not been stated in the appli-~~

cation. It was then communicated to the applicant

by letter dated 28-8-1995 that he had not been

recommended on 17-3-1994 by the DPC. Had the

matter rested there, perhaps there could be some

room to make a grievance for the applicant. However,

the letter dated 7/24-2-1996 further states as

follows:

".... though the confirmation procedure  
has been simplified, the confirmation is  
not automatic immediately after closure  
of promotion. As the cases for confir-  
mation should be considered by a Committee(DPC)  
and based on its recommendation a specific  
order of confirmation shall be issued.

In view of the above Shri Khasim  
Hussain is informed that his case for  
promotion as well as confirmation will be  
taken up again at the appropriate time."

ML

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Thus the question of confirmation of the applicant is still open and is expected to be considered by the DPC., in the light of the existing circumstances. What decision the DPC., would take cannot be speculated. It is only after any adverse decision is taken by the DPC., that the applicant would have any cause of action to agitate before this Tribunal. Presently he has none. Likewise the question of promotion of the applicant is also open to be considered by the DPC., and it is implicit that it is connected with the question of confirmation. With the assurance of the respondents contained in the letter dated 24--2--1996, that the case of the applicant for promotion as well as confirmation will be taken up again at the appropriate time, and therefore, it would be sufficient to hold that at present the applicant has no cause of action in the instant application.

4. Although it is stated clearly that this question will be considered at the appropriate time, it has not been indicated as to when that would take place. Since the letter was issued on 24--2--1996, we think that by now ~~the~~ a reasonable time has elapsed and possibly the DPC., might have met <sup>already</sup> ~~also~~ or would be meeting soon. We would, however, express the hope that since after the DPC., of 1994, ~~the BPPX~~, the DPC., would ordinarily be expected to be convened in 1995-96, and that the meeting would be convened as early as possible.

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Thus, we find no cause of action to entertain this application. It deserves to be summarily rejected.

5. The O.A., is accordingly rejected.

The M.A., is also rejected. No costs.

*over*

(R.RANGARAJAN)  
MEMBER (A)

*M.G.CHAUDHARI*  
(M.G.CHAUDHARI, J)  
Vice-Chairman.

Date: 12--6--1996.

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Dictated in open Court.

sss.

*Arvind  
11/6/96  
Deputy Registrar (O.C.)*

0.A.704/96.

To

1. The Additional Secretary, Govt. of India,  
Dept. of Atomic Energy, Anushakti Bhavan,  
4th Floor C.S.M. Marg, Bombay.
2. The Chief Executive, Heavy Water Board  
Vikram Sarabhai Bhavan, 4th Floor,  
Trombay BARC, Bombay.
3. The General Manager, Heavy Water Plant,  
Gouthaminagar Colony (PO) Aswapuram  
Khammam Dist. 116.
4. One copy to (Mr. S. Prabhakar Reddy) Mr. G. Vidyasagar, Advocate, CAT.
5. One copy to Mr. V. Bheemanna, Addl. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

pvm

9/7/96  
I COURT

TYPED BY

CHECKED BY

COMPARED BY

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. B. R. B. PRASAD~~ M(A)

Dated: 12-6-1996

ORDER/JUDGMENT

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

in

O.A.No. 505/96 704/96

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.

pvm

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
प्रेषण/DESPATCH

- 9 JUL 1996

हैदराबाद बैठकीय पाठ्यपीठ  
HYDERABAD BENCH