

(46)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.804/96

DATE OF ORDER : 26-02-1997

Between :-

B.S.Yadagiri Rao

... Applicant

And

1. Union of India, represented by Director
General of Quality Assurance (ADM.10),
Deptt of Defence Production (DGQA), Ministry
of Defence, Govt. of India, South Block,
DHQ PO, New Delhi -110011.

... Respondent

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Counsel for the Applicant : Shri S.Rama Krishna Rao

Counsel for the Respondents : Shri V.Rajeshwar Rao, CGSC

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CORAM:

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

THE HON'BLE SHRI R.RAJENDRA PRASAD : MEMBER (A)

(Order per Hon'ble Shri Justice M.G.Chaudhari, VC).

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...2.

(Order per Hon'ble Shri Justice M.G.Chaudhari, VC).

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Shri S.Ramakrishna Rao for the applicant. Shri V.Rajeshwar Rao for the Respondents.

2. The Departmental Promotion Committee held in April, 1996 for promotion to the Grade of O.S.-II did not recommend the name of the applicant for promotion to the post of OS GDE - II. The applicant was informed accordingly by the impugned letter dt.17-6-96. The applicant has therefore filed this O.A. He prays for setting aside the impugned order and for a direction to the respondents to constitute a Review DPC and to promote him to the post of OS Grade-II in the available vacancy in the present Unit.

3. It is not open to the Tribunal to go behind assessment of a candidate made by a DPC. There is no specific ground alleging any malafides or bias against the DPC. All that is alleged is that the action of non selection of the applicant itself shows malefide intention on the part of the respondents. Such an allegation cannot constitute a proper ^{pleading} ~~reading~~ of malafides.

4. It is argued by the learned counsel for the applicant that the ^{assessment} ~~assumption~~ made by the DPC as regards the applicant suffers from illegality in as much as in the absence of any adverse remarks having been communicated to the applicant in the relevant years. ^{he} He was bound to have been selected as otherwise he had good ^{entire} record right through his service. In that connection it is submitted that even the ACRs relating to the applicant do not appear to have been made available to the DPC in order to consider ~~by~~ it and therefore the non selection of the applicant is arbitrary. For

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this purpose the learned counsel drew our attention to Annexure-V. That is a letter from the Controller addressed to the Director General of Quality Assurance, Department of Defence Production, Ministry of Defence, Govt. of India dt.31-5-96. That merely states that the Controller had not ~~till~~ then received copy of the Head Quarters DGQA Lr.No.A/33415/09/DGQA/ADM/10 dt.26~~4~~-96. We fail to understand as to how this communication can establish that the ACRs of the applicant were not before the DPC or were not considered properly by the DPC. Besides this is purely an internal communication and it ^{has} not been explained as to how the applicant could get access to this. Moreover assuming that ~~as~~ the letter ~~that~~ was not received ^{deleted} as mentioned ^{but} as 26~~4~~-96 and if that circumstance is read in the context of the impugned order dt.17-6-96 it may only mean that the result of the selection made by the DPC in April, 1996 was not received by the Controller till 31-5-96. That does not mean that by the time the impugned letter was issued on 17-6-96 — The copy of that letter could not have ^{been} received by the Controller.

5. The learned counsel desired to submit the entries contained in ACRs for the material years in order to substantiate the applicant's contention that his records ^{has} ~~have~~ been as such that he could ^{not} ~~not~~ have been denied selection. It is not possible for us to refer to such private information in as much as the applicant has not disclosed the source of knowledge of the confidential record.

6. When the selection is carried out by the DPC the normal presumption would arise that all administrative acts are done as required by the law. It is to be assumed that the DPC had consi-

dered the relevant material to assess the suitability of the applicant. It is not open to the Tribunal to interfere with the objective assessment as may have been made by the DPC in the absence of any material to show that the DPC had acted either mala-fide or with bias.

7. Another contention of the applicant is that he belongs to SC community and the respondents have not followed the mandate of the constitution as regards reservation to SC Community. ^{while} ~~while~~ denying the selection to the applicant, suffice in this connection to state that Annexure-III which contains the names of selected candidates shows that it includes several candidates who belongs to SC and ST community. It cannot therefore be presumed that the respondents have ^{not avoided} ~~avoided~~ by the reservation policy as may have been applicable to the present selection. It is also contended by the applicant that he is at the fag end of his career and it would be great injustice if he is unable to earn promotion which according to him he deserves after a long 28 years of service. Such a ground cannot permit us to interfere with the impugned order but it must be mentioned that the Additional Standing Counsel informs that the DPC, ~~which~~ is going to meet shortly and the ACRs of the applicant have been sent to the Head Quarters for consideration for promotion. The applicant therefore ^{has not lost} ~~totally not denied~~ the ^{chance} ~~choice~~ of consideration and if he is selected, ^{there} ~~Therefore~~ there is no reason to think that he will not get what is due to him. For the



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aforesaid reasons we find no merit in this application to

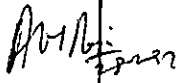
✓ admit, ²⁻ The application is accordingly disposed of. No order as to costs.


(H. RAJENDRA PRASAD)
Member (A)


(M.G. CHAUDHARI)
Vice-Chairman

Dated: 26th February, 1997.
Dictated in Open Court.

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Deputy Registrar CC

O.A. 804/96

To

1. The Director General of Quality Assurance (ADM-10)
Dept.of Defence Production (DGQA)
Ministry of Defence, Govt.of India,
South Block, Union of India,
New Delhi-111
2. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
3. One copy to Mr.V.Rajeswar Rao, Addl.CGSC.CAT.Hyd.
4. One copy to Library, CAT.Hyd.
5. One copy to D.R.(A) CAT.Hyd.
6. One spare copy.

pvm.

26/3/97

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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. RAJENDRA PRASAD
MEMBER (ADMN)

Dated: 26 - 2 - 1997

~~ORDER~~ / JUDGMENT

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

in

O.A.No. 804/96

T.A.No. (W.P.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

to order as to costs.

pvm.

