

52

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

O.A.No.1334 OF 1996.

DATE OF ORDER: 28-9-1998.

Between:

A.Ramanjaiah. .. Applicant

and

1. Director, S.V.P.National Police Academy, Shivarampally, Hyderabad.
2. Deputy Director, S.V.P.National Police Academy, Sivarampally, Hyderabad.
3. Assistant Director(Admn), S.V.P.National Police Academy, Shivarampally, Hyderabad.
4. Murali Krishna, LDC, Accounts Section, SVP National Police Academy, Shivarampally, Hyderabad.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.J.M.Naidu

COUNSEL FOR THE RESPONDENTS: Mr.N.R.Devaraj

COBAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

AND

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUD)

: ORDER :

ORAL ORDER (AS PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (J))

Heard Mr.J.M.Naidu, the learned Counsel for the Applicant and Mr.N.R.Devaraj, the learned Standing Counsel for the Respondents.

2. The applicant was originally appointed as Syce under the Respondents Academy and his services were regularised from 5-3-1982. He was promoted to the post of Book-Binder-cum-Attendant in the Library of the Academy, vide Proceedings No.11023/80.Estt., dated: 29-12-1980. His services were also regularised as

34

.....2

Book-Binder-cum-Attendant by proceedings No.12011/80-Estt dated:29-3-1984. He was promoted as L.D.C. on adhoc basis by Order No.11011/80-Estt dated:11-5-1982 (Annexure.5 to the OA). By Order No.11044/82-Estt., dated:9-2-1983, he was reverted to Book-Binder post as the post of LDC was filled up by that Order (Annexure.6 to the OA). Again by Order No.11044/82-Estt, dated: 1-7-1983, he was promoted as LDC purely on adhoc basis. It was only for a period of three months. However, by Order No.11044/82-Estt, dated:17-11-1983, his adhoc services were continued for another period of three months or till the post was filled up through regular candidate which-ever was earlier. By Establishment Order No.11011/4/92-Estt., dated:1-9-1992, he was appointed as LDC on regular basis in the scale of pay of Rs.950-1500/- with effect from 1-9-1992.

3. A seniority list of LDCs was published in the Academy, vide Order No.12011/1/92-Estt., dated:28-3-91. The applicant submitted his representation/to consider his case for seniority as LDC from 1-7-1983. He also submitted another representation dated:8-3-1996 (Annexure.13 to the OA) for the same claim.

4. The Academy by its letter No.13011/12/88-Estt. dated:11-10-1996 (Annexure.14 to the OA) informed him that he was not qualified in the Departmental Examination conducted by the Academy and one Sri A.Ramanjaiah and Karan Singh ^{were} selected for the post of L.D.C. on regular basis with effect from 1-9-1992 and 2-9-1992, respectively. Thus they submit that they informed that the seniority in the cadre of LDC will be considered only from 1-9-92.

2

5. The applicant has filed this OA to declare the action of the 3rd Respondent in denying him the benefit of seniority in the cadre of LDC from 1-7-1983, vide Proceedings No.13011/12/88-Estt, dated:11-10-1996 as illegal and violative of Articles 14 and 16 of the Constitution of India and consequently/direct the Respondents to promote him to the post of UDC by taking into account ~~his~~ seniority in the cadre of LDC from 1-7-1983.

6. On 21-8-1997 an Interim Order was passed indicating that any promotion that may be made to the post of UDC in the Academy would be subject to the outcome of this OA.

7. The respondents have filed their reply stating that the applicant was appointed as LDC on adhoc basis from 1-7-1983 pending selection of a regular candidate as ~~the~~ recruitment rule and that his adhoc appointment as LDC was not according to ~~that~~ recruitment rules and that his seniority can be considered in the cadre of LDC only from 1-9-1992. They further submit that the applicant did not qualify for regular appointment as LDC though he was given adequate chances to clear departmental examination. Thus they submit that, they have given the seniority to the applicant in the cadre of LDC with effect from 1-9-1992 and that he is not entitled to claim the seniority with effect from 1-7-1983.

8. During the course of arguments, the learned Counsel for the Respondents brought to our notice that as per the recruitment rules issued on 7-10-1987, the 10% of the post of LDCs was reserved for promotion from the lower ~~cadre~~ Group-'D'. The learned Counsel for the Applicant submitted

R

that there was no such rule earlier to that date 7-10-87 and hence it should be taken that the posts are to be filled by promotion and as the applicant was promoted in accordance with the rules as he ^{possessed} ~~qualified~~ the educational qualifications and was senior before his adhoc promotion, it should be treated as regular from 1983 onwards and hence he should be given seniority from that date. For this he relied on the Judgment of the DIRECT RECRUITS CLASS-II ENGINEERS OFFICERS ASSOCIATION Vs STATE OF MAHARASTRA (reported in AIR 1990 SC.1607) and also NARENDER CHADHA Vs. UNION OF INDIA (reported in AIR 1986 S.C. 638).

9. In order to verify whether there was any recruitment rules for promotion of LDCs in the Respondent organisation earlier to 7-10-1987, we asked the learned Counsel for the Respondents to produce the recruitment rules, if any, issued earlier to 7-10-1987. The learned Counsel for the Respondents produced before us the recruitment rules for LDCs earlier to 7-10-1987 referred to above. From that we find that the post of LDC ^{was} ~~is~~ to be filled up by direct recruitment amongst those possessing Matriculation or equivalent.

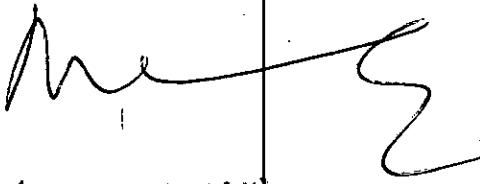
10. In our view the direct recruitment means calling for applications from the Employment Exchange or by issuing open notification. Without resorting to such methods, promotions within should be treated as an adhoc promotion to meet the exigencies of service. As the applicant was promoted ~~on~~ adhoc basis, it has been clearly indicated in the year 1983, it cannot be said that the recruitment rules ^{were} ~~was~~ followed fully while promoting him to the said post on departmental examination.

Pr

As per the Maharashtra Engineers' case, only those who were promoted on adhoc basis following the recruitment rules fully are eligible to get seniority from the date of promotion if they are subsequently regularised in continuation of their adhoc promotion in this connection. The promotion for the Group-'D' category was issued only from 1987 and not from 1983 and hence, he cannot be given seniority from 1983 onwards. The Maharashtra Engineers' case does not apply in this case as the promotion conditions set out in that Judgment ~~is~~ ^{are} not available for the applicant in this OA. Similarly is the position in regard to Narendra Chadha's case. The applicant failed to qualify himself against the promotion quota after the recruitment rule was issued on 7-10-1987. He qualified in 1983 and he was given seniority from the date he qualified in the selection against the promotion quota. The applicant submits from 1987 he ^{must be} deemed to have been promoted against Departmental Recruitment quota. We do not find any substance to prove that contention.

11. Hence, we do not find any merit in this OA. The OA is dismissed. No costs.


28/9/98
(B.S.JAI PARAMESHWAR)
MEMBER (JUDL)


(R.RANGARAJAN)
MEMBER (ADMN)

Dated: this the 28th day of September, 1998
Dictated to steno in the Open Court

DSN


D.R.

Copy to:

1. Director, S.V.P. National Police Academy, Shivrampalli, Hyderabad.
2. Deputy Director, S.V.P. National Police Academy, Sivarampalli, Hyderabad.
3. Assistant Director(Admn.), S.V.P. National Police Academy, Sivarampalli, Hyderabad.
4. One copy to Mr. J. M. Naidu, Advocate, CAT, Hyderabad.
5. One copy to Mr. N. R. Devraj, Sr. CGSC, CAT, Hyderabad.
6. One copy to HBSJP, M(J), CAT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One duplicate copy.

YLKR

26/10/95
26/10/95
II COURT

TYPED BY
COMPILED 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 G.S. JAI PARAMESHWAR:
M(J)

DATED : 28/9/95

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

in
O.A.NO. 1334 /95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

Y LKR

