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CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

O.A. No. 1080/96 with 1081/96
P.A. NO.

DATE OF DECISION 10.1.1997

K. Jagannadha Rao (O.A. 1080/96)
P.M. Chandrasekhar (OA 1081/96) (PETITIONER (S))

Mr. K.Venkateswara Rao ADVOCATE FOR THE PETITIONER(S)

VERSUS

Deputy Director General, Geological
Survey of India & other others
(in both OAs) RESPONDENT (S)

Mr. V.Rajeswara Rao (for R 1-3 in both OAs) ADVOCATE FOR THE RESPON-
DENT (S).
Mr.C.Narender for Mr.G.Chandraiah
(for R-4 in both OAs)

THE HON'BLE MR JUSTICE M.G. CHANDHARI, VICE CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE) *Q.61/*

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgement ? *N*
4. Whether the Judgement is to be circulated to the other Benches ? *huda*

Judgement delivered by Hon'ble Mr. Justice M.G. Chaudhari, VC

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A.1080/96 with O.A. 1081/96

Date: 10.1.1997

1. O.A. 1080/96

Between:

K.Jagannadha Rao .. Applicant

And

1. The Deputy Director General,
Geological Survey of India,
Training Institute, Bandlaguda,
Hyderabad.

2. The Director General,
Geological Survey of India,
27, Jawaharlal Nehru Road,
Calcutta.

3. The Secretary to the Deptt. of
Personnel & Training,
New Delhi.

4. L.Sreeramulu,
Assistant, Geological Survey
of India,
Training Institute,
Hyderabad.

... Respondents

Mr. K.Venkateswara Rao ! ... Counsel for applicant

Mr. V. Rajeshwara Rao, ACGSC ... Counsel Respondents 1-3.

Mr.C.Narender for Mr.G.Chandraiah ... Counsel for Respondent-4

2. O.A. 1081/96

Between:

P.M.Chandrasekhar ... Applicant

And

1. The Deputy Director General,
Geological Survey of India,
Training Institute,
Bandlaguda, Hyderabad.

2. The Director General,
Geological Survey of India,
Calcutta.

3. The Secretary to the
Department of Personnel &
Training,
New Delhi.

4. L.Sreeramulu,
Assistant,
Geological Survey of India,
Training Institute,
Hyderabad.

.. Respondents

Mr. K.Venkateswara Rao

.. Counsel for applicant

Mr. V.Rajeswara Rao, ACGSC

.. Counsel for Respondents

Mr. C.Narendar for Mr. G.Chandraiah

1-3
.. Counsel for Respondent-
No.4.

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

HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

JUDGEMENT

Oral Order (per Hon'ble Mr. M.G. Chaudhari, Vice Chairman)

The two applications are, really speaking, two sides of the same coin and therefore are being disposed of by this common order.

2. The applicant in the first application, K. Jagannadha Rao, was appointed as Lower Division Clerk (LDC) under the 1st respondent with effect from 24.3.83 and was confirmed on 1.2.86. He was promoted to the post of UDC on 27.3.91. The next avenue of promotion for him was to the post of Assistant.

The applicant in the second application, P.M.Chandrasekhar, was also appointed to the post of LDC under the 1st respondent on 6.4.83 and was confirmed on 1.2.86. He was promoted to the post of UDC on 28.3.91. The next avenue of promotion for him was to the post of Assistant.

The private Respondent in both the applications, L.Sreeramulu, was appointed as LDC under Respondent-1 on 28.3.83 and was promoted as UDC from 8.6.89. For him also

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the next avenue of promotion was to the post of Assistant.

3. Both the applicants belong to general category. Respondent-4, however, belongs to SC Community. It is common ground that when respondent-4, L.Sreeramulu, was promoted to the post of UDC on 8.6.89 that was not on the basis of reservation operated in his favour but as a generally qualified candidate. The contention of both the applicants is that although Respondent-4 was junior to them in the cadre of LDC, by virtue of his earlier promotion to the post of UDC on 8.6.89, he was appointed to the post of Assistant with effect from 13.6.94 at Roster point 6 when six posts of Assistants were filled up and as a consequence thereof, although applicant Chandrasekhar was promoted later on to that post on 28.3.96, he was pushed down to Roster point 7, i.e. below Respondent-4, and applicant Jagannadha Rao was not promoted. It is their case that, according to their seniority in the cadre of LDC, both the applicants being senior to Respondent-4, applicant Chandrasekhar should have been promoted against Roster Point 6 and applicant Jagannadha Rao against Roster Point 7 and Respondent-4 should have been promoted when his turn came next thereafter.

4. The grievance of the applicants is that the promotion given to Respondent-4 as UDC on 8.6.89 was illegal and that has adversely affected the applicants and that mistake is required to be rectified. Hence applicant Jagannadha Rao prays that it be declared that he is entitled to be treated as senior to Respondent-4 in the category of UDC and entitled to promotion as Assistant with effect from 27.3.96 with all consequential benefits. He also seeks a declaration that he is entitled to be so promoted against 7th Roster Point. In aid of these reliefs he prays that the order of appointment of

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Respondent-4 as UDC from 8.6.89 and as Assistant from 13.6.94 be quashed being illegal, arbitrary, ~~and~~ discriminatory and violative of articles 14 and 16 of the Constitution.

5. Applicant Chandrasekhar was promoted to the post of Assistant on 28.3.96 after he had put in the requisite length of 5 years service as UDC. He prays that it be declared that he is entitled to be treated as senior to Respondent-4 in the category of UDC as well as Assistant and to be shown against the 6th Roster Point in the category of Assistants with all consequential benefits and in aid of that relief he prays that the action of the respondents in promoting respondent-4 as UDC from 8.6.89 and as Assistant from 13.6.94 be quashed, it being illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution.

6. The official respondents have filed similar counter in both the applications. They submit that as separate Roster system for competitive examinations had not begun after the Headquarters were shifted from Raipur to Hyderabad in 1989 the promotion to the post of UDC was given according to the points of the unified roster and respondent-4 was promoted as UDC. The respondents however conceded that on a representation received from applicant Jagannadha Rao a decision was taken by the Department to adjust Respondent-4 against the 6th point of SC and to regulate the present two applicants at 6th and 7th points (general points in the common roster) respectively and thereby make good the omission with minimal disturbance to other SC/ST candidates affected. This was therefore the solution envisaged at one point of time by the Department to remove the injustice caused to the applicants by the mistaken promotion given to Respondent-4 to the cadre of UDC although he was junior to both the applicants. That was a mistake, as also reveals from the departmental note at Annexure-A9

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dated 31.5.95.

7. The respondents however, although thus were conscious of the fact that the grievance of the applicants was required to be removed, have explained their inability to do so in the counter by stating that on an up-to-date scrutiny of the matter after the aforesaid solution was envisaged, it was found that a ST roster point had been de-reserved during the year 1991, ~~that~~ that the same has been coming as carried-forward to become a backlog vacancy and that ^{one} ST candidate was available ^{the} ~~in~~ the grade of UDC. ~~Consequently~~ mistake occurred could not be rectified and applicants could not be adjusted.

8. It may be mentioned that all the three candidates were promoted as UDC through departmental examination on putting in requisite length of service as LDC. The official respondents therefore submit that the situation that has arisen is one of the inadvertent irretrievability now as a fait accompli without any malafide motive towards the applicants and that any change ~~now may~~ be a hindrance to smooth running of the administration presently and may not therefore be in public interest and therefore as the respondents have no other alternative left but to continue the status quo, the status quo may be accepted in greater interest of the system and dismiss both the applications in the overall public interest.

9. After hearing all the sides at length we find it difficult to accept the contention of the official respondents that the situation is one of inadvertent irretrievability and that public interest demands that the status quo may not be disturbed, as the inadvertence of the type displayed and the nature of mistake committed cannot be allowed to override the legitimate rights of the applicants under the specious grounds

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of overall public interest. It is not easy to understand as to how the question of overall public interest is involved. It is also difficult to understand as to how any change made to remove the injustice caused to the applicants will be of a hindrance to the smooth running of the administration.

After all, the ~~disputed~~ question raised is relating to individual's case and that has no facet to affect the public interest in any manner whatsoever. When such an administrative mistake is committed as has been the case here, and if the respondents have fairly accepted their mistake, and had also envisaged a solution to the problem, it is not acceptable that they would not be in a position to put that solution into action.

The ground of public interest seems to have been projected to create the impression that any change might affect a SC or ST candidate inasmuch as Respondent-4 belongs to SC and the 8th roster point which became available happens to be discovered to be ST backlog point and ~~xx~~ a candidate is available in that category who has to be appointed. In our opinion, there is no inter-connection between the fact of Respondent-4 being SC and another eligible candidate being ~~stated~~ to be belonging to ST in so far as the wrong done to the applicants owing to an administrative mistake is concerned. If anything which does not reflect happily after having committed the earlier mistake of promoting R-4 as UDC wrongly, even after the mistake having been realised, official respondents discovered that they had committed another mistake i.e. that a ST point had to be counted as a backlog point and that could be revealed only after an up-to-date scrutiny made after the decision to resolve the problem of the applicants had been taken. That only means that things are not being worked as efficiently as required and that cannot be an answer to place the employees into

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disadvantageous position taking shelter behind administrative mistakes and pleading the ground of public interest.

10. We therefore hold that the contentions that the situation is irretrievable cannot be accepted. We further hold that the official respondents are bound to redress the grievance of the applicants consistently with their rights, available to them in accordance with law. However, while doing so, the official respondents are also obliged not to cause prejudice to Respondent-4 who cannot be blamed for the mistake that was committed by the Department and cannot be made to suffer at this point of time for that reason.

11. Having regard to the above discussion we pass the following order:-

O R D E R

(i) It is hereby declared that--

(a) Applicant P.M.Chandrasekhar (in OA 1081/96) is entitled to be placed against Roster Point No.6 instead of 7 in the cadre of Assistant with effect from 28.3.96;

(b) Applicant K.Jagannadha Rao (in OA 1080/96) is entitled to be deemed to be promoted to the post of Assistant with effect from 28.3.96 notionally;

(c) Applicant K.Jagannadha Rao will be entitled to the consequential monetary benefits and payment of arrears.

(ii) It is hereby declared that the promotion of Respondent-4 (in both applications) as UDC effected on 8.6.89 cannot be annulled retrospectively nor can be disturbed and it stands confirmed.

It is however directed that the respondents 1-3 shall not effect any recoveries from him on

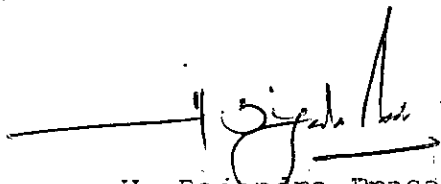
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the ground of wrong promotion even for the purpose of giving effect to the declarations made in favour of both the applicants.

- (iii) The official respondents are thus directed to remove the injustice caused to the applicants due to their inadvertant mistake by devising suitable administrative measures, including creation of supernumerary/adhoc post, in the light of the above directions and issue necessary orders in that behalf.
- (iv) Respondents 1-3 are directed to comply with the above directions within a period of 4 months from the date of receipt of a copy of this order.
- (v) Official respondents are further directed that they shall report the compliance of the above directions through the learned Standing Counsel within a period of 2 weeks thereafter.

12. Both the O.As. are allowed in terms of the above order.

No order as to costs.


H. Rajendra Prasad
Member (Admve.)


M.G. Chaudhari (J)
Vice Chairman

10th January, 1997


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Deputy Registrar (D) C.

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