

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.464 OF 1997

Between:-

V.Sivaprasada Rao

.... Applicant

A N D

Government of India,
Rep. by Secretary to Government,
Ministry of Labour, Central
Secretariat, New Delhi and 4 others.

.... Respondents

REJOINDER OF APPLICANT

I, V.Sivaprasada Rao, S/o.Late V.Laxmaiah, aged 55 years, Senior Labour Officer, Attached to Ordnance Factory Project, Yeddumailaram, Medak Dist.(A.P), do hereby solemnly affirm and sincerely state on oath as follows:-

(1) I am the applicant in the O.A. and I am well acquainted with the facts of the case. I have read the counter affidavit under reply and I deny the averments contained therein except to the extent expressly admitted hereunder.

(2) In reply to Para (h), I state that the earlier seniority list prepared in the year 1994 was in operation in force but however steps were not taken by the Department for filling-up of the posts on regular basis. No explanation is forthcoming in this regard. I further submit that the directions issued by this Hon'ble Tribunal in O.A.1594 of 1994 ~~is~~ were only with regard to alteration of placements in the seniority list of applicant in that O.A. comparable to three persons who were shown as respondents in the said O.A. It has not altered the position with regard to three persons. In other words, there is no material for change in the seniority

1st page
corrections.

ko
Attester.

V. Sivaprasada Rao
DEPONENT.

66

position and does not affect the Government's action to fill-up the posts in Gr. III on regular basis. Furthermore though the direction was issued by the Hon'ble Tribunal on 8.1.97 the Department took six months time to prepare revised seniority list. This clearly shows the attitude of authorities. As submitted supra, the only question of change of placement of 3 Officers and particulars of Officers were already available with competent authority and therefore does not require such^a long time. I therefore respectfully submit that it was a deliberate action on the part of the authorities in delaying the implementation of the judgement. I further submit that there is no necessity to give a notice for preparation of seniority list in terms of the directions issued by this Hon'ble Tribunal. I submit that the persons whose seniority is required to be altered are already parties before the Hon'ble Tribunal and the judgement is rendered after considering rival claims. Therefore nothing further requires to be ~~considered~~ decided inter-se in so far as these two individuals are concerned. I therefore respectfully submit that if the present action of the respondents in calling for objections is nothing but dilatory tactics to help certain individuals who are otherwise not eligible to higher placements.

(3) In reply to Para (1), I further submit as contended by me above except for alteration of placements of three individuals who were parties before the Hon'ble Tribunal in O.A.1594 of 1994 the position obtaining in 1994 is not changed. It is well settled now by the authoritative pronouncement of Hon'ble Supreme Court of India that it is incumbent upon the Government to keep the panels ready in advance in anticipation of the vacancies that are arising soon after and the vacancies should be filled-up as soon as they are available from out of the said panels. I therefore respectfully submit that when there is properly prepared seniority list is available with the Department they should have taken immediate steps to process cases ~~and~~ of all

2nd page
corrections.

M
Attester.

[Signature]
DEPONENT.

individuals eligible for regular promotion. I further submit that the cadre is very small and the seniority list contains about 85 Officers of Gr. IV and therefore it is strange to note the statement of respondents that the work is involved is substantial which is not true. It appears to be the habit of the concerned authorities to make such statements only to mislead and shirk from the responsibility. A similar stand was taken by the very same respondents with regard to promotion

to Gr. IV in a matter pending before Principal Bench. The Principal Bench is taken serious note of such statement and the Hon'ble Tribunal directed the respondents to convene a DPC as expeditiously as possible preferably within 3 months for making regular promotions to Gr. IV. The delay in preparation of eligible Officers for consideration to Gr. III is certainly on account of judgement rendered by this Hon'ble Tribunal on 8.1.1997 in O.A. 1594 of 1994 but is on account of lethargic attitude of certain Officers. The delay is deliberate so that there is scope of manhandling for placement of Officers when posts are filled-up on adhoc basis. I have made a specific averment in my O.A. that many of the Officers now occupying Gr. III on adhoc basis would not find a place on a regular promotion basis on account of bad record of service. However they are now enjoying the higher status on account of adhocism adopted by the Department. There is no reply to my averments on this aspect. I understand that so far no SLP is numbered or pending questioning the judgement of this Hon'ble Tribunal dt. 8.1.97 in O.A. 1594 of 1994. Be that as it may, to my understanding and information obtained from the applicant in the above O.A, he has not received any notice from the Supreme Court of India regarding filing of an SLP the judgement given in his favour and in any case no stay has been granted by Hon'ble Supreme Court of India. Therefore there has been no impediment for processing and finalisation of the seniority list at an early date and for processing of eligible Officers for promotion to Gr. III.

3rd page
corrections.


Attester.


DEPONENT.

(4) In reply to averments contained in Para (j), I failed to understand that with reference to legal maxim about "approbate and reprobate" and how this is relevant in the context of my case. The statement is made out of context by an ever jealous Officer. I submit that I have not pursued any litigation regarding my seniority or promotion at any time before filing of this case and I am not responsible for any litigation. Therefore how I am trying to be blamed by the respondents is not known. Furthermore an employee has got right to seek a legal remedy if an injustice is done and the judgement is given in favour of Mr.C.K.Rao on 8.1.97 is vindicate injustice was done to him by the Department. Therefore while committing such irregularity the respondent can not blame the Officers in seeking legal remedies.

(5) The averments contained in Para 3 do not explain the steps taken by the Department after finalisation of seniority list in 1994 by constituting the DPCs regularly. They are only trying to shield themselves on earlier litigation which had in fact rendered way back 1992. I further submit that I was not so much concerned about my transfer but I was questioning the action of respondents in not taking steps for filling up of the vacancies on regular basis and utilising the opportunity by making adhoc promotions and while making such promotions, the postings and transfers are made arbitrarily at their whims and fancies. In other words, my grievance is

4th page
corrections.

R
Attester.

Chrapar ad ad huc
DEPONENT.

such adhoc promotion is a tool used by Department to favour certain individuals. I have also pointed-out that even according to seniority I am entitled for promotion on adhoc basis in September, 1997 and there is no post of Gr. III in Vishakapatnam I would have to move from out of Vishakapatnam on granting of promotion i.e., within 3 months. This not only cause dislocation to my family, to myself and to the education of my children and also cause avoidable expenditure to the Government. There is no categorical reply to this averment made by me in O.A. I further submit that I do not understand the definition of home town as understood by the Department. They seems to be treating the entire South India as home town. To my limited knowledge this is not the correct stand. I further submit that I did not work in Medak continuously at one stage.

(6) The other averments of the respondents are suitably answered in the earlier Paras. I further submit that many of the contentions urged by me in the O.A. are not answered by the respondents. I further submit that there is no reply to my contentions that a duty is cast upon the respondents to constitute DPCs at regular intervals that the panels for promotion are prepared in advance of actual arising of vacancy and that there should not be adhoc promotions in normal course. In otherwords, promotion on adhoc basis

5th page
 corrections.


 Attester.


 DEPONENT.

should be an exception made in emergency situation to attend to stop gap requirements but the Department is making adhoc promotions as a matter of course. I further submit that in the instant case there is no stay by any Court and there is no properly prepared seniority list available with the Department to make regular promotions. I therefore respectfully submit that the respondents have not made any material for their actions to make promotions on adhoc basis and for delaying the promotions to Gr.III on regular basis. I state that a duty is cast upon the respondents to make promotions on regular basis at regular intervals. I therefore pray to this Hon'ble Tribunal to direct the respondents to make regular Promotions to Gr.III and to fill-up all the existing vacancies of Gr.III forthwith.

Solemnly and sincerely affirmed on this the 11th day of August, 1997 at Hyderabad and signed his name in my presence.

[Handwritten signature]

DEPONENT.

[Handwritten signature]

Before me,

Advocate, Hyderabad.

- - -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH :: AT HYDERABAD.

O.A.No.464 OF 1997



" REJOINDER OF APPLICANT "

*Ranjana
Kulkarni
12/8/97*

Filed on:- 11.08.1997.

Filed by:-

Sri.P.Naveen Rao,
Advocate,
H.No.1-1-729,Gandhinagar,
Hyderabad-500 080.

(COUNSEL FOR THE APPLICANT).

*E/C
13/8/97*

*Raye Red
12/8/97*