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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

AT HYDERABAD

O.A.NO.477 OF 1997

BETWEEN

M. Babu Rao - Applicant and

Union of India, (represented by its Secy., MHA, New Delhi  
and three others) - Respondents

REPLY STATEMENT FILED BY THE RESPONDENTS

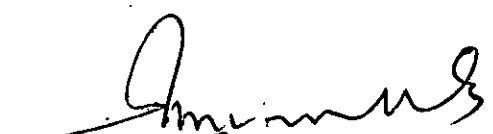
I, Y.C.S.Rao, S/o(Late) Shri Y.Papiah aged 57 years,  
R/o Hyderabad do hereby solemnly and sincerely affirm and state  
on oath as follows:

1. I am working as Assistant Director in Respondent's  
office and as such I am well acquainted with the facts of the  
case. I am filing the counter affidavit on behalf of the above  
Respondents.

2. I have read the contents of the O.A. filed by the  
Applicant and I have submitted that it is replete with incorrect  
facts. The O.A is neither maintainable on facts nor under law.  
All the averments, facts and rules which are inconsistent and at  
variance with the observation in the following case law are  
hereby denied.

3. It is submitted that in the above case, Department of  
Personnel & Training, Government of India has notified about  
non-entitlement of benefits of past service rendered by the  
redeployed surplus employees in the previous organisation for the  
purpose of their seniority in the new organisation as per.O.M.  
No.15/2/88-CS III dated 15-6-92(Annexure-1).

4. It is submitted that the Hon'ble Supreme Court of India  
order dated 29-1-92 in C.A.No.628/88 in the case of Balbir  
Sardana Vs Union of India, stated that it has been categorically  
held that such service does not count for determining seniority

  
Applicant

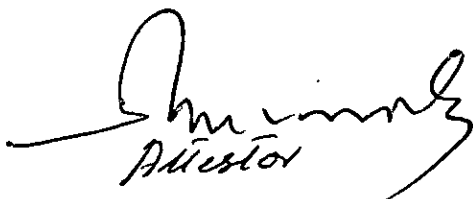
  
Deponent

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of the redeployed official in recipient organisation.

5. In reply to para 6(h) it is submitted that with regard to his submission that various courts have given directions in similar circumstances to count the past service in favour of re-deployed employee it may be mentioned that the judgements of CAT quoted by the Applicant in support of his claim has no validity as the Hon'ble Supreme Court of India in its order dated 29-1-92 in CA.No.628/88 titled Balbir Sardana Vs Union of India has also categorically held that such service does not count for determining seniority of the re-deployed official in the recipient organisation. In the light of Apex Court Judgement the DOP&T also issued necessary orders vider their O.M. for determining the seniority of surplus staff on their redeployment in other organisations. A copy of the above order alongwith Apex Court order is annexed at Annexure R-10. Since the existing rules/instructions do not allow past service rendered by the surplus employee in his previous organisation to be counted for seniority in re-deployment in recipient organisation, the seniority of the applicant cannot be fixed by counting his past service.


6. In reply to para 6(j) it is submitted that the judgement of CAT quoted by the applicant in this para has no validity on the ground that Hon'ble Supreme Court in its order dated 29-1-92 in CANo.628/88 titled Balbir Sardana Vs Union of India has categorically held that such service does not count for determining seniority of the re-deployed official in the recipient organisation. Since the existing rules, instructions do not allow past service rendered by the surplus employee in his previous organisation to be counted for seniority in re-deployment in new organisation, the seniority of the applicant cannot be fixed by counting his past service.

  
Applicant


  
Deponent

7. In view of the submissions made herein above, the application being devoid of any merits, does not deserve consideration and not entitled to any relief as sought for by the applicant. It is, therefore, respectfully prayed that this Hon'ble Tribunal may please dismiss this D.A. with costs, and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Sworn and signed before me  
on this the 11 day of Sept 1997  
at Hyderabad

  
DEPONENT  
Assistant Director,  
Subsidiary Intelligence Bureau,  
(M.H A) Government of India,  
Hyderabad-500 004.

ATTESTOR

  
Section Officer,  
Subsidiary Intelligence Bureau,  
Ministry of Home Affairs,  
Government of India,  
Hyderabad-500 004.

5. All Ministries/ Departments are requested to circulate the above judgement to all attached and subordinate offices under their control.

6. Hindi Version will follow.

( U.S. PANT )  
DEPUTY SECRETARY TO THE GOVT. OF INDIA.

1. All Ministries/ Departments to the Government of India.
2. Comptroller & Auditor General of India, New Delhi.

2. The applicant in this OA is aggrieved by the rejection of his request by the respondents to promote him to the post of Personal Assistant Group-II basing on his seniority, duly taking into account the service rendered by him between October 1963 and August 1988 under the Dandakaranya Development Authority.

3. The facts of the case are covered by the judgment delivered by the Hon'ble Supreme Court in C.A.No.9190/95 (date of judgement 20.2.98) in which certain orders earlier passed by the Cuttack Bench of this Tribunal in OA Nos.160, 161 and 163/93 were set-aside. It was categorically held by the Apex Court that past services rendered by the applicants therein in Dandakaranya Project would not count for seniority and promotions in the Department in which they were subsequently rehabilitated.


4. In view of the unambiguous position stated by the Hon'ble Supreme Court and the settled position of law, the reliefs claimed by the applicant are not admissible.

5. As regards his request for exemption from appearing in the Stenography test in the IB's Limited Departmental Competitive Examination for promotion to the rank of PA, the learned counsel for the respondents brought to our attention Annexure R-6 wherein the position has been stated very clearly. The learned counsel for the applicant, however, denies the receipt of any reply to his representation since the letter at Annexure R-6 is an internal memo between IB Headquarters and Joint AD, SIB. The respondents may check if any reply was at all sent to

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to  
the applicant on his representation ~~of the position by~~  
Joint Director, IB, Hyderabad. If not, the correct position  
may even now be indicated to him. Additionally, it may  
also be checked by the respondents if under any extant  
rule, circular or instruction of the Govt., the applicant  
who claims to have passed the Departmental tests while in  
Dandakaranya Project, can be exempted from reappearing at  
the stenography test for promotion to the post <sup>&</sup> PA through  
LDCE in the IB. Thereafter, they may give him a suitable  
reply/benefit as may be warranted by circumstances. Thus  
the OA is disposed of. No order as to costs.

  
(B.S. JAI PARAMESHWAR)  
MEMBER (JUDL.)

5.10.98

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMN.)

DATED: 5th October, 1998  
Dictated in the open court

  
DR 12/10/98

vsn

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Copy to.

1. The Secretary, Min.of Home Affairs,  
Govt. of India, North Block, New Delhi.
2. The Secretary, Min.of Personnel, Public Grievance  
and Pension, North Block, New Delhi.
3. The Director, Intelligence Bureau, Min.of Home Affairs,  
Govt. of India, North Block, New Delhi.
4. The Joint Director, Intelligence Bureau,  
Min.of Home Affairs, Govt. of India,  
North Block, New Delhi.
5. One copy to Mr.K.K.Chakravathy, Advocate, CAT, Hyderabad.
6. One copy to Mr.K.Ramulu, Addl.CGSC, CAT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One duplicate copy.

YLKR

26/10/98

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II COURT

TYPED BY  
COMPILED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

H. Rajendra Prasad

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI C.S. JAI PARAMESHWAR :  
M(J)

DATED: 5/10/98

ORDER/JUDGMENT

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

in

G.A.NO. 477/97

~~ADMITTED AND INTERIM DIRECTIONS  
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

YLKR

