

AV

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.573/97.

Dt. of Decision : 01-01-99.

D.A.Narasimha Rao.

..Applicant.

Vs

1. The Union of India, Rep. by Under Secretary, Min. of Health and Family Welfare, New Delhi.
2. The Director, Central Govt. Health Scheme, O/o the Directorate General of Health Services, Nirmal Bhawan, New Delhi-410 011.
3. The Additional Director, Central Govt. Health Scheme, K.S.Bhawan, Begumpet, Hyderabad.

..Respondents.

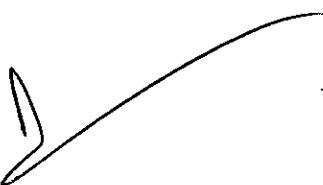
Counsel for the applicant : Mr.J.Susheer

Counsel for the respondents : Mr.V.Bhimanna, Addl.CGSC.

CORAM:-

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI BARAMESHWAR : MEMBER (JUDL.)


..2/-

ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.))

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None for the applicant. Heard Mr.V.Bhimanna, learned counsel for the respondents.

2. The applicant in this OA while working as UDC from 9-8-82 was promoted on adhoc basis as Office Superintendent w.e.f., 2-7-1992. The applicant was reverted to the lower post of UDC by R-3 vide office order No.A.11-6/76-CGHS/PP/6301-4 dated 21-12-92 (Annexure-IV). It is also stated that R-3 wrote to the R-2 in February, 1992 sending the proposal for dereservation in as much as no SC candidates who ~~were~~ likely to be eligible in near future. The applicant states that he was under the bonafide belief that R-2 will dereserve the post and promote the applicant and hence he waited for appropriate relief from the department itself. However, in the mean time some official from Nagpur approached the Bombay Bench in a similar circumstances and relying on the judgement of the Bombay Bench the applicant was of the opinion that he will also be promoted based on that judgement. Accordingly, he made representation ^{to} the bringing to the notice of the respondents of all judgements and sought for similar benefits as the facts and circumstances of both the cases ^{were} same. His representation dated 13-4-94 was forwarded by R-3 to R-2 through the proceedings dated 27-3-94. The applicant also made one more representation on 9-6-94. R-3 was replied by R-2 that by his proceedings dated 1-7-94 that the matter is under consideration of R-2 and R-3 informed the applicant that action will be taken on receipt of reply from R2. The applicant thereafter made another representation dated 23-11-94 which was also forwarded to R-2. Thereafter also the applicant



..3/-

submitted another representation dated 19-9-95. Finally, R-3 promoted the applicant as Office Superintendent based on the proceedings dated 23-8-96 of R-2 once again on adhoc basis for a period of 6 months or the post is dereserved whichever is earlier. This dereservation process was initiated way back in 1993 and it is stated that no action has been taken so far. The applicant submits that the sole post of Office Superintendent shall be treated as unreserved in view of the judgement of the Apex Court reported in AIR 1998 SC 953.

3. This OA is filed praying for a direction to the respondents to promote the applicant herein as Office Superintendent with effect from the date on which he became eligible and the post fell vacant with all consequential benefits such as arrears of salary, seniority etc.

4. A reply has been filed in this OA. The applicant is not regularly promoted as on the sole reason that the post of Office Superintendent in the office of CGHS, Hyderabad is a single/ isolated post in the cadre and is to be filled by a reserved community candidate. Initially it was filled by an OC candidate and when the OC candidate retired the vacancy which had arisen has to be filled by a reserved community candidate in accordance with the 40 point roster.

5. The above explanation is not at all in accordance with the recent Supreme Court judgement. Recently, the Supreme Court had held that no reservation is permitted in a single cadre post. It is reported in 1998 (4) SCC 1 (Post Graduate Institute of Medical Education and Research Vs. Faculty Association and Ors).

6. In view of the above, the post should be filled only by an eligible candidate either OC or reserved without applying reservation rules. The applicant is an unreserved candidate and if he is otherwise eligible should be promoted as Office

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the Recruitment
Superintendent in accordance with ~~the~~ rules forthwith
within a period of one month from the date of receipt
of a copy of this judgement. Though the applicant requests
for promotion from the date of occurrence of the vacancy we
do not consider it necessary to give ^{such} a direction as the
Government has got a right to keep the post vacant due to
the administrative reasons.

7. The OA is ordered accordingly. No costs.

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

R. RANGARAJAN
(R. RANGARAJAN)
MEMBER(ADMN.)

Dated : The 01st January, 1999.

(Dictated in the Open Court)

Amma
6.1.99

spr.

13/1/99

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

copy to:

1) DR(A)

2) spare copy.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE SHRI B.S.JAI PARAMESWAR :
M(J)

DATED: 1-1-99

ORDER/JUDGMENT

MA/R.A./C.P.No.

in

DA.NO. 573/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

7 copy.

