

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.**

ORIGINAL APPLICATION NO. 705 OF 1997.

Dated Hyderabad the 1st day of August ,1997.

BETWEEN

Lawrence Williams,
Aged about 40 years,
Son of Maria Nesan,
Chowkidar, SQAE (Armaments),
Sr. Quality Assurance Estt. (Armts),
Ministry of Defence, (DGQA),
Gymkhana Grounds, Picket,
Secunderabad-500 003. ... Applicant.

AND

1. Sr. Quality Assurance Officer,
Sr. Quality Assurance Estt., (Armts.)
Ministry of Defence (DGQA),
Gymkhana Grounds, Picket,
Secunderabad- 500 003.
2. The Director General of Quality Assurance,
Dept. of Defence Production (Grievance Cell),
Ministry of Defence (DGQA), Govt. of India,
Room No. 140, 'G Block', D.H.Q. PO,
New Delhi- 110 011.

Counsel for the Applicant : Mr. S. Ramakrishna Rao.

Counsel for the Respondents: Mr. V. Rajeswara Rao.

CORAM :

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

HON. MR. B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

O R D E R.

(As per Hon. Mr. B.S. Jai Parameshwar, Member, Judicial))

1. Heard Mr. S. Ramakrishna Rao, learned counsel for the applicant and Mr. V. Rajeswara Rao, learned Standing Counsel for the respondents.
2. This is an application filed under Section 19 of the Administrative Tribunals Act. The application was filed on 29.5.97.

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3. The facts of the case, in brief, are as follows :

(a) It is stated that the applicant has been working as Chowkidar since 11.3.1976 under the respondent No.1.

The respondent No.1 by his proceedings DO Part-I No.14 dated 29.3.96 (Annexure-VII at page 16 of the OA) proposed to fill up the vacancy of Labourer (unskilled) in his establishment. The respondent No.1 proposed to fill up the said vacancy from the following sources :-

(a) In accordance with SRO 16E/87;

- (i) by transfer from Group 'D' in the industrial employees of DGQUA Establishment holding post in the scale of pay of Rs.750-940/- with three years regular experience in the grade; and
- (ii) failing which, by direct recruitment ; or
- (b) by way of re-categorisation of the departmental candidates working in the scale of pay of Rs.750-940/-.

The applicant claims that he was eligible for recategorisation and thus he had applied for the said post. It is stated that one K. Satyanarayana (not a party to this OA) was also an aspirant for the said post. Sri K. Satyanarayana belongs to S.C. category. The respondent No.1 considered and selected Sri K. Satyanarayana for the said post.

(b) Being aggrieved by this selection, the applicant submitted a representation on 4.6.96. It evoked no response. Then the applicant sent a reminder on 15.6.96. It is stated that the respondent No.1 sent a reply dated 4.7.96. The copy of the said reply has not been produced along with O.A. stating that the applicant was holding the pay scale of Rs.775-1150/- which was higher than the scale of pay of the Group 'D' posts who were eligible for recategorisation and hence his case was not considered. The applicant was not satisfied with

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the said reply. He submitted a representation to the respondent No.2 on 8.7.96. The respondent No.2 had not considered his representation. The applicant submitted a reminder on 27.3.97. However, the applicant appears to have submitted another representation on 7.11.96. As a reply to the said representation, he was informed by letter dated 8.2.97. The respondent No.2 on 9.4.97 again enclosing a copy of the reply dated 8.2.97 concurred with the views expressed by the respondent No.1 for non-consideration of the case of the applicant for re-categorisation.

(c) The applicant has filed this O.A. for the following reliefs :-

"(a) To set aside the impugned order No.111 dated 8.2.1997 of 1st Respondent as confirmed by the IIInd Respondent vide his letter dated 9.4.1997 declaring the rejection of the claim of the applicant for conversion into Group-D industrial employee, as arbitrary, unwarranted, illegal and in violation of Articles 14 and 16 of the Constitution of India.

(b) To direct the Respondents to extend the benefit of conversion of the applicant from Group-D non-industrial to Group-D industrial as Labourer (unskilled) which benefit was extended to the juniors to the applicant with all the consequential benefits and be pleased to pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case."

4. A reply has been filed by the respondents. The respondents have given reasons for non-consideration of the case of the applicant for recategorisation. They have also disclosed the reasons which prompted the respondent No.1 to consider and select Sri K.Satyanarayana in preference to the applicant. It is stated that as on 1.3.92 the applicant who was working as a Chowkidar became

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eligible for one time promotion under Career Advancement Scheme vide O.M.No.10/1/E-III/88 dated 13th September, 1991 of the Ministry of Finance and was given one-time promotion in the scale of pay of Rs.775-1025/- and his pay was fixed at Rs.969/- effective from 1.3.1992 vide proceedings dated 20th April, 1993 (Annexure-R.1 to the reply). It is further stated that on merger of scale of pay, the pay of the applicant was again refixed at Rs.1015/- effective from 1.4.95 in the scale of pay of Rs.775-1150/- and was granted an annual increment raising his pay to Rs.1030/- in the said scale.

(ii) It is stated that Sri K.Satyanarayana belonged to the S.C.community and with a view to protect the interests of the S.C./S.T. employees of the establishment, his case was considered. It is also stated that the work and conduct of the applicant were not satisfactory. In para-(d) at page 2 of the reply, the respondents have detailed various warnings and punishments awarded to the applicant earlier to 29th March, 1996. It is further stated that it was the responsibility of the head of the establishment to look into the conduct of a person whom he was recategorying or promoting and it was his prerogative to keep morale and discipline of other employees who were performing their duties conscientiously and with dedication. It is stated that bearing these factors in mind and also considering the case of Sri K.Satyanarayana as he was a S.C. candidate, his case was preferred for recategorisation to the case of the applicant. It is also stated that earlier during the year 1989 when there were 5 vacancies of Labourer (Unskilled), 3 Chowkidars (including the applicant) along with one Sweeper had submitted applications for recategorisation as Labourer (Unskilled); that the then Sr.QAO Col. (later Brig K.P.Shastri (Retd.) who was working as Senior Quality Assurance Officer did not consider the recategorisation

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of the applicant keeping in view the security aspects of the Establishment and exigencies of service in the interest of the State.

These are the circumstances which prompted the respondents to consider the case of Sri K. Satyanarayana and not to consider the case of the applicant for recategorisation.

5. In our humble view, recategorisation cannot be claimed as a matter of right. The applicant while submitting this O.A. did not specifically mention about his earlier attempt for recategorisation during the year 1989 and also did not mention about the grant of an additional increment to him under the Career Advancement Scheme and refixation of pay. Admittedly, as on the date of notification i.e. Annexure-R.3, the applicant was not at all working in the scale of pay of Rs. 750-940/-.. When that is so, the applicant was not eligible for submitting an application for recategorisation. Further, the applicant must have good past service record. In the absence of that, he cannot insist upon the respondent No.1 to consider his case for recategorisation. The respondents in para-(d) of the reply have specifically enumerated the various instances of lapses and omissions committed by the applicant and also about the imposition of punishment of stoppage of increment on the applicant. They are Annexures-R.VI, R.VII series and R.XI. The applicant has not denied the said averments. He has not chosen to file a rejoinder denying any of these averments.

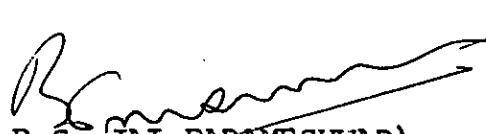
6. When that is so, we humbly feel that the respondents have rightly rejected the candidature of the applicant for recategorisation. Therefore, we do not find any irregularity in the respondent No.1 in recategorising Sri K. Satyanarayana and appointing him in the post of Labourer(Unskilled) and in rejecting or

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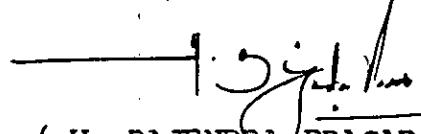
not considering the claims of the applicant. The impugned orders are perfectly valid and do not call for interference.

7. Hence there are no merits in this O.A. and the same is liable to be dismissed.

Accordingly this O.A. is dismissed with no order as to costs.

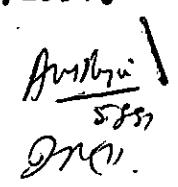

(B.S. JAI PARAMESHWAR)
MEMBER (JUDICIAL).

1.8.97


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE).

01 Aug 97

Dated the 1st day of August, 1997.


DJ/1897.

O.A. 705/97.

To

1. The Sr.Quality Assurance Officer,
Sr.Quality Assurance Estt.(Armts.)
Ministry of Defence (DGQA)
Gymkhana Grounds, Picket, Secunderabad-3.
2. The Director General of Quality Assurance,
Dept.of Defence Production(Grievance Cell),
Ministry of Defence (DGQA) Govt.of India,
R.No. 140, 'G Block', D.H.Q.PO,
New Delhi-11.
3. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.V.Rajeswar Rao, Addl.CGSC.CAT.Hyd.
5. One copy to HBSJP.M.(J)CAT.Hyd.
6. One copy to D.R.(A) CAT.Hyd.
7. One spare copy.

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~~11/8/97~~ T COURT

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TYPED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE
VICE-CHAIRMAN
and

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

The Hon'ble Mr.B.S. Dipamkumar, M.C.J.

Dated: 1 - 8 - 1997

ORDER/JUDGMENT

M.A./R.A./C.A.No.

in

C.A.No.

705797

T.A.No.

(w.p.)

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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