

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 716/97.

Dt. of Decision : 15-12-98.

R.Appala Naidu

..Applicant.

Vs

1. The General Manager,
Telecom Area, Visakhapatnam.
2. Telecom Dist. Engineer,
Vizianagaram.
3. The Chief General Manager,
Telecom, A.P. Circle,
Hyderabad.

..Respondents.

Counsel for the applicant : Mr.P.Ramabrahman

Counsel for the respondents : Mr.V.Rajeswara Rao, Adl.CGSC.

CORAM:-

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

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

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ORDER

ORAL ORDER (PER HON. SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.))

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

2. The applicant was initially appointed as Telephone Operator in the Telecom Department against the reserved ST community quota. Subsequently the respondent authorities instituted disciplinary proceedings against the applicant on the ground that he gained employment on production of false caste certificate. However he was exonerated of the charges.

3. Thereafter on receipt of further complaint, the respondent authorities referred the matter to the revenue authorities for determining the caste status of the applicant. The applicant has challenged the action of the respondents before the Hon'ble High Court of A.P. in W.P. No.15550/92 and the same is still pending.

4. On exoneration of the applicant in the earlier disciplinary proceedings the respondents herein promoted the applicant by proceedings No.TAV/EST/1-3/RCR-VZM/95/2 dated 4-7-95 (Annexure-R-3) to the respective Gr-III in the relevant scales of pay w.e.f., 1-7-95.

5. Since, the investigation to his caste status was pending before the revenue authorities, the R-3 issued instructions to R-2 not to implement the promotion of the applicant as ordered on 4-7-95 as his caste status was under investigation.

6. In the mean while the applicant retired from service w.e.f., 31-5-97 on attaining the age of superannuation.

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7. The applicant has filed this CA praying for notional promotion to Gr-III post under the BCR Scheme w.e.f., 1-7-95 with all consequential benefits of pay and allowances as per the orders of the General Manager, Telecom Area, Visakhapatnam in the impugned proceedings No.TAV/EST/1-3/BCR-VZM/95/2 dated 4-7-95 till his date of retirement on 31-5-97 and to fix the pay and pension accordingly.

8. The respondents have filed their reply contending that the applicant was erroneously promoted to the Gr-III and that after ascertaining the investigation as to the caste status of the applicant R-3 issued instructions to R-2 not to implement the promotion order.

9. Earlier the applicant had approached this Tribunal in CA.672/97 challenging the subsequent charge memo issued on 15-5-97. His contention was that he was issued with the said charge memo on similar misconduct which was earlier enquired into and exonerated. As the Writ Petition was pending we directed the applicant to urge the said ground before the Hon'ble High Court of A.P.

10. The Writ Petition is still pending adjudication.

11. We ~~xf~~ fail to understand that the respondent authorities giving promotion to the applicant on 4-7-95 even though knowing fully well that his caste status was under investigation. We cannot accept the contention that the applicant was promoted erroneously. In fact, earlier disciplinary proceedings initiated against the applicant had ended in favour of the applicant.

12. Since the respondent authorities have referred the caste status of the applicant to the revenue authorities and the same depends upon the out come of the Writ Petition pending before the Hon'ble High Court of A.P.



13. The promotion order dt. 4-7-95 issued to the applicant has been done as per the material and situation available as on that date. As on that date the applicant was considered as a reserved ST candidate and he was given promotion.


14. In case the Writ Petition filed by the applicant before the Hon'ble High Court of A.P. goes against him then the applicant cannot claim promotion. However if it is decided in his favour treating him as ST candidate then the respondents shall treat the applicant having been promoted w.e.f., 1-7-95 in accordance with the order dated 4-7-95. In such an event the applicant is entitled to the difference of pay and allowances and all consequential benefits of his pension on his retirement.

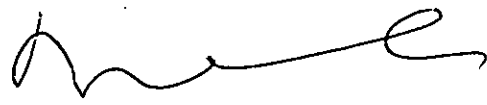
15. Hence, we issue the following directions:-

(a) Subject to the result of the Writ Petition No.15550/92 filed by the applicant, the respondents shall implement the promotion order dt. 4-7-95 and grant him difference of pay and allowances and consequently redetermine his pension and other pensionary benefits.

(b) The respondents shall implement the directions within three months from the date of receipt of a copy of order in W.P.No. 15550/92 from the Hon'ble High Court.

16. With the above directions the OA is disposed of. No order as to costs.


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


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 15th Dec. 1998.
(Dictated in the Open Court)

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II COURT

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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: 15/12/98

ORDER/JUDGMENT

MA/R.A./C.P.NO.

in
OA.NO. 716/97

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH
- 4 JAN 1999
HYDERABAD BENCH