

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 957/97

DATE OF ORDER : 30.6.1999.

Between :-

1. Union of India, rep. by its Secretary, M/o Personnel, Public Grievances & Pensions, Dept.of Personnel & Training, New Delhi.
2. The Secretary to Govt.,, M/o Mines, Govt. of India, Sastri Bhavan, New Delhi-110 001.
3. The Director General, Geological Survey of India, 27, Jawaharlal Nehru Rd, Calcutta-700 016.
4. The Dy.Director General, Southern Region, G.S.I.Complex, Bandlaguda, Hyderabad.
5. The Dy.Director General, Training Institute, GSI Complex, Bandlaguda, Hyd.
6. Sri Leela D.Gaikwad
7. M.Shanmugam
8. Beta Ramalingeswara Rao
9. Cheman Lal
- 10.D.S.Sisodiya
- 11.Dorji Angrup Rapa
- 12.Udayan Samaddar
- 13.M.Mahadevswamy
- 14.D.N.Rahate
- 15.Bires Turkey
- 16.D.T.Kamble
- 17.A.Sundaramurthy
- 18.V.Palaniswamy
- 19.A.P.C.Shekhar

... Respondents

Counsel for the Applicants : Shri K.Venkateshwar Rao

Counsel for the Respondents : Shri B.N.Sharma, Sr.CGSC

CORAM:

THE HON'BLE SHRI R.R ANGARAJAN : MEMBER (A)
THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A).)

... 2.

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri K.Venkateshwar Rao, learned counsel for the applicants and Sri B.N.Sarma, learned Standing Counsel for the Respondents. Notice is not served on Respondents 6, 7, 13, 15, 16 and 19. Eventhough notice is not served on private respondents, in view of the decision that is going to be taken in this O.A., we do not consider it necessary.

2. The applicants in this O.A. are aggrieved by memo No. 20011/1/96-ESTT(1) dated 30.1.1997 issued by Respondent No.1 in seeking to implement the supreme Court judgement dated 10.10.1995 in the Union of India Vs. Virpal Singh Chauhan's & others (JT 1995 (7) SC 23)relating to fixing seniority of SC and ST officials promoted earlier vis-a-vis general candidates promoted which is illegal, arbitrary, discriminatory and violative of Articles 14,16 and 21 of the contitution of India.

3. In the present O.A., the applicants are senior Geologists belonging to OC community. They submit that those SC/ST candidates promoted earlier to them to the post of Sr.Geologist by virtue of roster point should be shown as juniors for consideration for promotion to the next higher grade. It is an undisputed fact that SC/ST candidates whom the applicants want to be brought down in seniority were promoted earlier to 10.10.95. The Department of Personnel has issued memorandum dated 30.1.1997 (Annexure-I page-10 to the OA)to the following effect :-

B

D

... 3.

"Provided that if a candidate belonging to the Scheduled Caste or the Scheduled Tribe is promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior general/BC candidate who is promoted later to the said immediate higher post/grade, the general/BC Candidate will regain his seniority over such earlier promoted candidate of the Scheduled Caste and the Scheduled Tribe in the immediate higher post/Grade."

The applicants counsel submits that the above memorandum of Department of Personnel & Training will squarely applies in this case and eventhough the SC/ST candidates ^{the} promoted against roster point earlier to 30.1.1997.

4. The above issue had been considered in a very detailed fashion in OA 1720/97 (D.Sukumar & Others Vs. Union of India & others) in ^{the} judgement dated 16.6.1999 and it was held that the Supreme Court's judgement is only prospective and not retrospective. Hence those SC/ST candidates promoted earlier to 30.1.97 will get their seniority as per earlier rule i.e. the date of entry into the Sr.Geologist will decide their seniority in that cadre.

5. Hence the present OA cannot be allowed and has to be dismissed. Accordingly it is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
Member (J)
30/6/99


(R.RANGARAJAN)
Member (A)

Dated: 30th June, 1999.
Dictated in Open Court.

av1/

Avv1/
Sree

28/7/99
1st AND 2nd COURT.

COPY TO -

1. HDHNJ
2. HHRP M(A)
3. HBSJP M(J)
4. D.R. (A)
5. SPARE

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR,
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD,
MEMBER (ADMN)

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

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

ORDER: Date. 30.6.99

ORDER / JUDGMENT

MA./RA./CP.NC

IN

DA. NO. 957/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED

R.A. CLOSED

D.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS.

Chancery Office

