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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL-APPLICATION-NO.114-of-1997

DATE-OF-ORDER:-7th-FEBRUARY,-1997

BETWEEN:

N.ANNAPPA

.. APPLICANT

AND

1. The Deputy Director General,  
Geological Survey of India,  
Training Institute,  
Hyderabad 68,
2. The Director General,  
Geological Survey of India,  
27, Jawaharlal Nehru Road,  
Calcutta,
3. Union of India represented by  
Secretary to Govt. of India,  
Ministry of Mines, Sastry Bhavan,  
New Delhi.

.. Respondents

COUNSEL FOR THE APPLICANT: Mr. D.LINGA RAO

COUNSEL FOR THE RESPONDENTS: Mr.K.RAMULU, Addl.CGSC

CORAM:

HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE CHAIRMAN

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

ORDER

ORAL ORDER (PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI,  
VICE CHAIRMAN

Mr.D.Linga Rao, learned counsel for applicant. Mr.  
K.Ramulu, learned Additional Standing counsel for  
respondents.

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2. Arguments of Mr.D.Balakrishna Rao who appeared for the applicant were partly heard yesterday.

3. We have further heard the learned counsel Mr.D.Linga Rao today. We are not impressed by the further arguments and we do not think any useful purpose will be served by further hearing the matter. Hence following order is passed.

4. Applicant has filed the OA seeking a declaration that he is entitled for promotion to the post of Grade-I Driver against available vacancy in the reserved category with effect from 1.8.93 with all consequential benefits such as senioirty, pay and allowances etc. His grievance is that the respondents <sup>not</sup> having considered his just claim for promotion in accordance with the principles laid down in OM dated 31.8.94 of Ministry of Mines, Government of India ~~and~~ there is ~~thus~~ violation of Articles 14, 16 and 21 of the Constitution of India.

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"As per the 40 point roster Sri M.K. Ahary is occupying the 4th point (ST) in the Grade-II. In the Grade-I category only one ST post is available. Sri N. Annappa is claiming to be promoted to this ST post in Grade-I. But as Sri M.K. Ahary is admittedly senior to Sri N. Annappa, unless Sri M.K. Ahary is promoted to Grade-I, Sri N. Annappa cannot be considered for promotion. As on date Sri M.K. Ahary has not been completed the requisite number of years of service to be promoted to Grade-I. If Sri N. Annappa is promoted to Grade-I, Sri M.K. Ahary (a ST candidate) and several others may be aggrieved that their seniority is overlooked".

6. The applicant claims to belong to ST category. By reason of having been placed at bottom seniority after his request, respondents treat that he has not completed requisite years of service. Result is that Mr. M.K. Ahary who was also ST candidate otherwise eligible being senior to the applicant has prior claim for promotion. Reply shows that even prior to his promotion to Grade-II, Mr. M.K. Ahary was senior to the applicant in Grade-III category also. Reply also shows that the applicant acquired second position in the ST candidates whereas first position is <sup>held</sup> by M.K. Ahary. The position, therefore, being that although the applicant belongs to ST category, since there is only one post to be filled up in Driver Grade-I that has

held

5. Insofar as eligibility of the applicant to be considered for promotion, there is no dispute raised by the respondents who have filed their reply. However, it is revealed from the reply that the applicant was transferred at his own request for transfer from Geological Survey of India, Southern Region, Hyderabad to Geological Survey of India Training Institute, Hyderabad in the same capacity vide order dated 26.6.89 issued by the Director General, Geological Survey of India. That order clearly stipulated that the seniority of the applicant will be fixed at the bottom of the seniority list in the grade of Driver of the Training Institute from the date of his joining at the Training Institute. He was relieved from his duties in pursuance of the aforesaid order dated 11.7.89. The contention of the respondents in the reply will become clearer with the aforesaid back ground when kept in mind. The respondents have stated in the reply as follows:-

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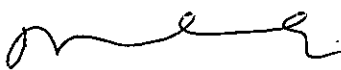
necessarily to go to Mr.M.K.Ahary on the basis of his seniority. It is only if Mr.M.K.Ahary is not found fit to be promoted for any other reason that the applicant may have chance to be promoted in this vacancy otherwise he has to wait his turn and since he is at Sl.No.2, he can hope to be promoted when the immediate vacancy arises. It is stated in the OA itself by the applicant in Para 6(c) as follows:-

"It is relevant to mention that the criteria prescribed in so far as Gr-I Drivers are that one must put in 15 years of service subject to availability of vacancies and 9 years of service for Grade-II Drivers subject to availability of vacancies and the said posts are non selection posts and shall be filled on the basis of seniority cum fitness and also subject to passing the Trade Tests."


7. Even if the bottom seniority of the applicant on his transfer may not be material to determine his eligibility on the basis of length of service, since, however, the test to be applied is of seniority-cum-fitness and since he is junior to Mr.M.K.Ahary, the applicant cannot claim to be promoted in the vacancy in question overlooking Mr.M.K.Ahary as stated by the respondents. We, therefore, find that the stand of the respondents is absolutely correct. Consequently there is no grievance of

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the applicant that can be entertained in this application and the application, therefore, does not merit admission. Precisely, with the above conclusion, yesterday we had indicated that the learned counsel for the applicant may consider to withdraw this OA so that his chances in the next available vacancies are safe or whether he invites an order of rejection of this OA. Since it is not indicated that the applicant desires to withdraw this OA, for the reasons recorded above, the OA is summarily dismissed. No order as to costs.



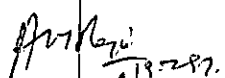
(R. RANGARAJAN)  
MEMBER (ADMN.)



(M.G. CHAUDHARY (J))  
VICE CHAIRMAN

DATED:-7th-February,-1997  
Dictated in the open court.

vsn

  
Deputy Registrar (D) ce

O.A.114/57

To

1. The Deputy Director General,  
Geological Survey of India,  
Training Institute,  
Hyderabad-68.
2. The Director General, Geological Survey of India,  
27, Jawaharlal Nehru Road, Calcutta.
3. The Secretary to Govt. of India,  
Union of India, Ministry of Mines,  
Sastri Bhawan, New Delhi.
4. One copy to Mr. D. Sridhar Rao, Advocate, CAT, Hyd.
5. One copy to Mr. K. Ramanna, Addl. Commr. CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.
8. One copy to D.R. (A) CAT, Hyd.

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O.A.114/97

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02/2/97

I COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI  
VICE-CHAIRMAN

AND

*R. Ranga Rao*  
THE HON'BLE MR. H. RAJENDRA PRASAD  
MEMBER (ADMN)

Dated: 07-2-1997

~~ORDER~~ JUDGMENT

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

in

O.A. No.

114/97

T.A. No.

(W.P.)

Admitted and Interim Directions  
Issued.

Allowed.

Disposed of with directions

Dismissed. ✓

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

To order as to costs.

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केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
अपेक्षा/DESPATCH

24 FEB 1997

हैदराबाद ब्याच  
HYDERABAD BENCH