

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.1179 OF 1997

Dated, the 16th March, '99.

BETWEEN :

Joseph Pitt Applicant
A N D

1. The Chief of Naval Staff, Naval Headquarters, New Delhi-110 011.
2. Flag Officer Commanding-in-Chief, Eastern Naval Command, Visakhapatnam-14.
3. Admiral Superintendent, Naval Dock Yard, Visakhapatnam.
4. Sri Sibmath Das, S/o and age are not known to the applicant, Asstt. Retoucher, Reproduction Cell (RTC), Naval Dock Yard, Visakhapatnam.

COUNSELLS :

For the Applicant : Mr. P.B. Vijaya Kumar.

For the Respondents : Mr. B. Narasimha Sarma.

CORAM:

THE HON'BLE MR. R. RANGARAJAN, MEMBER (ADMIN)

THE HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER (ADMIN)





O.A. 1179/97

- : 2 :-

O R D E R

(PER: THE HON'BLE MR. R. RANGARAJAN, MEMBER (ADMIN))

1. Heard Mr. P.B. Vijaya Kumar, Learned Counsel for the applicant and Mr. B.N. Sharma, Learned Standing Counsel for the respondents No.1 to 3. ^{Whc served in R-4} Respondent No.4 was called absent.
2. The applicant in this O.A. was appointed as Asstt. Artist Retoucher on 26.12.1976 and he had worked in that cadre for the last 20 years. The applicant approached the Respondent No.3 for his promotion as Artist Retoucher by his representation during September, 1990 and he was informed vide letter No.PIR/0829/RTC/AR dt. 11.10.90 (Annexure-V to the O.A.) that there are no vacancies of Artist Retoucher to promote the applicant. However, the applicant submits that a vacancy of Artist Retoucher had arisen due to retirement of one V.S. Telang, but that vacancy was filled by the respondent No.4 herein.
2. Aggrieved by the above, he has filed this O.A. praying for direction to the respondent No.1 to promote the applicant as Artist Retoucher with effect from the date on which Respondent No.4 was promoted with all consequential and attendant benefits, if necessary by creating a supernumerary post.
3. A reply has been filed in this O.A. The main contention of the respondents is that Shibmath Das, Respondent No.4 ^{herein} is an SC candidate and hence the post which was earlier filled by a General candidate has been reserved for SC and hence a SC candidate was posted. It is also admitted that the said Shibmath Das is junior to the applicant.
4. It is an admitted fact/the post of Artist Retoucher is a single cadre post and in the single cadre post ^{the promotion and} senior most suitable candidate has to be promoted as directed by the Hon'ble Supreme Court in the case of Post Graduate Institute





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O.A.1179/97

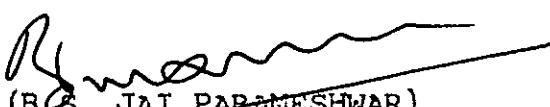
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of Medical Education and Research, Chandigarh, etc. Vs.
Faculty Association and Others (reported in 1998(2) SLR 765)

5. As the post of Artist Retoucher is a single cadre post, in view of the above direction of the Hon'ble Supreme Court, has to be filled on the basis of the senior most suitable candidate in accordance with the rules.

6. In that view of the matter the promotion of R-4 has to be set aside and direction has to be given to the respondents to promote the senior most suitable candidate to the post of Artist Retoucher in accordance with Law. In the result the impugned order promoting R-4 dated 9.6.97 is set aside. The respondents are directed to fill that post in accordance with the seniority-cum-fitness rule.

7. The O.A. is ordered accordingly. No order as to costs.


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

17-3-98


(R. RANGARAJAN)
MEMBER (ADMIN)

Dated, the 16th March, '99

Dictated in Open Court.

*Amulya
15/3/98*

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Copy to:

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

1ST AND 2ND COURT

TYPED BY
COMPARED BY

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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 (A)

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

THE HON'BLE MR. B.S. JAI PARAMESWAR
MEMBER (J)

DATED: 16/3/99

ORDER/ JUDGEMENT

MA./RA./CP. No.

IN

O.A. No. 179/97

ADMITTED AND INTRIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

7 copies

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

30 MAR 1999

हैदराबाद न्यायपीट
HYDERABAD BENCH