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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 156 OF 1997

Datd, the 21st September, '98.

BETWEEN :

S. Satyanarayana ... Applicant

A N D

1. Union of India, Ministry of Defence represented by its Secretary, New Delhi.
2. Engineer-in-Chief, Army Head Quarters, New Delhi.
3. Chief Engineer, Southern Command, M.E.S. Pune.
4. Chief Engineer (Navy) M.E.S., Station Road, Visakhapatnam-4.
5. Commander Works Engineer (P) 9, IRSD Area, Kancharapalem, Visakhapatnam.

... Respondents.

COUNSELS:

For the Applicant : Smt. Bharathi Devi

For the Respondents : Shri V. Rajeswara Rao

CORAM:

The Hon'ble Mr. R. Rangarajan, Member (A)

The Hon'ble Mr. B. S. Jai Parameshwar, Member (J)

O R D E R

(PER : HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER (J))

1. None for the applicant. Heard Shri V. Rajeswara Rao, Learned Counsel for the Respondents.
2. We are deciding this O.A. in accordance with Rule 15(1) of the Central Administrative Tribunals (Procedure) Rules, 1987.

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-: 2 :-

3. The applicant is presently working as a Peon under the R-5. During the year 1985 his name was empanelled for appointment to the post of Tracer in the respondents Department. His name was at Srl. No.4 in the select panel. However, order appointing him to that post was not issued.

4. Then the applicant approached this Tribunal in O.A. 191 of 92. In the said O.A. the respondents herein took a consistent stand that the Department has taken a decision to waste out the posts of Tracers and that they are not going to make any promotion or recruitment to the post of Tracers. In view of the stand taken by the respondents, this Tribunal disposed off the O.A. on 30th October, 1992 with the following observation :

"The cause of action to the applicant arises only when the 3 members selected for the post of Tracer were appointed, since they were empanelled above the applicant."

5. Again the applicant approached this Tribunal in O.A. 745/87 for similar relief. In that O.A. also the respondents took a similar stand that the Department has taken a decision to waste out the posts of Tracers and no recruitment/promotion will be made to the said post. On 3.12.87 this Tribunal again dismissed the O.A. in view of the stand taken by the respondents. This Tribunal further observed that the applicant will have no cause of action for grievance till action is taken to fill those posts and that the applicant cannot compel the department to fill these posts even if there is no requirement.

6. Again the applicant has filed this O.A. for the following reliefs :

"To declare theaction of the respondents in not



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making appointments to the post of Tracer, as the applicant is one of the selected candidates, empanelled in 1985 as highly arbitrary and contrary to Law and infringing the Fundamental rights guaranteed under Article 14 and 16 of the Constitution of India.

To direct the 2nd respondent to give Local Recruitment Sanction to fill up the Tracer post by the 3rd Respondent.

To pay all consequential benefits from 1985, as the applicant is empanelled in Selection List 1985."

7. The respondents have filed a counter stating that the O.A. is barred by limitation; that the O.A. is hit by principles of resjudicata in view of the decisions of this Tribunal/O.A. 191/92 and O.A. 745/87; that there is no change in the position of the department to waste out the posts of Tracers and that no recruitment or promotion has been made to the posts of Tracers and that the applicant has filed this O.A. without any rhyme or reason.

8. Since the respondents have taken a consistent stand right from the year 1987 that the department has taken a decision to waste out the post of Tracers, the applicant cannot claim for posting him as a Tracer. Mere empanelment of a candidate does not confirm any right on him to claim for appointment.

9. We reiterate the observations made by this Tribunal in O.A. 191/92.

10. Had the respondents been diligent and had they brought out these facts on the day of admission of this O.A. itself, we feel that the O.A. could have been decided about 18 months back.

11. Hence the O.A. is dismissed. No order as to costs.


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


(R. RANGARAJAN)
MEMBER (A)

Dated, the 21st Sept. '98.

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Copy to:

1. The Secretary, Min.of Defence, New Delhi.
2. Engineer in Chief, Army Head Quarters, New Delhi.
3. The Chief Engineer, Southern Command, M.E.S.Pune.
4. The Chief Engineer ~~South~~ (Navy),
M.E.S.Station Road, Visakhapatnam.
5. Commander Works Engineer(P), 9, IRSD Area,
Kancherapalem, Visakhapatnam.
6. One copy to Mrs.Bharathi Devi,Advocate,CAT,Hyderabad.
7. One copy to Mr.V.Rajeswara Rao,Addl.CGSC,CAT,Hyderabad.
8. One copy to O.B(A),CAT,Hyderabad.
9. One copy to HBSJP,M(J),CAT,Hyderabad.
10. One duplicate copy.

YLKR

15/10/98
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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 S.S. JAI PARAMESHWAR:
M(J)

DATED: 21/9/98

ORDER/JUDGMENT

M.A/R.A/C.P./INC.

in
G.A.NO. 156/97

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

YLR

