

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
HYDERABAD

O.A.No. 1269 OF 1997

DATE OF DECISION: 7/6/99

All India P&T Civil Engrs Assn. & An PETITIONER(S)

S. Rama Krishna Rao ADVOCATE FOR THE PETITIONER(S)

VERSUS

D.G., Dept of Telecom & Ors RESPONDENT(S)

V. Vinod Kumar ADVOCATE FOR THE RESPONDENT(S)

THE HON'BLE Sri R. Rangarajan, Member (A)

THE HON'BLE Sri B.S. Tai Parameswar, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

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JUDGMENT DELIVERED BY HON'BLE Sri R. Rangarajan, Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDRABAD

ORIGINAL APPLICATION NO.1269 of 1997

DATE OF ORDER: 7th JUNE, 1999

BETWEEN:

1. All India P & T Civil Engineers Association,
Group 'B', A.P.Zone, Chikkadpally,
Hyderabad rep. by its President,
Shri KAS Pillai.

2. Mr.D.K.Nagapurkar.

.. APPLICANTS

AND

1. The Director General,
Dept. of Telecom,
Ministry of Communications,
New Delhi,

2. The Chief Engineer,
Civil Zone, A.P.Telecom,
Hyderabad,

3. The Supdt. Engineer,
Telecom Civil Circle,
Chikkadpally, Hyderabad,

4. The Supdt. Engineer,
Telecom Civil Circle, Vijayawada,

5. The Supdt. Engineer,
Telecom Civil Circle,
Daba Gardens,
Visakhapatnam.

.. RESPONDENTS

COUNSEL FOR THE APPLICANTS: Mr.S.RAMAKRISHNA RAO

COUNSEL FOR THE RESPONDENTS: Mr.V.VINOD KUMAR, Addl.CGSC

CORAM:

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

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

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JUDGEMENT

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

Heard Mr.S.Rama Krishna Rao, learned counsel for the applicants and Mr.V.Vinod Kumar, learned standing counsel for the respondents.

2. This OA is filed by two applicants. The 1st applicant is an Association called "All India P & T Civil Engineers' Association, Group 'B', A.P.Zone and the 2nd applicant is an Assistant Surveyor of Works owing allegiance to the Association mentioned above.

2. The Department of Telecommunications had created 302 posts of Assistant Engineer (Civil) by upgrading the lower post of Junior Engineer (Civil). A total number of 302 Assistant Engineer (Civil) posts were created by abolishing 433 posts of Junior Engineer (Civil) as per the restructuring programme to avoid stagnation in the lower grade of Junior Engineer (Civil). In view of the restructuring, the impugned revised organisational structure of the field and Planning Units of the Civil Wing of Dept. of Telecom. for redistribution of posts was issued by the impugned order No.28-3/94-CSE, dated 11.12.96 (Annexure A-1 at Page 11 to the OA). In view of the above revised organisational structure, some of the Junior Engineers (Civil) attached to the planning section as well as other sections were reduced. Junior Engineers (Civil) functioning in the planning section had been withdrawn and that work was allotted to the Assistant Engineers (Civil).

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4. The applicants submit that they were asked to perform the duties of Junior Engineers (Civil) which is irregular and hence they should be given assistance by posting the Junior Engineers (Civil) for discharging the day today work. They further add that the work of recording measurements etc. is to be done by the Junior Engineers (Civil) and that work cannot be entrusted to ~~the~~ Assistant Engineers (Civil). Hence para (e) of the impugned order dated 11.12.96 is contrary to the work assigned to the Assistant Engineers (Civil).

5. This OA is filed to set aside the memo No.28-3/94-CSE, dated 11.12.96 proposing to redistribute the post of Junior Engineer (Civil) under various Sub-divisions and Planning Units declaring the same arbitrary, illegal, unwarranted and against the norms laid down under CPWD Code, in respect of assignment of duties of cadres and for consequential direction to the respondents to restore the Junior Engineers (Civil) to assist the Assistant Engineers (Civil) in Planning Units, at par with the field sub-divisions as suggested in para (a) of the letter dated 11.12.96 by keeping at least 2 Junior Engineers with Assistant Engineers in planning also, as sub-ordinates to them as was the practice earlier thereby avoiding extraction of basic duties which are to be performed by Junior Engineers (Civil) as per the CPWD Code by Assistant Engineers (Civil).

6. In the reply, it is stated that the upgradation was done to avoid stagnation in the cadre of Junior Engineers (Civil). The post of AE or ASW was nowhere down

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graded by the order dated 11.12.96. That arrangement was made to utilise the existing officials in an effective manner for the sake of administrative convenience. The Planning Units have been provided with Draughtsmen to assist the Assistant Engineers (Civil) and hence it cannot be said that the Assistant Engineers (Civil) are no way assisted by the lower category ~~of~~ staff. As regards the contention of the applicants regarding the duties of Assistant Engineers (Civil) and Junior Engineers (Civil) as defined in the CPWD Code, it is submitted that the CPWD also issued similar orders to the effect that the Engineering planning work should be initiated at ASW level who may be provided with the assistance of Draughtsmen. Hence the respondents submit that there is no grievance as regards ~~the~~ Assistant Engineers (Civil) and hence the OA has no merit.

7. A rejoinder has been filed in this OA controverting the submissions made in the reply affidavit.

8. Upgradation of the post of Junior Engineer (Civil) to the post of Assistant Engineer (Civil) has been done to avoid stagnation. By this, the Junior Engineers (Civil) who were promoted as Assistant Engineers (Civil) are benefited. Normally upgradation proposals when completed, upgraded posts should also carry the burden of the lower post. If such a view is not taken, then the upgradation proposal itself cannot be implemented as equivalent surrender ~~without~~ ^{for} creation of higher post cannot be shown. When the status of Junior Engineers (Civil) are upgraded to Assistant Engineers (Civil), they cannot have

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any grouse to do the duties of Junior Engineers (Civil), if the duties are allotted. If they refuse to do it, then the upgradation itself will not take place and that will be detrimental to the Junior Engineers (Civil) as they cannot be promoted even after long years of service. There is no rule which prohibits allotment of duties to a particular cadre. The CPWD Code only stipulates the duties that are to be performed by a particular category of staff. It does not mean that higher category of staff cannot be asked to do those duties. The duty list issued from time to time by the higher authorities has to be honoured. Preparation of duty list and allotment of duties to the officials is an administrative action. The policy decision taken in the redistribution of the duties cannot be questioned unless such redistribution of duties is done with malafide intentions. In the present case, the posts of Junior Engineers (Civil) have been surrendered and the posts equivalent matching surrendered were created in the higher category of Assistant Engineers (Civil). If the posts of Junior Engineers (Civil) cannot be withdrawn as prayed for by the applicants in this OA, then the upgradation itself will come to a stand still as there will be no matching surrender of posts for creation of higher category posts. Surrender of posts for upgradation is necessary and the duties which are performed by the lower category ~~were~~ ^{are} necessarily ^{to} be redistributed in the higher category. Hence the redistribution as given in the impugned order dated 11.12.96 is nothing new to the Civil Engineers of the Dept. of Telecom. Similar redistribution has also been done in the other departments where upgradation was ordered to avoid stagnation. Hence questioning of the impugned order


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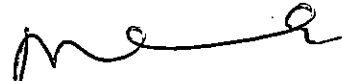
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dated 11.12.96 is not tenable.

9. It appears from the OA affidavit that the reduction in the number of posts could have caused some extra work load. If the work load is more, then the applicants should ask for creation of more posts and not challenge the redistribution of the work as per the impugned order. There is no material in the OA to come to the conclusion that Assistant Engineers (Civil) are over loaded with the work. If they feel so, they should approach the authorities with necessary justification for creation of extra posts instead of challenging the impugned order dated 11.12.96.

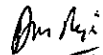
10. From the above analysis, it is evident that the OA has no merit for granting the prayer. Hence the OA is dismissed. No order as to costs.


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


(R. RANGARAJAN)
MEMBER (ADMN.)

7/6/99
DATED : 7th JUNE, 1999

vsn


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