

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

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O.A.No.1663 of 1997 .

Date of decision: 16th December, 1997.

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Between:

K.Narayana Rao.

.. Applicant.

and

1. Union of India represented by its Secretary, Ministry of Defence, South Block, New Delhi.
2. Quarter Master General, Army Headquarters, Sena Bhawan, New Delhi.
3. Dy. Director General, Military Farms Army Headquarters, Q.M.G.Branch, West Block III, R.K.Puram, New Delhi 110 066.
4. The Officer incharge, Military Farm, Secunderabad. Respondents.

Counsel for the applicant: Sri V.Venkateswara Rao.

Counsel for the respondents: Sri V. Bhimanna.

JUDGMENT:

(by Hon'ble Sri R. Rangarajan, Member (Ad).

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Heard Sri V.Venkateswara Rao for the applicant
and Sri V.Bhimanna for the respondents.

The applicant, who is hailing from Scheduled Caste community, while working as U.D.C., was promoted to the post of Office Superintendent, Grade II on 30-7-1990.

It is further stated that the applicant was also promoted as Office Superintendent, Grade I on 1-12-1996.

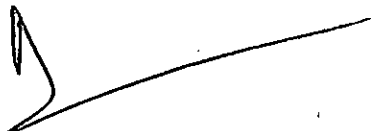
While the applicant was working as Office

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: 2 :

Superintendent, Grade II, O.A.No.3014/91 was filed before the Principal Bench, Central Administrative Tribunal and that O.A. was disposed of on 12-8-1997. In that DPC., by which the applicant was promoted as Office Superintendent, Grade II on 30-7-1990, one post was earmarked for S.T. candidate for that selection. But that S.T.Post was exchanged as S.C., post for some reason. For filling up the post of Office Superintendent, Grade II the D.P.C., was held and the applicant was promoted as Office Superintendent Grade II in that selection against S.C. point. That selection was challenged in the above referred O.A., before the Principal Bench of the Central Administrative Tribunal. The Principal Bench in that O.A., directed as follows:

"In the result the O.A., deserves to succeed and is allowed. The Review DPC held on 23-1-1990 on the basis of which the ST vacancy subsequently converted to a SC vacancy was filled up is quashed and set aside. Respondents are directed to hold a fresh review DPC for 2 SC vacancies and consider the cases of all those who come within the Zone of consideration for the same. In case as a result of the fresh review DPC anyone is adversely affected, he shall be given a reasonable opportunity of being heard in person by respondents before they pass final orders.




: 3 :

These directions should be implemented within four months from the date of receipt of a copy of this judgment. No costs."

As per the above directions of the Principal Bench, a review DPC., has to be held for filling up the post of Office Superintendent, Grade II for 2 S.C. vacancies by considering the cases of those who come within the Zone consideration. It was also directed in that judgment that in case as a result of fresh review DPC. anyone is adversely affected, he has to be given a reasonable opportunity of being heard before the respondents pass the final orders.

In view of the above directions, the review DPC., was held on 2-12-1997. The applicant who hails from S.C. community was also one of the candidates in the review selection. It is stated that the applicant who was already selected earlier in the year 1990 as Office Superintendent Grade II was not found fit for selection by the Review DPC., held on 2-12- 1997. Hence, by the impugned order dated 4.12.1997 (Annexure IV to the O.A.,) he was given an opportunity to submit a representation against the findings of the Review DPC., within 10 days from the date of receipt of that letter and also he was informed that in case he desires to be heard in person, he may meet the DDGMF either on 26th December, 1997 or 29th December, 1997.

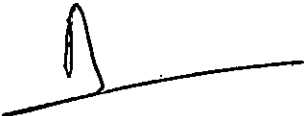


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This O A., is filed to set aside the impugned letter No.85687/Q/MF-1 dated 4-12-1997 declaring it as illegal, arbitrary and unconstitutional in so far as the result of the applicant is concerned and for a consequential direction to the respondents that the applicant is entitled for promotion to the post of Office Superintendent, Grade II against the vacancies available in 1988 and fill up the same by S.C. community candidate with all consequential benefits such as seniority etc.

The results of the DPC held on 23-12-1990 was the subject matter in the O.A., filed before the Principal Bench which was decided on 12-8-1997. The directions given in that O.A., have been extracted already as above. Hence, if the review DPC held on 2-12-1997 finds the applicant unfit for promotion to the post of office Superintendent, Grade II, then such result can be pronounced only after giving a reasonable opportunity of being heard the applicant in person by the respondents before passing final orders. The judgment of the Principal Bench is complete. This Bench cannot sit over the judgment of the Principal Bench of the Tribunal which is binding on this Bench.

It is now stated by the learned counsel for the respondents that the impugned letter dated 4-12-1997 is to




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give an opportunity to the applicant to be heard in person in accordance with the Judgment of the Principal Bench. Hence, the applicant was asked to submit his representation and the date has also been fixed for meeting the DDMGF by the letter dated 4-12-1997. The results of the review DPC., are not put into effect so far and the applicant is still continuing as Grade I Office Superintendent. Hence any decision taken on the basis of the recommendations of Review DPC., will be only after the applicant is heard in person if he so desires, and after perusing the representation put in by him in accordance with the letter dated 4-12-1997.


In view of the above submission of the learned counsel for the respondents, no further orders are necessary in the O.A.

The result of the review DPC., held on 2-12-1997 for selection of the Office Superintendent, Grade II should be given effect to, only after complying with the directions given by the Principal Bench in the above referred O.A., i.e., after giving personal hearing to the applicant and after considering his representation, if any, submitted by him within the stipulated date.




The respondents may pass orders only after complying with the directions given by the Principal Bench in O.A.3014/91 and implement the decision of the Review DPC held on 2-12-1997 after considering the representation of the applicant, if any and after giving him a personal hearing if he so desires.

With the above observations, the O A., is disposed of at the admission stage itself. No costs.


R. RANGARAJAN,
MEMBER (A)

Date: 16--12--1997.

Dictated in open Court.


D.R.

SSS.

NOTE:

C.C. by 17-12-1997.

(B.O.)



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Copy to:

1. The Secretary, Min. of Defence,
South Block, New Delhi.
2. Quarter Master General, Army Head Quarters,
Sena Bhavan, New Delhi.
3. Dy. Director General, Military Farms,
Army Head Quarters, Q.M.G. Branch, West Block,
III, R.K. Puram, New Delhi.
4. The Officer Incharge, Military Farm, Secunderabad.
5. One copy to Mr. V. Venkateswara Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One duplicate copy.

YLKR

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