

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
HYDERABAD

O.A.No.762 cf 1999.

Date of Decision: 13-9-01

Between:

Anand Kumar, s/o late Sri Y.Sayanna,  
presently working as Assistant Director  
Grade-I (Electronics), Department of  
Small Scale Industries, Govt. of India,  
M/o Industries, SJSI, Hyderabad,  
r/c Hyderabad.

.. Applicant

and

1. The Union of India, rep., by  
its Secretary to the Govt.  
Department of Industries,  
M/o Industries, Govt. of India,  
Udyog Bhavan, New Delhi.
2. Adol. Secretary & Development  
Commissioner, Small Scale Industries,  
M/o Industries, Nirmal Bhavan,  
New Delhi.
3. Kalendra Sahai, SJSI, 111 & 112,  
P.T.Road, Calcutta.
4. J.R.Devadas, SJSI, Krishna Vihar,  
Kanhang Road, Ayyanthole,  
Trichur.
5. H.C.Bhardwaj,  
SJSI, Janakutti Chabaghata,  
Solan.

.. Respondents

COUNSEL FOR THE APPLICANT : Mr.N.Ramachana Rao

COUNSEL FOR THE RESPONDENTS : Mr.V.Vinod Kumar

CORAM:

THE HON'BLE SRI JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN  
THE HON'BLE SRI M.V.NATARAJAN, MEMBER (ADMN.)

:C R D E R:

(PER HON'BLE SRI JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN)

The present OA is brought before us by the  
applicant aggrieved by his non-promotion to the post of

CR

Deputy Director (Electronics).

2. The post of Deputy Director (Electronics) in the Small Scale Industries, is a selection post and the promotions are therefore ordered on the recommendation made by the duly constituted DPC. The applicant who was working as Assistant Director (Electronics), belongs to Scheduled Caste community.

3. 3 vacancies arose for such promotion. Though the applicant was considered, he was not promoted on the ground that his case has not been recommended by the DPC. The applicant submits that he maintains excellent record of service, throughout. Certain adverse remarks, however, have been communicated on 19.8.96 with regard to his ACR of 1992-93. He preferred a representation for expunction of the said adverse remarks and they have been expunged leaving only one remark unexpunged, in the memorandum dated 4.5.98. Hence, the record being exemplary and for the additional reason that he also belongs to the Scheduled Caste Community, there was no good reason for not recommending his case while promoting his juniors. It is also the case of the applicant that the Scheduled Caste Community candidates would enjoy an advantage over the other community candidates because as per the OM dated

Ch

17.10.90, their gradings are liable to be stepped up in contrast and comparison to the evaluation of the record of performance of officers belonging to general category.

4. It is therefore contended by the learned Counsel for the Applicant that the record of service of the applicant was not subjected to proper scrutiny by the DPC and that the applicant suffered a grave injustice in the matter of his promotion, which has to be remedied.

5. It is, however, averred in the reply that the applicant has been considered by DPC but he was not recommended for promotion.

6. We have given careful consideration to the arguments of the learned counsel.

7. It is no doubt true that the adverse remarks against the applicant recorded in his ACR for the year 1992-93 have been communicated to the applicant on 19.8.96 and on his representation some of the remarks have been expunged. We have perused the original records including the ACRs and DPC Proceedings. From the ACR of 1992-93, it is seen that the Reporting Officer has recorded the adverse remarks for the said year on 15.7.1996. Thus there is considerable delay in writing his ACR. No reason is

indicated either in the report itself or in the reply. Thus the respondents laid themselves open to the criticism that the purport behind the communication of the adverse remarks was defeated and in view of the delay the applicant could not improve himself and correct the draw backs.

8. The promotion to the grade of Dy. Director (Electronics) to fill up 3 vacancies was considered by the DPC on 1.4.99. The DPC might have considered the ACRs for all 7 years preceding to 1.4.1999. The DPC having examined the character rolls of the applicant and others assessed the applicant as only 'Average' and recommended the candidates, who obtained the assessment of 'Good'.

9. We have also gone through the ACRs of the applicant with regard to the years from 1992-93 to 1998-99 and we find that the applicant had obtained 'average' gradings in most of the years. It is also found that some of the adverse remarks were left unexpunged. It cannot, therefore, be said that the applicant has got an Outstanding record of service and that injustice was meted out to him by the DPC.

10. The contention that the applicant being an Scheduled Caste candidate, his gradings ought to be stepped

up, has no merit in view of the instructions of the Govt. of India in OM dated 22.7.97, clarifying that henceforth there should not be separate standards of evaluation for the candidates of SC/ST for promotion.

II. In the result, the OA fails and is accordingly dismissed with costs of Rs.1,000/-.

*M. V. Natarajan*  
(M. V. NATARAJAN)  
MEMBER(A)

*Ambygopalayam*  
(V. RAJAGOPALA REDDY)  
VICE CHAIRMAN

Dated: this the 13 day of September, 2001.

\*\*\*  
DSN

LL  
14.9.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

~~COPY TO:~~

1. HVRG.RA
2. HMVN : MEMBER (ADMN)
3. HMK: MEMBER (ADMN)
4. HDR : MEMBER: (JUDL)
5. D.R. (ADMN)
6. SPARE
7. ADVOCATE
8. STANDING COUNSEL
9. REPORTERS
10. ALL BENCHES

1ST AND 2ND COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

THE HON'BLE MR.JUSTICE V. RAJAGOPALA  
REDDY: VICE CHAIRMAN

THE HON'BLE MR. M. V. NATARAJAN  
MEMBER (ADMN)

THE HON'BLE MR. S.K. AGRAWAL  
MEMBER (ADMN)

THE HON'BLE MRS. BHARATIRAY  
MEMBER (JUDL)

DATE OF ORDER

MR/RAY/CO. NO.

IN

O.A.NO:

762/98.

ADMITTED AND INTERIM DIRECTIONS  
ISSUED.

ALLOWED

C.P.CLOSED

DISPOSED OF

DISPOSED OF WITH DIRECTION

DISMISSED

DISMISSED AS WITHDRAWN

DISPOSED AS WITHDRAWN

ORDER REJECTED

DISPOSED OF/DISMISSED/WITH COSTS

DISPOSED OF AT THEADMISSION  
STAGE.

REJECTED

NO ORDER AS TO COSTS

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