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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH;
HYDERABAD

O.A.No.865 of 1999.

DATE OF ORDER:8-8-2000.

Between:

1. S.Narasimha Murthy.
2. S.Sreenivas.
3. H.Ismail.
4. K.V.S.S.Vara Prasad.
5. T.S.Amarnath.
6. B.Maheshwara Rao.
7. N.Venkateswara Rao. ...Applicants

and

1. The Admiral Superintendent,
Naval Dockyard, Visakhapatnam.
2. The Manager (Personnel),
Naval Dockyard, Visakhapatnam. ...Respondents

COUNSEL FOR THE APPLICANTS :: Mr.P.Krishna Reddy

COUNSEL FOR THE RESPONDENTS :: Mr.B.Narsimha Sharma

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.)

: O R D E R :

(PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.S.Lakshma Reddy for Mr.P.Krishna Reddy,
learned Counsel for the Applicants and Mr.B.Narsimha Sharma,
learned Sr.Standing Counsel for the Respondents.

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2. The present OA is filed by seven applicants with a prayer to absorb them as HSK-Grade-II instead of Lower Skilled Grade from the date they were appointed in the lower grade. The applicants also came up with a similar request by filing OA.No.680 of 1995, which was disposed of on 4-3-1998. There also the applicants prayed for a direction to the respondents to absorb them as HSK Grade-II from the date of appointment and give them all consequential benefits including arrears of salary, seniority in HSK Grade-II. The previous OA.No.680 of 1995 was disposed of with the following direction:-

"All the applicants or such of the applicants on the basis of their seniority to the extent of vacancies in HSK Grade-II have to be appointed as HSK Gr.II with effect from the date of their joining after passing the training examination and ofcourse if there were no such vacancies available on that date, this OA stands dismissed. But in case vacancies in HSK Gr.II were available as on that date, the applicants are entitled to the difference in pay throughout."

3. In that view, it has to be held that the relief prayed for in this OA had already been considered. However, the only point for consideration in this OA is whether the applicants are entitled to get HSK Grade-II irrespective of the bench mark granted to them, if there are vacancies in HSK Gr.II on the date they joined in the lower grade of Skilled Grade, as directed in the earlier OA, the operative portion of which has been extracted as above.

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4. The applicants in para 6(L) submit that the bench mark ratio had already been exceeded prior to 1990 and inspite of that 191 personnel have been promoted as HSK-II in the year 1990, 237 personnel in the year 1993, and 156 personnel in the year 1995 and apart from the above, 8 applicants in OA.No.327 of 1992 have also been upgraded to the post of HSK-II consequent to the Judgment of this Tribunal in that OA. Hence, the question of non-availability of the vacancies should not stand in the way of the applicants for being posted as HSK-II when they joined in the Lower Skilled category.

5. At the outset it is to be noted that the statistics given is very inadequate to consider whether the ratio has been exceeded or not depending on the total number of posts in the cadre. The bifurcation of the various sub-cadres on the basis of the ratio and on that basis the number of availability of vacancies or otherwise has to be decided. The ^{number}~~question~~ of sanctioned strength, actual operation of posts etc., has to be indicated to make the statistics complete. If such a detailed analysis is not available, the mere observation that it was excess by so many numbers carries no meaning. Hence, our observation that the details given in para 6(L) is vague cannot be said to be an incorrect appreciation of the facts.

6. In the reply the respondents have given the details of the availability of posts. It has been stated ~~the~~ para 6 of the reply ~~gives~~ the vacancy position when the applicants joined service in Skilled Grade. It is preferable to

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reproduce that paragraph. For better appreciation, it is reproduced as under:-

"On receipt of the judgment the vacancies position of tradesmen in general and HSK-II in particular was examined and it is seen that as on Apr 92 i.e. the date of appointment of the applicants, the borne strength of all tradesmen was 4354. As per the Naval Standing Establishment Committee Norms, (bench marks) a ratio of 40:30:20 is to be maintained between SK, HSK-II and HSK-I. Accordingly the strength of the above grades should have been 1935 SKs, 1451 HSK-II and 968 HSK-I. However, the actual strength as on Apr 92 was 1195 SKs, 1970 HSK-II and 1189 HSK-I. Thus there is distortion of the ratio and it can be seen that there are more HSK-II than SKs. Due to this anomalous situation NHQ vide letter CP (NG)/2831 dated 14 Aug 96 (Annexure R.1) have directed that bench mark is to be strictly adhered to till further communication from NHQ. In other words no promotion can be made to HSK-II and HSK-I where there is excessive strength than the prescribed bench mark. Since there were no vacancies available in the grade of HSK-II as on Apr 92, the applicants cannot be given the grade/appointment as HSK-II. This fact was intimated to all the applicants vide this yard letter PIR/1106/OA/680/95, dated 26 May 98, through their respective Managers."

7. From the above, it is evident that there was excess in the Skilled Grade-II as per the ratio laid down. Hence, the contentions of the applicant that there were vacancies by giving some statistics without details cannot be accepted. As the respondents have given the details in regard to the

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cadre strength and the availability of posts on that date, it has to be held that there were no vacancies on that date ~~and when the date~~ the applicant joined in the Lower Skilled category and on that basis they are not entitled for posting as HSK-II in view of the previous Judgment referred to above.

8. It is also necessary to reproduce paragraph 6 of the rejoinder filed by the applicants, which also gives the details regarding the availability of posts. The paragraph 6 is reproduced as under:-

"The respondents informed applicants by the letter dated 26-5-98 that they were not appointed as HSK-II, since no vacancies were available as on April, 92. Questioning the same the above OA was filed."

9. The second contention of the applicants is that there is a case of discrimination between those who filed OA. No.327 of 1992 and the applicants in that OA.No.327 of 1992 were upgraded from Skilled to HSK Grade-II even there were no vacancies at that time. But, as stated above, no statistics have been given by the applicants to strengthen their case. We find in paragraph 18 of the reply that there were posts available at the time of absorption of the 8 applicants in OA.No.327 of 1992. This paragraph is reproduced below:-

"In reply to Para 6(k & l), it is submitted that the appointment of the applicants in OA.No.327/92 was changed from SK to HSK-II as vacancies were available at the time of their absorption i.e., 10 Apr 91. It is further submitted that the statement of the applicants that 237 personnel

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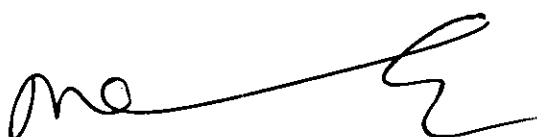
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were promoted in the year 1993 and 156 in the year 1995 is not correct and untenable as no such promotions were ordered during the above years."

10. Considering the above fact, we are of the opinion, that the respondents have not violated the directions in the previous OA, and as there were no vacancies of HSK Gr.II on the date when the applicants joined as Skilled, they were not promoted.

11. We do not find any irregularity committed by the respondents in this connection. However, the applicants are at liberty to examine full detailed position of the availability of posts as mentioned above and if there is any injustice done to them on that basis, they may approach the Department by submitting a representation.

12. The OA is dismissed with the above observations.
No costs.



(R.RANGARAJAN)
MEMBER(A)



(D.H.NASIR)
VICE CHAIRMAN

DATED: this the 8th day of August, 2000

Dictated in the Open Court

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