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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A.No.10/99.

Date of Decision: 03-03-2000.

1. M.V.N.Murthy
2. N.V.S.Krishna Rao
3. T.V.V.S.N.Murthy
4. P.Saibabu
5. C.Ramakrishna
6. M.J.Kamalakara Rao
7. B.Mistry
8. P.Nageswara Rao
9. T.Ramana
10. I.P.Dutt
11. Mantha Kameswara Rao
12. N.Govinda Rao
13. T.B.Sundara Rao
14. B.S.Narayana
15. G.Papa Rao
16. T.Murali
17. B.V.Siva Rao
18. S.V.S.S.S.Sarma
19. M.V.R.Murthy
20. B.Mallikharjuna Rao

21. P.Premchand
22. D.K.Dhar
23. K.C.Misra
24. P.Prabhakara Rao
25. A.Narasimhamurthy
26. J.Sanjeeva Rao
27. S.K.D.Sarkar
28. G.V.Raghava Rao
29. S.Venkateswara Rao
30. SK.Salauddin
31. Narayan Sabu
32. B.K.Jena
33. N.V.Kankarao
34. E.R.Reddy
35. T.Subbareddy
36. A.Srinivasarao
37. G.Anandarao
38. D.K.Sahu
39. M.P.V.Ratnakumar

.. Applicants.

Vs

1. The Secretary,
Min. of Defence,
New Delhi.
2. The Chief of Naval Staff,
Naval Headquarters,
New Delhi.
3. The Flag Officer Commanding-in-chief,
Eastern Naval Command, Visakhapatnam-14(Naval Base).
4. The Admiral Superintendent,
Naval Dock Yard, Visakhapatnam-14.

.. Respondents.

Counsel for the applicants : Mr.P.P.Vittal

Counsel for the respondents : Mr.V.Rajeswara Rao, SC for Rlys.



CORAM:-

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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

ORDER

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

Heard Mr.S.Ramakrishna Rao for Mr.P.P.Vittal, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. There are 39 applicants in this OA. Earlier they filed OA.665/90 (Annexure-II to the OA). That OA arose because the private respondents therein who were casual labourers were given the benefit of continuous service as casual labourers thereby ranked seniors to the applicants therein and were also promoted as Grade-II earlier to the applicants therein who are the applicants herein also with effect from 1-1-84. The promotion to Grade-II of the private respondents therein who were casual labourers were challenged and the prayer in that OA reads as follows:-

"To quash the proceedings No.PE/82/A/84 dated 22-09-84 and No.PIR/1106/HSK-II dated 20-2-85 and also to direct the 1st respondent to promote the applicants as HSK-II and place them over and above the respondents with all consequential benefits."

3. That OA was disposed of by the order dated 02-04-93 with the following directions:-

"We quash the promotion orders dated 22-09-84 and 20-02-85 and direct the respondents to consider the promotion of the applicants (if not already done) in the light of the conclusions above. Thereafter, the seniority in the promoted cadre shall be arranged in such a matter that it reflects the seniority in the grade of Skilled Fitters in which cadre the casual service rendered is to be ignored. The application is disposed of thus with no order as to costs."

It is stated that the respondents have shown the names of the applicants as seniors to the private respondents in that OA and also quash^d the promotion orders of the private respondents therein by bringing down the seniority in Grade-II with effect from 1-12-90. That judgement was appealed against by filing Civil Appeal No.880/94 on the file of the Hon'ble Supreme Court of India, which was disposed of on 11-02-98 (Annexure-III to the OA) upholding the judgement of this Tribunal.

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4. The learned counsel for the applicants submitted ^{for} ~~that to~~ promote ^{ing} the applicants as HSK Gr-II from the date when the private respondents in the other OA were promoted as HSK Gr-II and pay them the arrears of salary etc., from the date ~~due to the~~ ^{by} preponement of their promotion to HSK Gr-II from 1-12-90 to earlier date from 1984, 1985.

5. This OA is filed praying for a direction to the respondents to consider the case of the applicants herein for promotion to the post of HSK Grade-II with effect from 1984, 1985 and consequently fix their pay with reference to year and pay arrears of pay in the light of the judgement dated 2-4-93 in OA.665/90 and to consider their cases for further promotion to the post of HSK Grade-I basing on the seniority that is going to be assigned from the year 1984, 1985 onwards.

6. From the above prayer the applicants pray for their preponement of their promotion from the year 1984 and 1985 instead of from 1990 and fixation of pay in HSK Grade-II from 1984 and 1985 and payment of arrears and lastly promote them as HSK Grade-I. The applicants gained seniority. The applicants have not brought out ^{names anybody} in between 1984 and 1985 and 1990 when they were promoted as HSK Grade-II. If that be the case even if they have ^{been promoted} ~~been promotion~~ to HSK Grade-II from 1984 and 1985 their seniority as was given now is not going to be altered. Hence, the question of asking for direction to ^{prepone their promotion} ~~promote them~~ to HSK Grade-II is not considered essential. Even if they got their seniority with effect from 1-12-90 their prospects of promotion to HSK Grade-I is not going to be changed as none else ^{were offered to have been} ~~was~~ promoted in between 1984 and 1985 ^{were} placed above them. Hence, the prayer is not considered essential in this OA.

7. By showing the applicants as having been promoted to HSK Grade-II from 1984 and 1985 the applicants will get unintended benefits of fixation of their pay from ~~that~~ ^{they are entitled for} date and arrears on that basis ^{Even if it is notional basis} ~~their~~ ^{their arrears from the date of} ~~promoted~~ ^{their actual promotion} as HSK Grade-II. That would mean that the Government has to pay the applicants without performing ~~their~~ duties of HSK Grade-II and also double payment as the casual labourers who had already worked HSK Grade-II who were brought down in the seniority were ~~to be~~ paid that amount when they worked as HSK Grade-II. Such fixation

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in our opinion may not be appropriate. In the reply the respondents state that the judgement in the earlier OA i.e., 665/90 has been fully complied with. There is no mention in that judgement that the applicants therein i.e., who are the applicants herein also should be shown as having promoted from the date casual labourers promoted against HSK Grade-II and other consequential benefits arising out of that promotion. The applicants as a matter of fact prayed for consequential benefits in the earlier OA.665/90. But there is no mention in regard to the consequential benefits to be granted to the applicants in the judgement. It may be possible that the earlier OA it was denied or it was left out without any orders. It is not possible for us to commend that judgement. The applicants are at liberty to take such judicial proceedings as are available to them in case consequential benefits^{are} to be given to them ~~that is~~ arising out of the judgement in OA.665/90. Filing this OA in our opinion is not maintainable for granting them the relief asked for which it appears is a consequential benefit of the relief prayed for in the earlier OA.

8. The OA is dismissed with the observation made as above. No costs.


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


(R. RANGARAJAN)
MEMBER(ADMN.)

3/3/00
Dated: The 3rd March, 2000.
(Dictated in the Open Court)

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