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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1115 of 1999

DATE OF JUDGMENT: 24th NOVEMBER, 2000

BETWEEN:

B.BHASKAR REDDY

.. APPLICANT

AND

1. Union of India rep. by its Secretary,
Ministry of Home Affairs,
North Block, New Delhi,

2. The Director,
S.V.P.National Police Academy,
Hyderabad-500052.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.N.R.DEVARAJ

COUNSEL FOR THE RESPONDENTS: Mr.V.RAJESWARA RAO, Adl.CGSC

CORAM:

HON'BLE SHRI JUSTICE D.H.NASIR, VICE CHAIRMAN

HON'BLE SRI M.V.NATARAJAN, MEMBER (ADMN.)

JUDGEMENT

ORDER (PER HON'BLE SRI M.V.NATARAJAN, MEMBER (ADMN.))

The applicant, Shri B.Bhaskar Reddy, was appointed as a temporary Constable in the S.V.P.National Police Academy on 31.10.1979. He was confirmed, as Constable, on 3.10.1981 and was promoted as Head Constable/MT Driver on adhoc basis on 9.5.1995. He was reverted to his substantive post of Constable on 8.3.1996. Presently he is the senior most amongst all the Constables of the Academy and is waiting for his promotion as Head Constable. He has approached this Tribunal with this OA on 26.7.1999 for declaration that the action of the respondents in absorbing the deputationists against the permanent staff quota is illegal and for a direction to the respondents to fill up the six vacancies available against

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the permanent employees quota only from such employees starting from the applicant.

2. At the admission stage, this Tribunal passed the order on 29.7.1999 that, 'the recruitment rules as incorporated in the letter dated 19.3.1997 should be strictly adhered to in letter and spirit'.

3. We have carefully scrutinised the OA filed by the applicant along with its enclosures and the reply affidavit filed by the Director, S.V.P. National Police Academy and also its attached enclosures.

4. As per the MHA's notification No.22/17/58.B III(B) dated 8.10.1957, 36 posts of Head Constables are to be recruited by, (a) 50% by promotion from the rank of Constables who have put in at-least 5 years in that grade and (b) 50% by deputation or transfer of serving Police Personnel from the State Governments/C.P.Os. vide MHA's Notification No.10/7/73-Pers.I dated 18.3.1975. As per the same notification, these non-selection posts are to be filled by directly recruited Constables with 5 years of service in the grade in respect of promotion quota (50%) and serving Police Personnel from the State Governments/C.P.Os by deputation. According to the reply statement, presently total number of posts of Head Constables is 66; the posts filled by permanent staff is 40 and the posts filled by deputationists is 21. In other words, against 50% promotion quota of 33, promotions have been given to as many as 40; and as against 33 posts to be filled by deputation, deputationists are holding 21 posts. Thus, the

promotion quota has already been exceeded. The learned counsel for the applicant argued at length that the IPS officers manning the Academy coming from other states have been bringing the Constables from their respective States/CPOs along with them as deputationists and subsequently adjusting them against the quota earmarked for promotion posts thereby adversely affecting the chances of the candidates similarly placed as the applicant. The learned counsel for the respondents did concede the point that, that was the situation which prevailed nearly 10 years back and that the settled position cannot be unsettled at this distance of time, even though the applicant may be the senior most in waiting for promotion as Head Constable. It has also been conceded that on account of non-availability of deputationists for filling up 50% quota, those eligible for promotion were given promotion in the Academy.

5. Admittedly, in such a small cadre, giving a go bye to the MHA's notification, adjustments have taken place from the promotees against the deputationists' quota and vice-versa in addition to the transferees which has given right to the present OA. Thus the prevailing situation, as has taken place more than a decade back, cannot be a ground for perpetration of the same or arbitrarily allocating the available vacancies either to the deputationists or to the promotees so as to bring the cadre strength to its equilibrium to be in confirmity with the notification.

6. We, therefore, direct the respondents,

(i) to list out the promotees' category and deputationists' category seperately, communicate the list

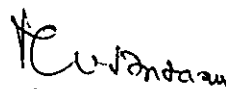
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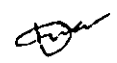
so arrived at along with the copy of the service rules to all those who are in the cadre in addition to publishing the same in the notice board, give them an opportunity of being heard, if ^{they} so desire, take appropriate decisions on the representations, and thereafter embark upon filling up of the posts in the categories found deficient, such that the incipient dissatisfaction gets nipped in the bud.

(ii) In the process of so doing, should it be necessary to seek any permission from the MHA for doing so, the respondents shall do so.

(iii) The course of action suggested above shall be completed within three months from the date of receipt of this order.

7. The OA is disposed with the above directions. No order as to costs.


(M.V. NATARAJAN)
MEMBER (ADMN.)


(D.H. NASIR)
VICE CHAIRMAN

DATED: 24th NOVEMBER, 2000



vsn

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH:HYDERABAD

COPY TO:-

1ST AND 2ND COURT

1. ~~HDHND~~
2. ~~ADRN~~ (ADMN) MEMBER
3. ~~HBSJP~~ (JUDL) MEMBER
4. D.R. - (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY CHECKED BY
COMPARED BY APPROVED BY

THE HON'BLE MR. JUSTICE DH. NASIR
VICE - CHAIRMAN

THE HON'BLE MR. *V. Natarajan*
RANGARAJAN
MEMBER (ADMN)

THE HON'BLE MR. BS. JAI PARAMESHWAR
MEMBER (JUDL)

DATE OF ORDER

24/11/00

MA/RA/CP:ND
IN

DA.NO. *1115/99*

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
वैद्य / DESPATCH

29 NOV 2000

हैदराबाद न्यायाधीश
HYDERABAD BENCH