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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.287 of 1999

DATE OF JUDGMENT: 5th JUNE, 2000

BETWEEN:

K.BEHERA

.. APPLICANT

AND

1. The Chief of Naval Staff,
Headquarters, New Delhi,
2. The Flag Officer Commanding-in-Chief,
Eastern Naval Command,
Visakhapatnam,
3. The Admiral Superintendent,
Naval Dock Yard,
Visakhapatnam.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.P.B.VIJAY KUMAR

COUNSEL FOR THE RESPONDENTS: Mr.J.R.GOPALA RAO, CGSC

CORAM:

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

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

JUDGEMENT

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.P.B.Vijay Kumar, learned counsel for the applicant and Ms.Shakti for Mr.J.R.Gopala Rao, learned standing counsel for the respondents. Mr.SSR Rao, Manager (Personnel) of the Department of the Respondents is present.

2. This OA is filed challenging the selection to the post of Senior Foreman (PPC) (Weapon) and for consequential direction to the respondents to consider the case of the applicant for promotion as Senior Foreman (PPC) (Weapon).

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3. The main grievance of the applicant as it stands in the OA is that his seniority has not been fixed properly in the integrated seniority list of Foremen (PPC) for further promotion as Senior Foreman. the applicant further contends that the promotion to the post of Senior Foreman by direct recruitment was done for the different disciplines with different question papers. If that be the case, the integrated seniority of the Foreman (PPC) in different disciplines cannot be fixed on the basis of the marks obtained as the question papers are differnt. He further submits that the modality for fixing the seniority under such circumstances has been laid down in the Judgement in OA No. 388/94 (K.L.Mondal Vs. The Admiral Superintendent, Naval Dock Yard, Visakhapatnam and others). In that order a direction was given to take action to devise a suitable method for fixing the interse seniority of the Chargeman (PPC). In that case also the recruitment to the post of Chargemen (PPC) was reported to have been done on the basis of answering differnt question papers. The modality to devise a suitable method for fixing the integrated seniority has also been indicated. It is also stated that the relative assessment of merit when the applicant therein appeared in different papers cannot be noted for fixing the senirity.

4. The rspondents also rely on the Judgement of this Tribunal in OA Nos.974/90, 1421/94, 1028/95 and 1129/97. In all the OAs except OA 1028/95, nowhere it is mentioned that the applicants therein were promoted on the basis of appearing in different selection processes i.e,

appearing for different question papers, whereas in OA 1028/95 it has been stated that appointment of both the applicant and R-3 therein who were appointed to different disciplines by separate Interview Boards, was not found to be in order. However, that OA was dismissed as the applicant therein did not challenge the seniority list. In Mondal's case enclosed as Annexure-V at page 16 to the OA, it was held that the candidates appearing in different question papers cannot be assigned seniority on the basis of the marks obtained in the selection where candidates there were asked to write different question papers whereas in OA 1028/95 the normal method of preparing the integrated seniority list has been indicated for guidance. However, that method can be varied if there is reason to prepare the seniority list otherwise. It is only a guidance and not a direction.

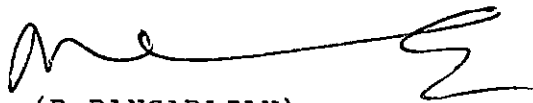
5. Hence, the seniority of the applicant in this case has to be reviewed and proper seniority has to be fixed taking due note of the various judgements mentioned as above including that of the judgement in OA 621/1999 (G.Prabhakar Rao v. The Admiral Superintendent, Naval Dock Yard, Visakhapatnam and another). which was disposed of on 3.4.2000. For that the applicant has submitted representations dated 27.1.96 and 5.3.96 enclosed as Annexures I and II at pages 8 and 10 to the OA). Those two representations should be disposed of fixing the seniority of the applicant as per the direction above. While doing so, if there are any affected parties, they should also be given notice in accordance with the rules. On that basis, the seniority of the applicant viz-a-vis other employees in

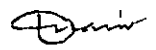


the Foreman (PPC) cadre has to be fixed. Once this is done, then the respondents on that basis should look into the complaint of the applicant for his non promotion to the post of Senior Foreman thereafter.

6. Time for compliance is three months from the date of receipt of a copy of this order.

7. With the above direction, the OA is disposed of.
No order as to costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(D.H. NASIR.J)
VICE CHAIRMAN

DATED: 5th JUNE, 2000
Dictated in the open court

vsn

