

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.1471/2012

Date of Order: 17.12.2018

Between:

A. Balasami, S/o. A. Arumugam,
Aged about 48 years, Working as Dy. Govt. Examiner of
Questioned Documents, Central Forensic Science Laboratory,
Ramanthapur, Hyderabad.

... Applicant

And

1. The Union of India, Rep. its
Secretary, Ministry of Home Affairs,
North Block, Central Secretariat,
New Delhi – 110 001.
2. The Director cum Chief Forensic Scientist,
Directorate of Forensic Sciences Services,
Ministry of Home Affairs, Block No.9, 8th Floor,
CGO Complex, Lodhi Road, New Delhi – 110 003.
3. The Director,
Central Forensic Science Laboratory,
Ramanthapur, Hyderabad – 500 013.
4. The Union Public Service Commission,
Represented by its Secretary,
Shahjahan Road, Dholpur House, New Delhi – 110 011.
5. The Govt. Examiner of Questioned Documents,
O/o. The Central Forensic Science Laboratory,
Ramanthapur, Hyderabad – 500 013.
6. Sri Sijay Saha, S/o. late Sri P. L. Saha,
Aged about 48 years, Working as Dy. Govt. Examiner of
Questioned Documents, Central Forensic Science Laboratory,
30, Gorachand Road, Kolkatta – 700 014.

... Respondents

Counsel for the Applicant ... Mrs. Rachna Kumari

Counsel for the Respondents ... Mr. V. Vinod Kumar, Sr. CGSC
Mr. M.C. Jacob, Advocate for
Mr. B.N. Sharma, SC for UPSC
Mr. K.R.K.V. Prasad for R-6

CORAM:***Hon'ble Mr. Justice L. Narasimha Reddy, Chairman******Hon'ble Mr. B.V. Sudhakar, Member (Admn.)*****ORAL ORDER*****{Per Hon'ble Mr. Justice L.Narasimha Reddy, Chairman}***

The applicant and the 6th respondent were appointed as Assistant Central Intelligence Officers (ACIO) Gr.I in the year 1989. The next promotion is to the post of Assistant Government Examiner of Questioned Documents (“AGE” for short). The recruitment rules were modified w.e.f. 15.04.1993. Before that, appointment to the posts of AGE was made purely on promotion. According to the amended rules, it was partly through promotion and partly through direct recruitment. While the applicant herein was promoted as AGE through the order dt. 05.05.1997 against the vacancy of 1994-95, the 6th respondent was appointed through direct recruitment as AGE against the vacancy of 1993-94. Through an order dt. 10.01.2006, the promotion of the applicant to the post of AGE was treated as notional w.e.f. 01.04.1994.

2. The next promotion from the post of AGEQD is to the post of Dy. Government Examiner of Questioned Documents (“DGE” for short). The applicant and the 6th respondent were promoted to that post on 26.08.2010. In the seniority list for that post, issued through proceedings dated 15.03.2012, the applicant was shown as junior to the 6th respondent. This OA is filed challenging the various orders wherein the 6th respondent was shown as senior to the applicant and for direction to the respondents, to consider the case of the applicant for restoration of his seniority above the 6th respondent in all the posts.

3. The applicant contends that once he has been promoted to the post of AGE, albeit on notional basis, w.e.f. 01.04.1994, much before the promotion of the 6th respondent to that post on 11.10.1996, he is entitled to be treated as senior. It is also stated that the 6th respondent claimed seniority over the Assistant Government Examiners who were promoted almost at the same time by filing OA No. 961/2006 before the Calcutta Bench of CAT, but the same was rejected through the order dt. 25.11.2009. Other grounds are also pleaded.

4. Counter affidavit has been filed on behalf of the respondents 1 to 3. Though the 6th respondent did not file counter affidavit, learned counsel appearing for him has adopted the counter affidavit of the respondents 1 to 3.

5. According to the counter affidavit, appointment of the applicant to the post of AGE was by way of promotion w.e.f. 05.05.1997 against the vacancy of 1994-95 whereas the appointment of the respondent No.6 to the post was by way of direct recruitment against the vacancy for the year 1993-94. It is stated that the 6th respondent was senior to the applicant at every stage and there is absolutely no merit in the OA.

6. We heard Mrs. Rachna Kumari, learned counsel for the applicant and Mr. V. Vinod Kumar, learned Senior Central Government Standing Counsel for the respondents 1 to 5 and Mr.KRKV Prasad, learned counsel for the 6th respondent.

7. The applicant and the 6th respondent joined the organization as ACIOs in September 1989. Whatever be the place assigned to them in the merit list, the 6th respondent joined on 21.09.1989 whereas the applicant joined on 27.09.1989. There is nothing on record to disclose that the applicant was declared as senior to the 6th respondent in the post of ACIO.

8. As observed earlier, the appointment to the post of AGE used to be purely on promotion till 1993, and by amending the rules it was made partly through promotion and partly through direct recruitment. The promotions to the vacancies of the years 1993-94, 1994-95 and 1995-96 were effected by convening a DPC in 1997. The applicant was promoted through order dt. 05.05.1997 against the vacancy of the year 1994-95. It is a different matter that in a review DPC held in 2005, he was given notional promotion w.e.f. 01.04.1994.

9. The 6th respondent who too was holding the feeder cadre post of ACIO has chosen to come through the process of direct recruitment to the higher post of AGE and was appointed against the vacancy of the year 1993-94. The 6th respondent wanted to claim seniority against the persons who were promoted against the vacancies of same year but was not successful in the OA filed in the Calcutta Bench. The applicant is promoted against a vacancy of AGE for the year 1994-95 i.e. next year. Therefore, by no stretch of imagination, he can claim seniority over the 6th respondent. In fact, this state of affairs was reflected at every stage in all the proceedings. It is but natural the 6th respondent is shown as seniority to the applicant in the post of DGE.

10. In view of the above, we do not find any merit in the OA and is accordingly dismissed. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

(Dictated in open court)
Dated, the 17th day of December, 2018

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