

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

Original Application No.1415/2012

Date of Order:17.12.2018

Between:

1. B. Papa Rao, S/o. Prakasham,
Aged about 50 years, Dy. Director of Mines Safety,
Director General of Mines Safety,
Government of India,
Ministry of Labour & Employment, MM Road,
Hyderabad.
2. Kamlesh Sharma, S/o. Rajnarayana Singh,
Aged about 50 years, Dy. Director of Mines Safety,
Director General of Mines Safety,
Government of India,
Ministry of Labour & Employment,
Hyderabad.

... Applicants

And

1. The Union of India, Rep. its
Director General of Mines Safety,
Government of India, Ministry of Labour and Employment,
O/o. Directorate General of Mines Safety, Dhanbad.
2. Dy. Director General of Mines Safety (SZ),
Government of India,
Ministry of Labour & Employment,
APHB Complex, Gruhakalpa, Nampally, Hyderabad,
3. Secretary, Ministry of Labour & Employment,
Govt. of India, O/o. DG of Mines Safety, Dhanbad.
4. Union Public Service Commission,
Rep. by its Chairman,
New Delhi.

... Respondents

Counsel for the Applicants ... Mr.K. Sudhaker Reddy

Counsel for the Respondents ... Mrs. L. Pranathi Reddy,
Addl. CGSC
Mr.B.N. Sharma, SC for UPSC

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 OA is filed challenging the order dt. 18.10.2012 issued by the 1st respondent, in so far as it has placed the applicants herein at Sl. Nos. 22 & 25, instead of 19 & 23, respectively.

2. During the pendency of the OA, the 2nd applicant is said to have died. Therefore, facts need to be referred as applicable to the 1st applicant, the only surviving applicant.

3. The applicant was appointed as Dy. Director in the Directorate General of Mines Safety, Ministry of Labour & Employment, in the year 1998 by way of direct recruitment. The applicant was posted in the Coal branch. The next promotion is to the post of Director. According to the recruitment rules, a Dy. Director who was working in the 'Coal Branch' must pass the test in the 'Metal Branch', and vice versa, to become eligible for promotion. The applicant states that he cleared the Metal examination, in April 2009.

4. In the normal course, the applicant was to be promoted in the year 2014. However, due to cadre review, as many as 21 vacancies arose in the year 2012. They were distributed @ 7 posts each, for the years 2008-2009, 2009-2010 and 2010-2011. DPC for selection of candidates to fill up these vacancies was conducted in 2012. The applicant was found fit to be promoted against the vacancies for the year 2008-09. His grievance is that he has been placed below

his juniors in the order of promotion dt. 18.10.2012. This OA is filed for necessary relief in that behalf.

5. The respondents have filed counter affidavit opposing the OA. It is stated that the applicant has been assigned proper place in the order of promotion and any change of his position can take place only when the effected candidates are made parties.

6. We heard Mr. K. Sudhakar Reddy, learned counsel for the applicant and Mrs. L. Pranathi Reddy, learned Additional Standing Counsel for the respondents.

7. The applicant, who was otherwise entitled to be promoted in the year 2014 to the post of Director, was promoted in the year 2012 itself, through the order dt. 18.10.2012. As observed earlier, this has become possible on account of the fact that as many as 21 vacancies in the cadre of Director have arisen, as a result of cadre review. The applicant was appointed against a vacancy of the earlier year i.e. 2008-2009. His grievance is about according placement within that year. In particular, the applicant makes a reference to the candidates at Sl. Nos.16, 17 & 18 in the impugned order.

8. Assuming that the applicant has any preferential right over the candidates at Sl. Nos. 16, 17 & 18, any relief can be granted if only a specific case is made out duly impleading those effected persons. For the reasons best known to him, those persons are not impleaded.

9. Added to that, the applicant was supposed to ventilate his grievance before the competent authority before approaching this Tribunal. There is no reason to

believe that the concerned authority would not address the genuine grievance, if any.

11. We, therefore, dispose of the OA leaving it open to the applicant to make a representation to the concerned authority, ventilating his grievance and as and when such representation is made, necessary action thereon shall be taken within a period of three months from the date of receipt of such representation.

12. 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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