

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

Original Application No.21/822/2018

Reserved on: 26.07.2019

Pronounced on: 29.07.2019

Between:

G. Venkat Ramulu, S/o. late G. Gandaiah, Gr. C,
Aged about 57 years, Occ: General Supervisor,
O/o. Station Headquarters (Extension Office),
Golkonda, Hyderabad – 500 008.

... Applicant

And

1. Union of India, Rep. by its
Director General of Staff Duties SD-7 (Civ),
Integrated HQ of MOD (Army), DHQ PO, New Delhi.
2. The General Officer Commanding (GOC),
Headquarters Telangana and Andhra Sub Area,
Secunderabad, C/o. 56 APO,
PIN:900453, Secunderabad – 500010.
3. The Administrative Commandant,
Station Head Quarters Cell, Bolarum Post,
Secunderabad – 500 010.
4. The Controller of Defence Accounts,
No.1, Staff Road, Secunderabad – 500 009.
5. The Station Staff Officer,
Station Headquarters (Extension Office),
Golkonda, Hyderabad – 500 008.

... Respondents

Counsel for the Applicant ... Dr. A. Raghu Kumar,

Counsel for the Respondents ... Mr. A. Surender Reddy,
Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The OA is filed against the action of the respondents proposing to recover an amount of Rs.9,43,534/- from the applicant.

3. Brief facts of the case are that the applicant was initially promoted to the post of General Supervisor on 5.4.2000 which was cancelled on 31.7.2001. Against the same, OA 1138/2001 was filed before this Tribunal wherein, reversion was not quashed but recovery was not permitted vide order dated 30.8.2002. Applicant and two others further approached the Hon'ble High Court of Andhra Pradesh in WP No. 17450/2002 wherein, order of the Tribunal as to not to make the recovery was not only upheld but directed respondents to consider the applicant for promotion if he is found fit and subject to availability of vacancies. When vacancies arose applicant was not promoted and hence, OA 245/2015 was filed, which was allowed. Accordingly, applicant was promoted on 11.2.2018. However, respondents propose to recover a sum of Rs.9,43,534/- towards alleged excess pay and allowances drawn in the promotion post from 5.4.2000. Aggrieved over the same, OA is filed.

4. The contentions of the applicant are that he was promoted to the post of General Supervisor on 5.4.2000 and he continues to hold the post. Ordering recovery without notice is bad in law.

5. Respondents state that the erroneous promotion without availability of vacancies was upheld by the Tribunal in OA 1138/2001 and by the Hon'ble High Court in WP No.17450/2002 vide order dated 10.2.2014. Applicant was promoted in 2018 when the vacancies were

available. Promotion could not be given earlier as the matter was sub judice since it was contested in different judicial forums. In view of the orders of the Tribunal and that of the Hon'ble High Court no recovery would be made in regard to the period 5.4.2000 to 10.2.2014 and only for the period 11.2.2014 to 10.2.2018 a sum of Rs 3,59,703 is proposed to be recovered after issuing proper notice.

6. Heard both the counsel and perused the pleadings.
7. I) The dispute under question can be resolved by making a reference to the order of this Tribunal in OA 245/2015 wherein it was held at para 19 as under:

“In view of the above submissions, it is evident that vacancies of the General Supervisors are available even after the promotion of Sri K. Murugan and Sri P. Raj Kumar. The impugned orders of reversion of the applicants are therefore set aside. We direct the respondents to assess the date on which the vacancies of General Supervisors have arisen and to consider the applicants against these vacancies in accordance with law and the recruitment rules in force. It is made clear that if the applicants are eligible for promotion as General Supervisors in accordance with the recruitment rules, they shall be granted their promotion as per the date on which they became eligible with all consequential benefits. ”

The orders of reversion were set aside by making due reference to the Hon'ble High Court order in WP No.17450 of 2002 & batch cited supra, where in it was held as under:

“If they are fit to be promoted subject to vacancies that arise after the reversion order was passed, they shall be considered for promotion as General Supervisors in accordance with law. ”

- II) As can be seen from the records, orders of the Tribunal and that of the High Court were to consider the promotion of the applicant

subject to availability of vacancies and as per recruitment rules in consonance with law. Tribunal has set aside the orders of reversion in OA 245/2015. Ld. counsel for the applicant has submitted that the applicant continued to work in the promoted post, which was not contested. Hence, the question of excess drawal of allowances does not arise. The order of the Tribunal was not further challenged in regard to setting aside the reversion orders as per the submission of the Ld. applicant counsel and as per records submitted as well.

III) Therefore, in view of the above, any proposed recovery for the subsequent period of 11.2.2014 to 10.2.2018, working out to a sum of Rs.3,59,703 would also not be in order. Hence, the interim stay ordered by the Tribunal on 24.8.2018 in regard to the proposed recovery is made absolute.

IV) With the above direction the OA is allowed with no order as to costs.

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

Dated, the 29th day of July, 2019
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