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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1631/2002

Wednesday, this the 17th day of September, 2003

Hon'ble Shri Shanker Raju, Member (J)

Shri Beg Raj
s/o Sh. Raghuvir Singh
r/o V&PO Jawli,
Distt. Ghaziabad (UP)

Working as Technical Officer A
Central Road Research Institute
Delhi-Mathura Road, New Delhi-20

...Applicant

(By Advocate: Shri S.K.Sinha)

Versus

1. Council of Scientific & Industrial Research
through its Director General
Anusandhan Bhawan
Rafi Marg, New Delhi-110029

2. Central Road Research Institute
through its Director
PO: CRRI, Delhi-Mathura Road
New Delhi-20

...Respondents

(By Advocate: Shri Praveen Swarup)

O R D E R (ORAL)

Applicant, who has now been promoted as Technical Officer 'B', impugns the Office Memorandum dated 18.4.2002 whereby apart from six others, he has been posted in the Estate Services known as ESS from the technical side. Quashment of the above posting has been sought.

2. Applicant was appointed as Senior Laboratory Assistant and was promoted to Grade VIII and further as Technical Officer Grade 'A' in Group III (3) w.e.f. 3.4.1993. On a recent assessment, the applicant was promoted as Technical Officer in Group III (4). As contended, the next assessment of the applicant for Group III (5) is due in 2003. The applicant is retiring on superannuation in December, 2003.

3. As per re-organisation of Central Road Research Institute and as follow-up action, several officers have been posted from one Division to another those including from PED technical side to ESS, including the applicant.

4. Learned counsel of the applicant Shri S.K.Sinha contends that the aforesaid posting on administrative side in Stores is prejudicial as the same would be an impediment for his further assignment under Merit and Normal Assessment Scheme (MANAS) for Group III (4). By resorting to the assessment to be submitted, it is contended that one of the columns is for research work and scientific assignment undertaken. As the applicant basically is a Technical Officer dealing with the scientific assignment, his posting to administrative side would deprive him to highlight his performance on technical side for appraisal and this would certainly go to affect his promotion in next assessment.

5. It is further stated that the applicant has been posted in Stores for last one year where there is some discrepancy in the Stores and with a view to shift the liability upon the applicant to make him scapegoat.

6. On the other hand, Shri Praveen Swarup, learned counsel of the respondents contends that as per MANAS, the criteria for assessment to Group III (5) is on the basis of Annual Performance Appraisal, Referees comments (Peer Review) and interview. The peer review has been done away in August, 2003. The same is laid down in para 6.1 of the MANAS. In this view of the matter, a

statement has been made that not only the applicant but others have also been posted in ESS from technical side.

7. Shri Swarup states at the Bar that in further assessment, the unfounded apprehension of the applicant that he would be deprived of an opportunity to work on technical side and this would affect his assessment, the performance of the applicant in ESS would be evaluated and the concerned clause in the self-appraisal would not be made use of while assessing the case of the applicant by the appropriate Committee for further promotion.

8. Insofar as the apprehension of the applicant that he would be held liable for any shortage in Stores and has been made scapegoat, it is contended that the same is unfounded.

9. I have carefully considered the rival contentions of the parties and perused the material on record.

10. An order of transfer and posting which is the prerogative of the Government is not amenable in a judicial review unless the malafide and violation of statutory rules of policy decision are shown or violative of Articles 14 & 16 of the Constitution is alleged.

11. Though the applicant is from the technical side, on re-organisation as a policy decision not only the applicant but also several others, who had been working

on technical side, had been posted to ESS. There is no discrimination meted out or the applicant has not been singled out. As such, I do not find the action of the respondents offending principles of equality. As regards the prejudice is concerned, the respondents stated that the applicant would not be assessed in Groups 1 or 2. The components for such assessment are Annual Performance Appraisal Report, Referees comments (Peer Review) and interview, which are dispensed with from MANAS 2003. In a self-appraisal, the performance for the last five years in the case of the applicant, including his performance in ESS since April, 2002, would only be taken into consideration, as a fair statement has been made. The assessment would not be on the basis of scientific assignment in case of the applicant. As such, his apprehension is misconceived and unfounded.

12. The other contention that the applicant has been brought on ESS to shift liabilities of shortage in Stores upon him and to make him scapegoat to affect his terminal benefits is based on suspicion and surmises having no firm foundation. In this view of the matter, the same is rejected.

13. As no merit has been found in the present OA, having regard to the statement of respondents' learned counsel Shri Swarup, OA stands disposed of. No costs.

S. Raju
(Shanker Raju)
Member (J)

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