

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1643/2002

New Delhi, this 28 day of November, 2003

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri S.K. Naik, Member(A)

1. Dr. I.D. Singh
 2. Dr. Uma Shanker
 3. Mohd. Anwar
 4. Dr.K.M.Agarwal
 5. Pradeep Kumar
 6. Dr. M.P. Saxena
 7. O.N. Anand
 8. Man Mohan Kumar
 9. V.K.Kapoor
- Scientists 'F'
Indian Institute of
Petroleum, Dehradun

.. Applicants

(Shri B.S. Mainee, Advocate)

versus

Union of India, through

1. President, Council of Scientific
& Industrial Research
Anusandhan Bhawan, New Delhi
2. Vice President, CSIR
Anusandhan Bhawan, New Delhi
3. Director, CSIR
Anusandhan Bhawan, New Delhi
4. Director
Indian Institute of Petroleum
Dehradun

.. Respondents

(Shri V.K. Rao, Advocate)

ORDER

Shri S.K. Naik

Applicants, nine in number - three of whom have since retired from service, who are/were Scientists 'F' of the Indian Institute of Petroleum (IIP, for short) have challenged the proceedings of the Assessment Committee by which they have not been recommended for promotion to the grade of Scientists 'G' and have sought a direction to the respondents to hold fresh assessment by a Committee in accordance with the rules of Merit and Normal Assessment Scheme (MANAS, for short) and promote them with all consequential benefits.

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2. Briefly stated, it is the contention of the applicants that they are eligible to be considered for the grade of Scientist 'G' (Rs.18400-22400) which post is filled in the following manner, in terms of amended Rules, Regulations and Bye-laws of CSIR notified on 4.6.1999:

- (a) 30% marks are earmarked for CRs, 30% for work reports for the assessment period and 40% for interview;
- (b) Scientists are considered for normal assessment promotion after five years of service as Scientist F which is distinct from merit promotion as well as from open recruitment;
- (e) The candidate has to secure 75% marks for elevation to the higher post of Scientist 'G'; and
- (d) Interview is to be conducted by an Assessment Committee comprising Specialists from various disciplines including at least one expert covering broad area of the discipline for which the assessment is made.

3. According to the applicants, the broad area in their case is Petroleum Science & Technology and that as per Rule 6.11 of MANAS, 'Normally an employee should be assessed for only one chance in a year. In case it is necessary to hold assessment for more than once in a year due to backlog or otherwise, it would be necessary to:

- (a) have separate assessment committee for each of the year
- (b) have a separate peer review done for each year
- (c) get separate Work Reports and
- (d) do separate assessments for each year in a separate sittings, proceedings of each Assessment Committee meeting be drawn separately for each year.

Back

Assessment of several Scientists who were due for consideration in different years i.e. 1997-98, 1990-2000 and April to December, 2000 was held on various dates in November, 2001, for the first time after MANAS rules were introduced for promotion to Scientists 'G' simultaneously in violation of Rules. Besides, the Committee did not consist of any Member of the broad area relating to Petroleum and none of the 15 Scientists from IIP, including the present applicants, was adjudged suitable for promotion. On the other hand, 10 Scientists of NGRI and 7 from NPL, units of CSIR, were found suitable because of the indulgence of the Director/Chairman of the units concerned. Applicants made a representation which was rejected by a bald OM dated 22.4.2002 on the ground that the prescribed procedure was not violated and the applicants could not secure prescribed threshold marks. Some of the applicants again represented but the same was also rejected. Hence the present OA.

4. Respondents in their reply have contested the case in view of the legal position that applicants having participated in the process of assessment cannot challenge the same on the basis of any alleged irregularity if not selected. The Assessment Committee has been properly constituted, in terms of para 4.6 of MANAS(R), having eminent experts from the area of Chemical Sciences/Chemical Engineering, a broader area which includes petroleum. As per the settled law, once the Assessment/Selection Committee has reached ~~to~~ a conclusion on the basis of material before it that only certain number of Scientists are entitled for promotion, the said findings can not be challenged in a court of law

Decide

and the Tribunal would not act as an Appellate Court and examine the material under its power of judicial review and not come to a different conclusion other than the one arrived at by the said Committee. Though the applicants have been working in the discipline of Petroleum Science & Technology, their broad area of research has been chemical sciences, as intimated by IIP while sending their particulars for assessment. Scientists who had become due for assessment for their chances falling during the years 1997-98 to 2000-2001 were considered by the Committee and each Scientist was considered only once in accordance with the provisions of revised MANAS and there was no irregularity or illegality as alleged by the applicants. Respondents have furnished the names of eminent experts in the broad area of Chemical Sciences/Chemical Engineering who were the Members of the Assessment Committee that considered 58 candidates falling in the broad area of Chemical Sciences and Technology and recommended 19 suitable Scientists found fit for promotion, on the basis of marks obtained by them in peer review, annual appraisal reports and performance during interview. While the interview carries only 40 marks, 60 marks are apportioned to peer evaluation (30) and APARS (30). There is no concept of seniority as far as Scientific cadre is concerned. Each scientist is considered on his own merit without having inter-se comparison and if on the basis of his performance during interview and the marks obtained by him in peer review and APAR, he gets the prescribed threshold marks, he is recommended for promotion, otherwise he is not recommended.

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5. Respondents further submit that the work by the applicants during the residency period i.e. the period of assessment alongwith their contributions in their respective areas were given due consideration by the Committee while awarding marks out of 40 (earmarked for interview). Besides the interview, the achievements and work of the Scientists were also evaluated by the peer review experts and evaluation done by these experts was taken into consideration by the Committee at the time of assessment. None of the Scientists from IIP, including the applicants, could be promoted as none of them could obtain the prescribed threshold marks on the basis of marks given in APARS, peer review and interview. The representation of the applicants was duly considered in accordance with the rules and replied to on 13.5.2002.

6. We have heard the learned counsel for the contesting parties and considered the pleadings available on record.

7. The main limb of attack during the course of arguments by the learned counsel for the applicants is that the assessment of the applicants had not been conducted in accordance with MANAS rules, nor any expert member in the broad area of Petroleum Science & Technology was associated with the Committee to assess the applicants properly and all the Scientists who became eligible for consideration in four consecutive years were assessed by the same Board in the same sitting in violation of the Rules. That apart, in terms of CSIR letter dated 4.3.2002, representation of the Government

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employees should be disposed in a self-contained order covering all the points raised, which has not been done in their case.

8. On the other hand, learned counsel appearing on behalf of the respondents has rebutted the aforesaid contentions of the applicants in view of the detailed reply filed by them.

9. From the averments made by the applicant and vehemently argued by Shri B.S.Maine, their counsel, two points need determination; as to whether composition of the Selection Committee suffers from any irregularity in the absence of Prof. M.M. Sharma and Prof. R. Kumar who are claimed to have been officially nominated to the Selection Committee as experts in the broad area of petroleum but had not participated in the meeting and whether assessment should have been held for Scientists due for consideration in different years, e.g. 1997-1998, 1999-2000 and April to December, 2000 by the same Committee in the same sitting.

10. Taking up the second issue first, i.e. whether vacancies for a number of years could have been taken up in the same Committee at the same time, learned counsel for the respondents has stoutly denied this and has stated that the Scientists who were due for assessment for a particular chance and for a particular assessment year were considered by the Assessment Committee and has made it clear that each Scientist was considered only for one chance. No scientist was considered by the Assessment Committee for all the chances for different

Justice

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absence of the

Chairman	- Chairman or specialists member) Common
	of RC*) members
Member(one)-	Director/DG, CSIR or his nominee)	to all
) Commit-
) tees
Member(one)	- Expert from related CSIR Lab.	
Members(Three)-	Three experts, of whom	
	at least two from outside CSIR	

(*Not applicable in the case of CSIR Hqrs.)

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12. Drawing our attention to the specific clause in para 4.6.2, the counsel has argued that these promotions are for top-most positions in various Scientific institutions and therefore it has been clearly stated therein that "it will be sufficient if the broad area is covered". Further, as has been laid down in para 4.7 of the Scheme, so long as the quorum is complete, proceedings thereof cannot be alleged to have been vitiated on the ground of incomplete composition of the Committee. Moreover, the Committee comprised of eminent experts in the broad area of chemical science and chemical engineering and the experts have vast experience to assess the broad area to which the applicants belong.

13. The counsel has further contended that while assessing each Scientist, 30% of the weightage has been given to peer evaluation and another 30% to APARS and the interview carried only the balance of 40%. To allege that because of the absence of experts from the field of petroleum on the Assessment Committee their merit has not been properly evaluated is not sustainable as they have been duly assessed by the Chairman and members of the Committee who themselves are experts. Having participated in the selection process and having not made it to be threshold, the counsel contended that the applicants are debarred from raising the issue now. In support thereof, he has placed reliance on the judgement of the Delhi High Court in R.P.Bhasin Vs. D.K.Tyagi & Ors. AISLJ 2002(2) 239 and of the apex court in Pm Prakash Shukla Vs. A.K.Shukla AIR 1986 SCC 1043.

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14. The counsel for the applicants during arguments has also raised the instance of Dr. Pradeep Kumar and Dr. I.D. Singh having same qualifications, same work experience, same Division of IIP were assessed by two different ~~two~~ Boards constituted for two different disciplines. It was also for the same assessment year. Similar was the case with regard to Dr. R.S. Gaharwar and Shri S.K.Jain who are working in the same area and ~~same are~~ ⁱⁿ same Division. They too had been assessed by two different Boards, which the counsel contends is in violation of Rule 4.6 of MANAS. Respondents' counsel, however, countered this argument by clarifying the position that Dr. Pradeep Kumar and Dr. I.D. Singh although possess same qualifications, experience and belong to the same Institute were assessed by two different Assessment Committees because the area of work undertaken by Dr. Pradeep Kumar is broadly covered under physical, earth and marine sciences unlike Dr. I.D. Singh whose broad area of research falls under chemical sciences. Appropriately, therefore, they were assessed by two different Assessment Committees having experts in their area of specialisation. It has also been explained that similar was the case with regard to R.S. Gaharwar whose area of work falls in chemical sciences while that S.K. Jain was broadly involved in area of engineering sciences. The attempt of the Committee was to ^{subject the} ~~study~~ the scientists with objective assessment by the Committee which have experts on the subject and therefore the applicants cannot raise this question while they themselves have pointed out that in the absence of appropriate experts on the Committee their interests have not been taken care of. Further, the concerned

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Scientists neither raised any doubt or made any objection with regard to their assessment by different Committees and therefore this objection has been taken by the applicants just to mislead this Tribunal.


15. We find that there is no effective denial of this aspect by the applicants in their rejoinder in which they have also referred to the Committee having completed their task within only 10 hours including Tea and Lunch break which, according to them, was too short a time to properly evaluate the candidates. We find that the Tribunal cannot go into this aspect as it was for the Experts Committee to decide as to how much time was to be given to each candidate and therefore we hold that this contention of the applicants is not tenable.

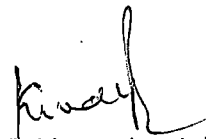
16. The counsel for the respondents has also contended that the applicants have not alleged any malafide or bias against them by any Member of the Assessment Committee. The Chairman and Members of the Committee being eminent Scientists of not only national but international repute and their expertise in the broad area covering the applicants widely acclaimed, their recommendations/selection cannot be faulted just because the applicants have not made the grade this time. We are inclined to agree with this ^{ten} ~~con~~ ³⁴ ~~nection~~ of the learned counsel for the respondents.

17. In view of the discussions above, we are of the view that the assessment has been made as per the provisions of revised MANAS and there is no irregularity as far as the procedure is concerned. The Committee had not

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assessed any Scientist for more than one^{be} chance which is in keeping with the provisions of MANAS. This Scheme also does not envisage any concern for seniority or comparison of scientists from one institute to another; neither it is dependent on the number of posts. It is the working^{be} ~~ing~~ ^{by} the scientist and his contribution which weigh in the minds of the Assessment Committee, which is also^{be} based on peer review and APAR. We, therefore, find no merit in this application warranting our interference. The OA is accordingly dismissed, with no order as to costs.


(S.K. Naik)
Member(A)


(Kuldip Singh)
Member(A)

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