

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.21/652/2018

Hyderabad, this the 5th day of February, 2020



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

K. Appa Rao, S/o. late Sri K. Venkanna,
Occ: MTS-B, Aged about 50 years,
Centre for Development of Advance Computing,
Plot No. 6 & 7, Hardware Park,
Sy. No. 1/1, Srisailam Highway,
Pahadi Shareef Via (Keshavagiri Post),
Hyderabad – 500 005, R/o. Flat No. 301,
Kubera Complex, Musheerabad X Roads,
Hyderabad – 500 020, TS.

... Applicant

(By Advocate Mr. K. Siva Reddy)

Vs.

1. Union of India, Rep. by its Secretary,
Ministry of Electronics and & Information Technology,
(Government of India),
Electronics Niketan, 6, CGO Complex,
Lodhi Road, New Delhi – 110003.
2. The Director General,
Central for Development of Advance Computing,
Pune University Campus, Ganesh Khind,
Pune – 411 007, Maharashtra State.
3. The Director,
Centre for Development of Advanced Computing,
Anusandhan Bhavan, C-56/1, Sector – 62,
Noida – 201 307, Uttar Pradesh (India).
4. The Director,
Centre for Development of Advanced Computing,
Plot No. 6 & 7, Hardware Park,
Sy. No. 1/1, Srisailam Highway,
Pahadi Shareef Via (Keshavagiri Post),
Hyderabad – 500 005.

... Respondents

(By Advocates: Mr. P. Krishna, Addl. CGSC)

ORDER (ORAL)
{As per B.V. Sudhakar, Member (Admn.)}

2. The OA is filed seeking the following relief:



"In view of the facts stated above, the Hon'ble Tribunal may be pleased to call for the records pertaining to Impugned Reply dated 22nd and 23rd January, 2018 issued by 4th Respondent as arbitrary, discriminatory, violation of Articles 14, 16 & 21 of the Constitution of India and also violation of Rules made under proviso of Article 309 of the Constitution of India and also against principles of Natural Justice and quash;

Consequently, direct the Respondents to reconsider the case and promote the applicant for the post of Technical Officer, MTS-B in pay scale of Rs.9300-34800 with Grade Pay of Rs.5400/- on par with immediate junior with all consequential benefits by conducting special review DPC, in the interest of justice.."

3. Brief facts of the case are that the applicant was called for interview for the post of Technical Assistant in Electronics Research and Development Centre of India in the pay scale of Rs.1640-2900/- against an open advertisement by 3rd respondent in Employment News, dated 12-18 October 1996. Applicant was appointed with the designation of Technical Assistant in the pay scale of Rs.1400-2600, which, the applicant thought, was a typographical error, since designation was not changed from what has been published in the advertisement. Applicant represented to the respondents, which has been rejected by the proceedings dated 21.03.2016. OA 452/2017 was also filed in regard to his career progression, which is yet to be adjudicated. The claim of the applicant is that his contemporaries were promoted to the next higher post, whereas he was promoted to a post one step below, which is irregular. In fact, applicant was promoted to the post of Senior Technical Assistant in 2003, which was not even in existence, but was created only for the purpose of accommodating the applicant. Besides, applicant claims that he was continued to be denied

further promotions whereas other similarly situated persons were promoted. The only reason for his non-promotion is non-availability of ACRs/ APARs due to transfer of records from one place to another. Aggrieved over the same, the present OA has been filed.



4. The contentions of the applicant are that he was screened in 2016 and 2017 and recommended for interview, but the Review Committee did not recommend his case for promotion and also did not show any shortcomings for improvement by the next interview, which, the applicant claims, is against the principles of natural justice and violative of statutory rules issued under proviso to Article 309 of the Constitution of India. The impugned orders dated 22/ 23 January 2018 are arbitrary and discriminatory in nature. Similarly situated employees like the applicant have been granted promotions, whereas he was not given promotions due. The grievance of the applicant is that he has been discriminated in granting different promotions, which were actually due to him. Applicant states that he was also given honorarium of Rs.10,000/- for serving at the Indo-Pak border, to support his contention that he was an able and competent employee.

5. Heard learned counsel for the applicant. None for the respondents.

6. Applicant has filed OA 452/2017, which is to be adjudicated. Learned counsel for the applicant informs that the said OA has no correlation to the present OA. The grievance of the applicant is that

respondents have been promoting his colleagues and therefore, he filed the present OA on 05.07.2018. Notice to the respondents was ordered on 09.07.2018. Yet, respondents have not filed reply though the case came up for hearing on six occasions over the last 1 ½ years. Even on 30.09.2019, it was specifically directed that, in case reply is not filed, costs would be imposed on the respondents. Even then, surprisingly, no reply has been filed. Therefore, keeping the above in view, the case has been heard and adjudicated upon.



7(I) As seen from the records of the case, applicant is aggrieved that initially when he was appointed as per the advertisement, he was granted the pay scale of Rs.1400-2600 instead of Rs.1640-2900 while correctly designating him as Technical Assistant, as was published in the advertisement. Applicant is also aggrieved that he has not been considered for promotion by the Screening Committees to different posts over the years. His main concern is that, though he has not been promoted, at least he should have been informed of the reasons for not promoting him, so that he could improve himself.

II. Basically, it would have been fair for the respondents to have communicated the reasons for not considering the case of the applicant for promotions over the years. Principles of natural justice do state that the applicant should have been given an opportunity to be informed of his deficiencies so that he could improve himself. Applicant at para 4.10 has indicated the gradings he got in APARs from 2010 to 2017 and all the

gradings are 8 and beyond, which imply that his performance is Outstanding. This being the scenario, it is difficult to understand as to what went wrong in granting promotions due to the applicant.



III. Learned counsel for the applicant, across the Bar, has submitted a judgment of the Hon'ble Kerala High Court in OP (CAT) No. 284 2016 (Z), dt. 19.02.2016, which dealt with similar issue as that of the applicant and requested that the respondents may be directed to dispose of a fresh representation, which would be made by the applicant, keeping in view the legal principles laid by the Hon'ble High Kerala High Court. Submission of the learned counsel for the applicant is fair.

IV. Therefore, the applicant is directed to submit a comprehensive representation to the respondents based on rules and law, within a period of two weeks from the date of receipt of this order and thereafter, the respondents are directed to dispose of the representation, keeping in view the legal principles laid down by the Hon'ble High Court of Kerala cited supra and also as per extant rules on the subject, by issuing a speaking and reasoned order, within a period of four weeks from the date of receipt of the representation.

With the above directions, the OA is disposed of, with no order as to costs.

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

/evr/