

**Central Administrative Tribunal
Principal Bench**

OA No. 145/2020

New Delhi this the 16th day of January, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)**

Dr. Chadaram Sivaji, Age 55 years,
Group A, Sub.: Promotion (in-situ promotion)
S/o Shri Latchanna,
R/o Qtr. No.83,
Bakhtawar Singh Block,
Asian Village Complex,
New Delhi-49

- Applicant

(By Advocate: Mr. Sachin Chauhan)

VERSUS

1. Union of India,
Through the Secretary,
Department of Science & Technology,
Ministry of Science & Technology,
Technology Bhavan,
New Mehrauli Road,
New Delhi-110016
2. The Joint Secretary (Admn.)
Department of Science and Technology,
Ministry of Science of Technology,
Technology Bhavan,
New Mehrauli Road, New Delhi

- Respondents

: O R D E R (ORAL) :

Justice L. Narasimha Reddy:

The applicant was appointed as Sr. Scientific Officer,
Grade-I in the Department of Science and Technology in
the Government of India, the first respondent herein, on



01.01.1998. He was promoted to the post of Scientist 'D' under Flexible Complementing Scheme (FCS) w.e.f. 01.01.2003 through a notification dated 18.06.2003. His further promotion under FCS was as Scientist 'E', through letter dated 04.04.2007, w.e.f. 01.01.2007. It is stated that the respondents invited applications for filling up 4 posts of Scientific Attachee, one each in Indian Missions at Washington, Moscow, Tokyo and Berlin, by way of deputation. The applicant was selected and posted to that post in the Indian Mission, Tokyo.

2. While the applicant was holding the post of Scientific Attachee, steps were initiated for promotion to the post of Scientist 'F' through FCS. The name of the applicant was also considered and through order dated 06.06.2013, the applicant was found fit for promotion, but it was observed that his promotion shall be effective from the date of his resumption of duty in the Department and financial benefits shall also accrue from that date.

3. The applicant states that soon after, he came to know about the order dated 06.06.2013, he made a representation stating that the benefit of promotion be also extended to him forthwith. The applicant came back from the deputation on 13.07.2015 and joined the Department.

An order was issued on 17.07.2015, extending the benefit of promotion to Scientist 'F' under FCS w.e.f. 13.07.2015.

4. The applicant made a representation on 12.02.2019, ventilating his grievances. He made another representation on 05.11.2019, stating that once Dr.K.K.Dwivedi, who, too, was on foreign assignment, was extended the benefit of promotion from Scientist 'F' to Scientist 'G' while he continued in such appointment, the same benefits be extended to him also.

5. This OA is filed with a prayer to quash and set aside the order dated 06.06.2013, insofar as it has relegated the promotion of the applicant to Scientist 'F' to the date on which he resumed duty in the department, and to quash the notification dated 13.07.2015, insofar as it has extended the promotion of the applicant only from 13.07.2015 and not earlier thereto. He has also prayed for extension of benefit in terms of the notification dated 02.11.2018 issued in respect of some other Scientists.

6. The applicant contends that once he was found fit to be promoted on FCS basis as Scientist 'F', there was absolutely no basis for postponing the effective date. He further contends that he was discharging the duties of similar, if not higher nature, while on deputation and when



he continued to be an employee of first respondent, while on foreign assignment, there was absolutely no basis for deferring the promotion to the date of his reporting to duty in the department. The applicant also contends that the respondents have discriminated him even while the instant benefit of promotion was extended to some other Scientists, who too were on deputation.

7. We heard Shri Sachin Chauhan, learned counsel for the applicant at the stage of admission in detail and perused the record.

8. The brief service particulars of the applicant were furnished in the preceding paragraphs. The applicant was promoted to the post of Scientist 'E' in the year 2007 and was selected and appointed as Scientific Attache on 05.05.2011. It was a deputation to work in Indian Mission abroad. It appears that the emoluments for that post are substantially higher compared to the salary of Scientist 'E'.

9. It is a matter of record that the applicant was considered for promotion to the post of Scientist 'F' and on being found suitable, an order was issued on 06.06.2013 by incorporating the following clause:-

"However, as Dr.Chandaram Sivaji is presently on deputation as Scientific Attache to Indian Embassy in Tokoya, Japan, his promotion will be effective from



the date of resumption of duty in the Department and financial benefits will accrue from the same date.”



It was clearly mentioned that the promotion shall be effective from the date of his resumption of duty in the Department. It is, indeed, natural that an employee must move to a post of higher duties and responsibilities on promotion. The applicant was holding a particular post on 06.06.2013 and he cannot expect the accrual of benefit of promotion even while he continued to hold the same post. Things would have been different altogether, in case the applicant came to be re-designated even while on such assignment, as a sequel to the promotion to Scientist ‘F’. That did not take place. An option to the applicant was to immediately join the department, in case he wanted to leave the benefit of the promotion. He did not choose to do so and continued in such assignment for more than two years.

10. It is true that the applicant made a representation soon after on the date of order of promotion. However, the grievance made out therein was that there was already a delay in making promotions, and incorporation of a clause, relegating the date of promotion to the date of resumption of duty in the department would delay the opportunity of his being considered for promotion to the next higher



grade and that would also lead to monetary loss. Having cited all these reasons, he did not mention a word about his inclination to resume duty in department or the one that is coming in the way of doing so. The applicant wanted to enjoy the benefit of assignment in an Indian Mission abroad on the one hand, and promotion in home country on the other hand, at one and the same time. His concentration was mostly on the future promotions and monetary benefits, but not any inclination to serve the department. Unfortunately, the tendency to aim at higher emoluments, without doing the work attached to the post, is on the increase. The fact that higher emoluments are incidental to the discharge of duties of a higher order is being ignored. Slowly, the higher pay scales are turning out to be reward just on account of the standing of an employee for a particular number of years, without any reference to the actual nature of duties rendered by him. Such tendency is not in the interest of the progress of the country.

11. It is true that in the case of Dr. K.K. Dwivedi, who too was in an Indian Mission abroad, the benefit of promotion was extended before he resumed duty in department. In his case also, a clause similar to the one, incorporated in the case of the applicant was included. In any way, he was

inclined to join the department. However, it is the State, which wanted his continuance on the foreign mission. It is under those circumstances that he was extended the benefit of promotion by a special resolution of ACC. At no point of time, the applicant was inclined to resume duty after he was promoted to Scientist 'F'. On his own record, he wanted to complete the full term of mission abroad and get the benefits thereof. He cannot have both the ways.

12. We are not inclined to admit the OA. It is accordingly dismissed. There shall be no order as to costs.

(A. K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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