

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.2879/2001

This the 23rd day of August, 2002.

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Sevi Charan S/O Bansi Lal,
R/O L-1/174B, DDA Flats,
Kalkaji, New Delhi-110019.

... Applicant

(By Shri M.K.Gupta, Advocate)

-Versus-

1. Council of Scientific & Industrial Research
through its Director General,
Anusandhan Bhawan, Rafi Marg,
New Delhi-110001.

2. Central Road Research Institute,
through its Director,
Delhi-Mathura Road,
New Delhi-110020.

... Respondents

(By Shri Manoj Chatterjee with Ms. K.Iyer, Advocates)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant has challenged Annexure A-1 dated 10.10.2001 whereby his placement and subsequent promotion in Group III w.e.f. 1.2.1981 under NRAS has been held to be erroneous and has been withdrawn. He has now been placed in Group II w.e.f. 1.2.1981 in the pay scale of Rs.425-700 on the post of Senior Draftsman (SG). Respondents had issued a notice dated 23.6.1999 (Annexure A-5) why his placement in Group III for assessment purpose be not withdrawn and why he be not considered for placement Group II instead of Group III under NRAS/MANAS. Applicant had submitted his detailed reply on 22.7.1999 (Annexure A-6). Respondents have stated that they had considered applicant's reply to the show cause notice and issued the impugned order Annexure A-1.

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2. Applicant has sought quashing of Annexure A-1 and restoration of benefits of pay fixation, promotion etc. as if no such O.M. dated 10.10.2001 (Annexure A-1) had been issued, with all consequential benefits.

3. According to the learned counsel of applicant, applicant was granted assessment as Senior Draftsman Grade-B w.e.f. 1.2.1981 and treated as Group III (2) under NRAS in the scale of Rs.550-900. Based on the said promotion and experience thereafter and as per the provisions of NRAS, he was granted further promotions to the next higher grade of Group III (3) in the scale of Rs.2000-3500 as Technical Officer 'A' w.e.f. 1.2.1989, as Technical Officer 'B' Group III (4) in the scale of Rs.2200-4000. He was further promoted under assessment scheme as Technical Officer 'C' Group III (5) w.e.f. 1.2.1994 in the scale of Rs.3000-4500. He has alleged that although he is now entitled to ^{promotion as lb} Technical Officer 'EI' in the scale of Rs.3700-5000 w.e.f. 1.2.1999, the same has been withheld without justification. The learned counsel has contended that whereas the promotion/assessment under NRAS was granted to applicant in 1981, the same has been withdrawn on the ground that he does not fulfil the requisite qualifications prescribed in the CSIR for placement of Senior Draftsman in Group III for assessment purposes. He stated that applicant fulfils prescribed educational qualification under NRAS. Applicant holds five years' apprenticeship certificate course in Draftsmanship (Mechanical) from Banaras Hindu University. The learned counsel stated that if the department considered that the certificate possessed by applicant was not equivalent to two years' diploma, the same should have been got verified from the concerned university. He further stated that qualification under the promotional scheme for induction into Group III under

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NRAS was a bachelors degree in science or three years diploma in engineering or equivalent prescribed qualification. This requirement was relaxed to two years diploma in favour of existing Sr. Draftsman as a special case vide circular dated 26.4.1984. It was further clarified by circular dated 1.4.1986 that officials possessing National Trade Certificate/Diploma in ⁻²⁴⁻Draftsman (Civil)/diploma in Craftsman (Draftsman) (Civil) obtained after one and a half year's academic study followed by six months ⁱⁿplant training, were considered eligible for the said assessment (Annexure A-11 colly.). The learned counsel stated that it is settled law that it is not in the interest of justice to unsettle a settled position. He has been enjoying his promotion since 1.2.1981 which has been withdrawn after a gap of more than 20 years.

4. Respondents, on the other hand, have stated that applicant's placement in Group III from February, 1981 was due to a mistaken decision which has been withdrawn as he did not possess requisite qualification for the said promotion. The learned counsel of respondents has referred to respondents' PPS dated 21.9.1999 stating that applicant's qualification is not considered equivalent to the qualification prescribed for assessment promotion for Group III. The learned counsel further stated that as a matter of fact respondents have informed applicant vide memorandum dated 30.7.2002 that he could furnish option for erstwhile bye-law 71(b) being eligible for the same in terms of CSIR circular No.17/65/84-PPS dated 1.5.1984 foregoing benefits of assessment promotions under NRAS/MANAS since 1.2.1981 whereafter he would be given the benefits under the provisions of the scheme and thereby he would be benefitted and not subjected to any loss.

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5. We note that applicant was granted placement and assessment as Senior Draftsman Grade 'B' (Group III) under NRAS w.e.f. 1.2.1981 and has been granted quite a few promotions thereafter. He has also retired w.e.f. 31.10.2001. He was issued show cause notice on 23.6.1999 regarding his erroneous promotion and placement in Group III w.e.f. 1.2.1981. Although the qualification for the said promotion was graduation/diploma of three years duration or equivalent, applicant possessed five years certificate of apprenticeship in draftsmanship (mechanical) from Banaras Hindu University. Whereas respondents have not made any enquiries from the concerned university authorities regarding equivalence of the said qualification, Ministry of Education and Scientific Research (Department of SR&TE) vide their memo dated 14.2.1958 had recognised degrees/diplomas in engineering and technical subjects of Banaras Hindu University for purposes of employment. Respondents have not brought out any material on the basis of which they have considered applicant's reply to their show cause notice and rejected his claims. As a matter of fact, even after issuing of the show cause notice on 23.6.1999, he was held to be eligible for assessment up to 31.3.2000 under MANAS/~~erstwhile~~ bye-law 71(b) (Annexure A-11).

6. Just because respondents have ^{provided th} benefit available under ~~e~~ rstwhile bye-law 71(b) retrospectively after long number of years to other candidates, it does not mean that the same can be forced upon every such person. According to applicant, his qualification is equivalent to the entry level qualification for the promotion which was granted to him in 1981. The doubt about its equivalence cannot be raised after a lapse of several years. Annexure A-1 is not a speaking order ^{describing th} why applicant's qualification

was not equivalent to the qualification prescribed under NRAS and how the benefits granted to applicant more than 20 years ago can be withdrawn. A mere statement that applicant's placement and subsequent assessment promotions were erroneous is just not enough. We are in agreement with the learned counsel of applicant that it is an established law that the issue of qualifications cannot be re-opened after long lapse of time as to unsettle the settled position. We place reliance on 1990 (2) SCC 715 : Direct Recruit Engineers Asso. Vs. State of Maharashtra in this regard.

7. Having regard to the reasons recorded and discussion made above, Annexure A-1 dated 10.10.2001 is quashed and set aside directing respondents to restore the consequential benefits to applicant within a period of two months from the date of receipt of a copy of these orders. No costs.

S. Raju

(Shanker Raju)
Member (J)

V. K. Majotra

(V. K. Majotra)
Member (A)

/as/

done MA for order of time.