

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1929/1999

New Delhi, this 13th day of November, 2000Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P. Singh, Member(A)Dr. I.P. Singh &
15 others as mentioned in Memo
of Parties
All working as SSOs in the office
of Min. of Non-Conventional Energy
Sources, New Delhi

.. Applicants

(By Shri Harvir Singh, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Non-Conventional Energy Sources
Lodi Road, New Delhi2. Secretary
Department of Personnel & Training
North Block, New Delhi3. Secretary
Department of Science & Technology
New Mehrauli Road, New Delhi

.. Respondents

(By Shri S.M.Arif, Advocate)

ORDER

By Shri M.P. Singh

By the present OA the applicants, sixteen in number, are challenging the revised Recruitment Rules for various scientific posts under Respondent No.1, which were framed in consultation with Respondent No.2.

2. The main grievance of the applicants is that by the aforesaid revised rules, the promotion and career prospects of them have been pushed back to five years by changing the residency period of ACR evaluation criteria as well as by introducing another grade of Scientist E which was non-existent till the notification of the Rules, 1998 and therefore applicants shall have to wait for another four to five years or may be even eight



years in order to be promoted to the post of Director/Scientist F. They have cited instructions of DoPT in its OM dated 18.3.88 which stipulate that "where the eligibility service for promotion prescribed in the existing rules is being enhanced and the change is likely to affect adversely some persons holding the feeder grade posts on regular basis, a note to the effect that the eligibility services shall continue to be the same for persons holding the feeder posts on regular basis on the date of notification of the revised rules could be included in the revised rules". They, therefore, contend that the revised rules should be made applicable only to those who joined service after 9.11.98 and not to the applicants. Thus they want the R/Rules dated 9.11.98 to be quashed and direction to the respondents to formulate the assessment procedure by giving due weightage to the ACRs along with interview for promotion to higher grades.

3. Respondents in their counter contested the case. They have submitted that the revised rules dated 9.11.98 bring in uniformity in the application of Flexible Complementing Scheme (FCS, for short) in various scientific departments. This was so done on the recommendations of the Fifth Pay Commission. In any process of rationalisation and adoption of uniform parameters e.g. designations, pay scales operated under FCS, minimum residency period etc., some may gain more, some less and some may also have been put to disadvantage marginally. Such a thing is inherent in any attempted case of uniformity/rationalisation and therefore such a process cannot be termed as arbitrary or irrational.



4. We have heard the arguments advanced by the learned counsel for the parties and perused the records.

5. We are not satisfied with the grounds taken by the applicants in challenging the impugned revised recruitment rules. Recruitment Rules are framed under Article 309 of the Constitution of India after taking into account various factors involved and the instructions issued by the Government of India from time to time and in consultation with the nodal Ministries concerned. In other words, it is a policy matter which cannot be challenged in a forum like the Tribunal.

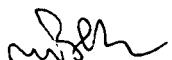
6. That apart, as rightly contended by the respondents, provisions of para 3.1.3 of the guidelines dated 18.3.88 of DoPT are not applicable in the case of applicants as the changes introduced vide modified FCS actually reduce the minimum residency period prescribed at the level of Scientist B, Scientist C and Scientist D. In addition to this, the DoPT has issued clarification on 14.10.99 (Annexure 1 to the rejoinder) which stipulates as under:


"The relaxation is in respect of PSOs/Scientist D who, under the earlier Rules were eligible for promotion to the grade of Rs.5100-6300 (pre-revised) directly from the scale of Rs.3700-5000 (pre-revised) and is applicable only to those PSOs/Scientists D who were in position as on 9.11.98. There is no condition that they should have been assessed atleast once for promotion to the higher grade of Rs.5100-6300 as on 9.11.98. There is also no stipulation that this relaxation is for assessment for only one more occasion. In other words all those PSOs/Scientists D who were in position as on 9.11.98 and were eligible under the extant Rules for promotion directly to the grade of Rs.5100-6300 will continue to be eligible for movement directly to the grade of Rs.16400-20000."



7. In view of the above position also, the applicants should have no grievance as their interests would be protected while considering them for promotion. The judgement of the Hon'ble Supreme Court cited by the applicants in case of A.K.Uppal & Ors. Vs. State of J&K Ors. (1998) 4 SCC 179 would not render any assistance to them as the facts and circumstances involved in that case are distinguishable from the present one.

8. In the result, we do not find any merit in the case. The OA is accordingly dismissed. No costs.


(M.P. Singh)
Member(A)


(Kuldeep Singh)
Member(J)

/gtv/