

Central Administrative Tribunal, Principal Bench

Original Application No.38 of 1998

New Delhi, this the 14th day of September, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mrs. Shanta Shastri, Member (A)

Shri Chunnilal Choudhary
aged about 37 years
Son of Shri Deep Chand
R/o Vigyan Sadan, House No. 603
Sector-10, R.K. Puram, Kamal Sangam Marg,
New Delhi-22

- Applicant

(By Advocate - None)

Versus

1. Union of India, through

The Secretary,
Ministry of Science and Technology,
Technology Bhawan, New Mehrauli Road, New Delhi-16

2. The Secretary
Ministry of Science and Technology
Deptt. of Biotechnology Block No. 2 (7-8th Floor)
C.G.O. Complex, Lodhi Road,
New Delhi-110003

- Respondents

(By Advocate - Shri R.N. Singh, proxy for Shri R.V. Sinha)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

Applicant has filed this OA seeking the following reliefs:

- (a) Direct the respondents to accord the applicant his promotion to the post of Senior Scientific Officer Grade II w.e.f. 3.5.96; and
- (b) then absorb him in suitable post in the main Ministry, CPWD or elsewhere fully commensurate with his qualification and length of service by fully protecting his rights.

2. Facts in brief are that applicant was appointed as Technical Assistant through UPSC in the Department of Biotechnology under the Ministry of Science and Technology in the pay-scale of

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Rs.1640-2900. He has submitted that his other colleagues who were appointed alongwith him through UPSC had been absorbed under the Main Ministry and have been earning their due promotions under Flexible Complimentary Scheme (in short 'FCS'). They have been promoted as Sr.Scientific Officer Grade-II and are awaiting their next promotion as Sr.Scientific Officer Grade I. However, the applicant was denied promotion on the plea that there was no post of Sr.Scientific Officer in the Deptt. of Biotechnology. The applicant has alleged that this action of respondents to scuttle his promotional avenues is bad in law and not sustainable under service jurisprudence because such a course hits the principles of equality under Articles 14 and 16 of the Constitution. He has further submitted that he has no job satisfaction due to misemployment. However in para 4.7, the applicant has admitted that if Recruitment Rules are coming in the way of his promotion, recruitment rules of main Ministry or CPWD could be borrowed to grant him promotion. The applicant has also submitted that a person is recruited in an organisation not only for a job but for the whole of his career. As such, he has prayed that respondents be directed to accord him promotion to the post of S.S.O. Grade-II or absorb him in a suitable post in the Main Ministry, CPWD or elsewhere, which should be fully commensurate with his qualification and length of service.

3. O.A. is contested by respondents. They have submitted in their reply that applicant was appointed on

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18.8.93 in the Department of Biotechnology, which is one of the two separate departments under the Ministry of Science and Technology. The two separate Departments under the Ministry of Science & Technology, i.e. Department of Biotechnology and Department of Science and Technology have their own Recruitment Rules and promotions are made according to those Rules. They have stated that at present promotions under FCS are being granted to Scientists only and even in the Department of Science and Technology, the Technical Assistants are not getting promotion under the FCS. Respondents have stated that they are unable to follow the recruitment rules of the Department of Science and Technology or the CPWD to grant promotion to the applicant as he was appointed in the Department of Biotechnology on direct recruitment basis. Counsel for respondents submitted that if the applicant was so desirous to get promotion, he could have applied directly in any other department where the vacancy was existing.

4. None appeared for applicant today despite the fact that this case is appearing in the 'Regular' hearing list since 8.9.2000. Shri R.N.Singh, proxy counsel for Shri R.V.Sinha appeared on behalf of respondents and has been heard.

5. It is settled principle of law that right to promotion is not a fundamental right. An individual has only a right to be considered for promotion if the same is within the recruitment rules and vacancies are available.

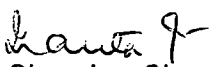
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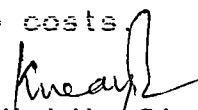
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In this particular case, since there was no post of Sr.Scientific Officer or any other equivalent post in the Department of Bio-Technology, the applicant could not be given next promotion. This court cannot direct the respondents to give promotion to the applicant on the basis of the recruitment rules being followed in other departments.

6. As regards the prayer of the applicant that in the alternative, he can be absorbed in the CPWD or the Main Ministry, for this purpose, we find that this OA suffers from non-joinder of necessary parties as the CPWD has not been impleaded as respondent in this OA. Moreover, we cannot direct either the CPWD or the Main Ministry to give promotion to applicant on the basis of service rendered by him in the Department of Biotechnology, which is a separate department and has its own recruitment rules.

7. In view of the above, we find no merit in this OA, which is accordingly dismissed. No costs


(Mrs.Shanta Shastri)
Member(A)


(Kuldip Singh)
(Member(J)