

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA 214/95

New Delhi this the 12th day of October, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri R.K. Ahooja, Member (A)

Smt. Jagjit,
Scientist SD
Ministry of Environment and
Forests, 415, Asia House,
K.G. Marg, New Delhi. ..Applicant

(By Advocate Sh. Ashish Kalia)

versus

Union of India
through

1. The Secretary,
Ministry of Environment and
Forests, CGO Complex,
Lddi Road, New Delhi-3 ..Respondents

(By Advocate Shi V.S.R. Krishna)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicant is aggrieved by the arbitrary action on the part of the respondents denying her promotion to the post of Scientist 'E'.

2. The applicant was recruited to the post of Assistant Curator (Botany) in September, 1976. She submits that she has completed five years of regular service in Grade 'D' Scientist on 1.1.1994. According to her, her work and conduct has been ~~far~~ excellent as she has not been communicated any adverse/critical remarks. She submits that on 23.9.1987, the respondents had published their Scheme termed as Flexible Complementing Scheme (FCS) for recruitment and promotion to Group 'A' Scientist posts, who were exempted from the purview of UPSC. The applicant has been promoted as Scientist 'D' w.e.f. 1.1.1989 after completion of five years of service and according to her she was due and eligible for review for the next higher grade of Scientist 'E' w.e.f. 1.1.1994. She has

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stated that her case was put up for Review/Assessment Committee under FCS, which met on 29.12.1994 but despite the fact that she satisfies the eligibility conditions, she was denied the promotion to the next grade as Scientist 'E'. She had made a representation on 29.12.1994 against the denial of promotion. Later, she has filed this OA on 25.1.1995. In the application, the applicant has stated that denial of promotion to her is because of arbitrary and discriminatory action by the respondents against her, as juniors to her have been promoted. Sh. Ashish Kalia, learned counsel for the applicant has submitted that although in the OA itself no averments have been made regarding any malafide or bias against any one of the Committee Members who have reviewed her case under the FCS, in the rejoinder a faint mention of bias has been made against the Head of Department, who is not even a party in this case. The fact that the party against whom such allegations/ malafide or bias has been made has not even been made a party shows that the allegations are untenable and therefore, rejected.

3. The respondents in their reply have submitted that after introduction of the FCS, the applicant was considered for promotion to the grade of Scientist 'D' w.e.f. 1.1.1988 but she was not found suitable. She was again reconsidered for such promotion and having been found suitable was promoted w.e.f. 1.1.1989. Thereafter, she was also considered by the Departmental Review Committee (DRC) which met on 29.12.1994. The respondents have submitted that mere fulfilment of the criteria of eligibility is not sufficient for granting her promotion to the next higher grade under the FCS. They have stated that the DRC, after due consideration of assessment and performance of the applicant had not found her suitable for promotion. Shri Krishna, learned counsel for the respondents has submitted that there is no arbitrary action taken by the respondents, as the applicant has been duly considered by the DRC in accordance with the FCS.

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He, therefore, submits that there is no merit in this application and the same may be dismissed.

4. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

5. In the present case the applicant has not denied that her case has been considered by the DRC under the FCS on 29.12.94. Earlier also she had been considered for promotion as Scientist 'E' w.e.f. 1.1.1994 but not found suitable for such promotion. There is no allegation that the DRC has not dealt with her case under the FCS. It is well settled law that this Court/Tribunal cannot re-appraise the suitability of the applicant who had already been so assessed by an expert body like the DRC. As mentioned above, even the allegation of bias and malafide stated by the applicant has not been brought out in the Original Application itself but it is added as an after thought in the rejoinder. In the facts and circumstances of the case, we find no good ground to interfere in the matter as the action of the respondents in assessing the applicant for promotion to the next higher grade of Scientist 'E' has been done in accordance with the terms and conditions of the FCS.

6. In the result, for the reasons given above, we find no merit in this case and the O.A. is accordingly dismissed. No order as to costs.

R.K. Ahuja
(R.K. Ahuja)
Member (A)

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Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)