

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2000/1996

New Delhi this the 09th day of March, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

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

1. Dr.V.B.Kamble  
Director  
National Council for Science & Technology  
Communication (N.C.S.T.C.),  
Department of Science & Technology  
Technology Bhawan  
New Mehrauli Road  
New Delhi-110016.
  2. Shri R.K.Bansal  
Director  
Department of Science & Technology  
National Centre for Medium Range Weather  
Forecasting, Super Computer Centre  
Room No.1, Annexe Building  
Mausam Bhawan Complex  
Lodi Road, New Delhi-110 003.
  3. Dr.A.K.Bohra  
Director  
Department of Science & Technology  
National Centre for Medium Range Weather  
Forecasting, Super Computer Centre  
Room No.9, Annexe Building  
Mausam Bhavan Complex  
Lodi Road  
New Delhi-110 003.
  4. Dr.L.S.Rathore  
Director, Department of Science &  
Technology, National Centre for Medium  
Range Weather Forecasting  
Super Computer Centre  
Insat Building  
Mausam Bhavan Complex  
Lodi Road, New Delhi.
- ...Applicants

(Sh.M.K.Bhardwaj, proxy for Sh.Abhijit Sengupta,  
counsel for the applicants)

-Versus-

1. Union of India through  
The Secretary,  
Department of Science and Technology  
Ministry of Science & Technology  
Technology Bhawan  
New Mehrauli Road  
New Delhi-110 0016.
- ...Respondents

( Shri D.S.Jagotra, proxy for Sh.K.C.D.Gangwani,  
counsel for the respondents)

O R D E R (ORAL)

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Shri Justice Ashok Agarwal :

By the present OA, applicants claim promotion to the post of Directors from an earlier date than the date which has been assigned for their promotion. Whereas applicants have been promoted with effect from 19.5.1995, they claim promotion with effect from 1.7.1994.

2. As far as applicants are concerned, they were appointed as direct recruits to the post of Principal Scientific Officers during the period between 1.4.1989 to 30.9.1989 and completed qualifying service for promotion to the post of Directors between 1.4.1994 to 30.9.1994. Applicants as also officers similarly placed in the Department of Science and Technology are governed by a scheme which was framed under the rules made by the Government in exercise of its powers under Article 309 of the Constitution known as the Department of Science & Technology (DST) Group "A" Gazetted Post non-ministerial (Scientific and Technical) Rules 1984. The said rules which came into force on 3.7.1984 provided for Flexible Complementing Scheme (FCS). Provisions relating to FCS were amended by the Department of Science & Technology with effect from 25.8.1987. Aforesaid FCS provided for a system for flexible complementing and in-situ promotions to the next higher grade. By an Office Memorandum issued by the Department of Science & Technology on 13.12.1988, procedure for selection under Flexible Complementing Scheme was prescribed. A candidate is

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required to have put in 5 years' service in the lower grade for being eligible for consideration for promotion under the Flexible Complementing Scheme for in-situ promotion. As far as the applicants are concerned, they were appointed as Principal Scientific Officers during 1.4.1989 to 30.9.1989. They accordingly became eligible for being considered for promotion with effect from 1.7.1994 under the aforesaid scheme. In a meeting of the Selection Committee (Assessment Board) convened on 26.4.1994, cases of the applicants for promotion were considered along with eight others. Four of the candidates whose cases were considered along with those of the applicants were given promotion to the post of Directors with effect from 1.7.1994. Applicants though have been recommended by the Selection Committee (Assessment Board) along with the aforesaid candidates were however not granted similar promotions.

3. Certain other candidates junior to the applicants who became eligible for consideration with effect from 1.7.1995 were similarly considered by the Selection Committee (Assessment Board) in a meeting held some time after 1.7.1994 and were given promotion to the post of Directors with effect from 19.5.1995. It is only at this stage that the applicants have been given promotion to the post of Directors with effect from 19.5.1995.

4. The gravamen of the grievance of the

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applicants is short. They were recommended by the Selection Committee (Assessment Board) along with four other candidates. Whereas four of them have been promotion with effect from 1.7.1994, applicants have been denied the said promotion. Applicants have been granted promotion only with effect from 19.5.1995, the date on which their junior officers who had become eligible after 1.7.1994 were granted promotions. ~~The said junior officers as also the~~ Applicants should have been given promotion with effect from 1.7.1994.

5. In order to justify the aforesaid promotions, respondents in their counter have pointed out and this is also not disputed by the applicants that ~~under~~ para 6.4 of the Office Memorandum dated 13.12.1988 which relates to procedure in respect of promotions under FCS provides that the recommendations of the Selection Committee are to be further considered by the appropriate authority which takes the final decision in each case. The decision of such authority is final.

6. It may be that the final decision rests with the appropriate authority. It may also be that under the Scheme, the decision of the authority is made final. However, not a whisper is murmured as to why the appropriate authority has granted promotions to four of the candidates with effect from 1.7.1994 and not granted the similar promotions to the applicants even though the selection committee had recommended

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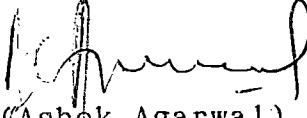
promotions of all the eight candidates which includes the applicants also. This is not the case of the respondents that there were only four vacancies and this should not have been their stand in view of the provisions of the Scheme which do not limit the promotions to the number of posts available. The Department of Science & Technology has been conferred freedom to vary the number of posts in different scales so as to ensure promotion of officers from junior scale to senior scale. Under the Scheme, proven merit and record of research is made <sup>the</sup> only criteria for promotion. Surprisingly it has not been pointed out on behalf of the respondents that the applicants are found wanting in the aforesaid criteria for promotion, namely proven merit and record of research. In the circumstances, we are constrained to hold that grant of promotion to the four other officers with effect from 1.7.1994 and denying the same to the applicants is in breach of the mandate contained in Articles 14 and 16 of the Constitution. By giving applicants promotions from a date namely 19.5.1995, when their juniors were promoted, amounts to treating unequals as equals. Similarly denial of promotions to the applicants, when their batchmates were promoted, amounts to denial of equality/equal treatment in matters of promotion. No justification whatsoever has been given to meet out this discrimination against the applicants. In the circumstances, we have no hesitation in holding that the applicants are entitled for promotion as Directors with effect from 1.7.1994 in place of 19.5.1995. We direct accordingly. It

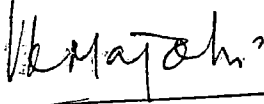
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goes without saying that the applicants will be entitled to consequential reliefs that may flow from implementing the aforesaid directions.

7. Present OA is accordingly allowed in the aforesaid terms. No costs.

  
(Ashok Agarwal)  
Chairman

  
(V.K. Majotra)  
Member(A)

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