

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH.

OA 1778/97

New Delhi, this the 2<sup>5</sup> day of ~~October~~ November, 2000

Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)  
Hon'ble Sh. Govindan S. Tampi, Member (A)

1. Mr. U.C.Upreti  
S/o Shri B.D.Upreti  
DRH-2, NPL Colony  
New Rajinder Nagar  
New Delhi - 110060
2. Dr. K.K.Saini  
S/o Late Sh. R.K.Saini  
R/o A-90, HIL Apartments  
Sec-13, Rohini.  
Delhi - 110085
3. Dr.T.K.Saxena  
S/o Late Sh. P.P.Saxena  
R/o Flat No. 196, Geeta Apartments  
Plot No.3, Block 17  
Geeta Colony  
Delhi -110031

...Applicants

(All applicants at present working as Scientist 'C' in National Physical Laboratory, New Delhi)

(By Advocate : Sh. A.K.Sharma)

V E R S U S

UNION OF INDIA, through

1. The Secretary  
Ministry of Science and Technology  
New Delhi.
2. Council of Scientific and  
Industrial Research (CSIR)  
through its Director General  
New Delhi - 110001.
3. Director, Dr. E.S.R.Gopal.  
National Physical Laboratory  
Dr. K.S.Krishnan Road  
New Delhi - 110012.
4. Dy. Secretary  
Sh. B.S.Gera.  
Council of Scientific and  
Industrial Research (CSIR)  
Head Quarters  
New Delhi - 110001.
5. Controller of Administration  
National Physical Laboratory  
Dr. K.S. Krishnan Road  
New Delhi - 110012.

...Respondents.

(By Advocate : Ms. Geetanjali Goel)

- 2 -

23

O R D E R

By Hon'ble Sh. Govindan S. Tampi. Member (Admn)

Extension of the benefit granted to their colleague by the Chandigarh Bench of the Tribunal in OA No. 115/JK/92 on 6-1-95 in M.P. Jain Vs. CSIR is the relief sought for in this application. The order impugned is the rejection of the applicants' representation in OM No. 3/39/C-E1/92-93/96 EIII dated 13-5-97.

2. Briefly stated, the facts are that Council for Scientific and Industrial Research (CSIR for short) had been operating an assessment scheme called New Recruitment and Assessment Scheme (NRAS) till 1990 which was replaced by in 1999, but retrospectively from 1-4-1988, by scheme called Merit and Normal Assessment Scheme (MANAS). Gradation of the performance appraisal of the scientists in a five point scale from 'poor' to 'outstanding' has been replaced by a seven point scale from 'poor' to 'outstanding' with the insertion of two new scales called 'satisfactory' between 'fair' and 'good' and of 'excellent' between 'very good' and 'outstanding'. Marks also were assigned for the scales with twenty marks being given for 'poor' and twenty for 'outstanding'. In terms of the rules, the scientists were to be assessed for the next higher grade on completion of three or four years for merit promotion while the normal promotion required five years' experience. The assessment for the period for 1988-89 and 1989-90, originally done as per NRAS had to be converted into assessment under MANAS. The assessment was to be done by an expert committee. The new scheme

- 3 -

(24)

was set in motion for proper assessment of the scientists which ensured that the brilliant scientists could reach the higher levels by their mid forties. Only scientists in the groups securing atleast 225 marks in three years or 300 marks in four years were to be considered for MANAS under the merit scheme. The assessment involved appraisal by peer referees as well as by experts nominated for the purpose. Keeping in mind their acknowledged expertise and scholarship in the concerned field. nominated.

3. The applicant No.1, Dr. U.S.Upreti, who joined as Assistant Technical Operator on 21-1-97. with Masters Degrees in Mathematics and Physics became a Sr. Scientific Assistant with three advance increments on 1-2-81. Scientist 'A' on 1-2-8. Scientist 'B' on 1-2-83 and Scientist 'C' on 1-2-88. On his becoming eligible for promotion to the next higher grade w.e.f. 1-2-93. he was called for interview by the respondents on 27-3-96. He had worked in two specific fields of Physics and had indicated so in the report submitting for assessment. Apprehending violation of MANAS guidelines during his assessment on account of incorrect conversion of the grading for 1988-89 and 1989-90 from NRAS to MANAS and the absence of a specific expert in his field of specialisation i.e. Radio Science for his assessment. he made a representation on 19-4-96. i.e., before the date of declaration of assessment. Still, without considering his representation he was informed on 10-5-96. that his name was not recommended for promotion to the next higher grade during the year 1992-93. Repeated representations made by him on 21-6-96. 27-6-96 and a

number of reminders didnot yield any result and he was  
advised that he should submit the report of his work

for considering his assessment/promotion for 1993-94.

He also referred in his representation. to the  
prejudiced attitude of the Director. NPL towards him.

He was told that the representation was under  
consideration. however. on 13-5-97 he was informed

that his representation had been considered and  
reiected. as having no merits. He was further advised

on 17-7-97 that he would forfeit the chance of  
assessment and experience marks. if he pursued with  
the representation.

4. Applicant No.2. 3 and 4 also made similar  
complaints including pre-judice and vindictiveness on  
the part of the Director. NPL. They state that this

had come in the way of their normal promotion and  
career advancement in the organisation inspite of  
their intrisic merit. academic equipment and  
expertise. In the meanwhile. a colleague of theirs

(Dr. N.P.Jain) had approached Chandigarh Bench of the  
Tribunal and obtained a judgment in OA No.  
115/JK/1992. on 6-1-95 quashing the selection

proceedings with a direction to constitute the review  
assessment committee for considering his case.

Similar relief would be called for in their case also  
is the plea by the applicants.

5. In the reply. filed on behalf of the respondents.

it is indicated that the application was totally  
misconceived and untenable and was a matter of after

thought. as the applicant had come to know that they  
were not found fit to be promoted to the post of E-1.

The relief sought by them as was granted in the case of N.P. Jain Vs. CSIR by the Chandigarh Bench was not applicable as it was different from the present case. The Chandigarh Bench had observed that the constitution with assessment committee was incorrect. The same was not true in the instant case. It is also indicated that while the applicants were eligible for consideration for assessment for the year 1992-93 under the revised MANAS. But entitlement for assessment cannot per se be the right for promotion as they have to be fit for promotion only after they have scored sufficient marks in the three attributes of (a) APARs: (b) Peer Review' and (c) interview, and make the grade therein. The applicants not having reached the standard have no right to agitate or be aggrieved. It is further contended that there has been no violation of any of provision of MANAS and other guidelines and that the conversion of ACR gradings from NRAS to MANAS has been correctly done by the Assessment Committee by whom the applicants were interviewed. It is also stated that the specialists who were called were nationally and internationally acclaimed individuals in their respective areas and, therefore, they were correctly called as experts. The comments of the applicants that some of them were not experts was not only incorrect, but also mischievous and motivated. These include allegations against the Director of the NPL. The pleas made by the applicant, therefore, are of no relevance at all and do not at all merit acceptance: plead the respondents.

~ 6 ~

(27)

6. In their rejoinder, the applicants specifically point out that some of the persons brought on the expert committee like Prof. K.R.Sharma, was not on the panel of experts of the National Physical Laboratory. Prof. S.K.Date was not an expert in super conductivity. the speciality with reference to which he was to act as an expert. Besides, it was shown that one F.C.Khullar an M.A. in Political Science and one J.S. Dhama, holding a Master's Degree in Economics were also treated as Scientist for promotion to Scientist E-1. treating their qualification in Humanities subject as equivalent to that in Physics. The applicants plead they have been treated incorrectly and victimised by the administration, who had acted against the rules and guidelines for assessment and the same, therefore, would have to be set aside, according to them.

7. During the pendency of proceedings, the name of the applicant at Sr. No. 3 has been deleted in view of the order dated 12-4-99.

8. Heard the learned counsel for the applicant and the respondents. Sh. A.K.Sharma, the learned counsel for the applicant reiterates the pleas made by the applicants and state the rules prescribed for the revised scheme of MANAS have not been considered and that the bias of the Director had manifested in the Assessment Scheme more than once. He also states that the experts who were called in to assess the performance of the applicants were not the experts in the relative fields and they could not, therefore, have been permitted to be experts for the

- 2 -

28

selection. He also indicated that the decision dated 6-1-95 of the Chandigarh Bench in OA No. 115/JK/92 was very much relevant in their case and his clients should get the benefit thereon.

9. Contesting the above Ms. Geetanjali Goel, the learned counsel for the respondents states that the conversion of the ACR gradings from the NRAS to MANAS in respect of the applicants had been correctly done. She points out that the two intermediate grades introduced in MANAS, had not been given to anyone during the relevant period. She states that the experts Dr. Sharma and Dr. Date who were objected to by the applicants were acknowledged experts in their relevant fields. Without denying the fact that certain individual from humanities stream like Economics and Political Science were considered as Scientists and promoted to E-1. She states that one or two of those mistakes would not pre-judice the case of the applicants or vitiate their assessment. The Selection process undertaken by the respondents was correct and would not warrant any interference.

10. We have carefully considered the matter. The point for the determination is the assessment of the scientists in the revised scheme of MANAS from the earlier scheme of NRAS. While the applicants point out that the scheme has not been correctly done the respondents plead that no violation has taken place. On perusal of the documents placed before us, it would appear that all the requirements have not been fulfilled. As specific marks have been provided in the new seven point scheme against the earlier five

29

point scheme. marks would differ in the new one as two intermediate scales 'satisfactory' and 'excellent'. Without the grant of marks on correct conversion table. the assessment would become a meaningless exercise. The respondents' plea that it would not have caused any inconvenience or that intermediate grades could not have been given during the period does not answer the situation. It would mean that the insertion of the two new categories and assignation of marks to them would be of no purpose. It means, therefore, that while considering the conversion of the ACR grading from NRAS to MANAS the guidelines have not been followed. Further, in the selection of the experts also, there has been non application of mind as individuals of suspect expertise had been called. They have also been permitted to be in the interview board for selection, though their expertise in the given field is not accepted. It cannot be denied that a candidate's case in a given field can be annexed only by a higher expert in that field and not by someone in some other speciality, however highly qualified he be. The complaint of all the applicants is that the experts chosen in the field were specialists in other fields and not in the fields the applicant's expertise was sought to be annexed. This has not been adequately answered except saying generally that they were well known Scientists. It is also admitted that the persons who do not belong to the scientific streams like Political Science or Economics have been brought in as scientists and given the benefit of MANAS, though, it is explained as something which had happened long back. While we may not immediately set

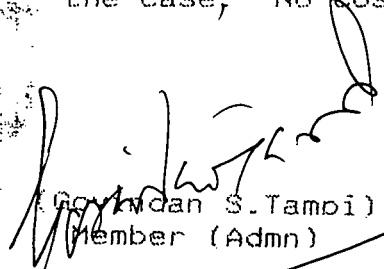
-5-

30

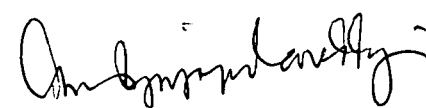
aside those cases. it points to a failure of the system in assessment adopted by the CSIR while administrating MANAS.

11. Circumstances of the case of the applicants are similar to those mentioned by Dr. N.P.Jain in OA No. 115/JK/92 before the Chandigarh Bench. In that case also persons, who did not have the requisite expertise have been called in to be in the Interview Board and action was taken in pursuance of their recommendations. This same faulty procedure had been correctly set aside. In view of the similar circumstances of the case, we feel that a similar remedial exercise as was undertaken, there is called for here as well.

12. In view of the above findings, we hold that the application has to succeed and the impugned proceedings have to fail. The impugned selection proceedings for 1992-93 are quashed and respondents are directed to conduct the review assessment proceedings strictly in accordance with the guidelines and parameters laid by MANAS, after correctly ordering the conversion of gradings of performance appraisal in NRAS to MANAS and with the help of accomplished and appropriate experts in the field to judge the performance of the candidates and give the decision accordingly. The applicants also shall properly co-operate with the respondents in completing the review proceedings at the earliest, and at any rate within six months from now. In the circumstances of the case, No cost is ordered.

  
(Govindan S. Tamoi)  
Member (Admn)

Vikas

  
(V. Rajagobala Reddy)  
Vice-Chairman (J)