

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1063/2000

New Delhi, this 30th day of March, 2001

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P.Singh, Member(A)

7

J.M. Garg
1115/S-12, R.K. Puram, N.Delhi .. Applicant

(By Shri S.S.Tiwari, Advocate)

versus

Union of India, through

1. Secretary
Deptt. of Chemicals & Petrochemicals
M/Chemicals & Fertilizers
Shastri Bhavan, New Delhi
 2. Secretary
Deptt. of Personnel & Training
North Block, New Delhi .. Respondents
- (By Shri Madhav Panickar, Advocate)

ORDER

By Shri M.P. Singh

By the present OA, applicant has challenged the order dated 5th July, 1999 by which he has been reverted from the post of Director (Technical) to that of Additional Director(Technical) with effect from 28.5.1999.

2. Briefly stated, the applicant while working as Addl. Indl. Adviser (Chemicals), now reclassified as Addl. Director (Tech) in erstwhile DGTD, was transferred to the office of R-1 from 1.4.94, consequent upon the winding up of DGTD. R/Rules for the post of Director(Technical) were notified by the respondents on 29.5.1997. Applicant was promoted on ad hoc basis as Director (Technical) from 28.5.98 on the basis of these R/Rules for a period of six months which was extended



further. But suddenly by the impugned order dated 5.7.99 applicant stood reverted from 28.5.98. Aggrieved by this, he is before us seeking to quash the order dated 5.7.99 and directions to the respondents to promote him on regular basis from 29.5.97 as Director (Technical). (8)

3. Respondents in their counter have resisted the claim of the applicant. They have submitted that as per the recommendations of the 5th Central Pay Commission, the pay scales of the post of Addl. Industrial Adviser and Industrial Adviser were merged and one more level of Joint Industrial Adviser in between the post of Deputy Industrial Adviser and Addl. Industrial Adviser was inducted, with the result the R/Rules notified on 29.5.97 needed further modification. DoPT was approached in this connection which in turn advised R-1 to examine the cadre restructure and to fill up the posts after new recruitment rules are framed. Accordingly, new set of R/Rules have now been proposed keeping in view, inter-alia, the stagnation in the cadre and providing to fill up all posts entirely by promotion. These new R/Rules are yet to be notified. The earlier R/Rules (of 29.5.97), relied upon by the applicant, provide for composite method i.e. by promotion/transfer on deputation (including short term contract) where the possibility was that an outsider might have been selected. In view of this position, the OA is liable to be dismissed.


4. Heard the learned counsel for the parties and perused the records.



5. Learned counsel for the applicant has placed reliance on the decision dated 21.2.2000 in OA No.1584/99 filed by one Shri S.C.Bajaj, alongwith OA No.1626/96 (in which the present applicant was also one of the applicants) holding that Shri Bajaj would be entitled for regular promotion from 29.5.97 as per the R/Rules notified on 29.5.97 and has contended that the applicant is also similarly placed like Shri Bajaj and therefore he should not have been reverted. 9


6. On the other hand, the learned counsel for the respondents submitted that CWP No.3367/2000 has been filed before the Delhi High Court, challenging the order dated 21.2.2000 of the Tribunal in OA No.1584/99, to which the present applicant is also one of the respondents. However, we find that the Delhi High Court has passed an interim order on 17.7.2000 to the effect that "In the meanwhile status quo as of today with regard to service of the respondents will be maintained".

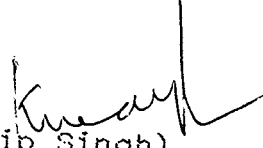
7. It is an admitted position that the applicant was promoted as Director (Technical) in accordance with the R/Rules dated 29.5.97 which do not contemplate promotion on ad hoc basis. Therefore following the ratio of the judgement of this Tribunal dated 21.2.2000 in OA No.1626/1996 with OA No.1584/1999, coupled with the fact that the Delhi High Court has ordered to maintain status quo as of today with regard to service of the respondents (including the applicant in the present OA), and that the modified R/Rules are yet to be notified, we are of the considered view that the impugned reversion



order dated 5.7.1999 is not tenable. In the result, the present OA is allowed and the order dated 5.7.1999 is quashed and set aside. Applicant shall be eligible for regular promotion as Director (Technical) from 24.5.98 alongwith all consequential benefits. No costs.

(10)


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

/gtv/