

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:NEW DELHI.

OA No. 2065/88

Date of decision- February 12, 1993

Shri Nitya Nand Joshi ... Applicant
versus
Director General, C.S.I.R... Respondent

CORAM: THE HON'BLE SHRI P.C.JAIN, MEMBER(A)
THE HON'BLE SHRI J.P.SHARMA, MEMBER(J)

For the Applicant ..	Sh.K.L.Bhatia, Advocate with Applicant.
For the Respondent ..	Sh.A.K.Sikri, Counsel.

JUDGEMENT

HON'BLE SHRI P.C. JAIN, MEMBER(A):-

The applicant joined the Headquarters of the Council of Scientific & Industrial Research (for short, CSIR) in June 1952 as Dealing Assistant. After his promotion as Junior Scientific Assistant in February, 1960, as Junior Technical Assistant in June 1960, Senior Technical Assistant in February 1971 he was promoted as Scientist A1 in Feb. 1976 and thereafter as Scientist B1 in Feb. 1981. His grievance in this application is against denial of promotion to the grade of Scientist C1 allegedly in violation of the rules and procedural instructions. He has prayed for a declaration that he may be deemed to have been promoted to the grade of Scientist C1 with effect from Feb. 1986 with all consequential benefits, or, in the alternative, the respondents may be directed to reassess his eligibility for promotion

to the higher grade, if necessary, as a second chance in accordance with the prescribed procedure and method.

2. The respondent CSIR has contested the application by filing reply to which rejoinder has also been filed by the applicant. We have perused the material on record and heard the learned counsel for the parties. There is no dispute that in accordance with the provisions of erstwhile Bye-law 71(b), the case of the applicant for assessment promotion as Scientist C1 after putting in 5 years of service as Scientist B1 fell due on 24.2.86 and second chance after one year on 24.2.87. With reference to his application dated 6.5.88, the applicant was informed by CSIR OM dated 9.6.88 that as already intimated vide OM dated 23.12.87, his case for assessment promotion upto 24.2.87(i.e. first chance on 24.2.86 and second chance on 24.2.87) was considered by the Expert Assessment Committee in its meeting held on 28.7.87 and that he was not found suitable for promotion to the next higher grade. This is what the applicant has assailed in this CA. Admittedly, his assessment report upto 31.3.86 was called for from the applicant and he submitted the same. His grievance is that Expert Assessment Committee

Committee did not meet soon thereafter and it only met on 28.7.87 on which date he also appeared before the ~~assessment~~ Committee as required.

As regards the delay in convening the meeting of the Expert Assessment Committee, the stand taken by the respondent is that it had notified (Annexure R-1) on 4.6.87 L that the concerned staff will be assessed for promotion from the existing grade to the next higher grade and in case they are not recommended for promotion from the date of their eligibility they will be considered for subsequent chances falling due on the anniversary dates of their appointment in subsequent years till 31.3.87. It is also stated that the delay in convening the meeting of the Expert Assessment Committee did not in any way adversely affect the applicant financially as in the event of his having been found suitable for promotion in the first chance on 24.2.86 he would have got all benefits from that date; and so on.

3. Another contention of the applicant is that deliberations and procedures of the meeting were finalised at the close of the meeting on 28.7.87 and that he was congratulated by one of the members of the assessment committee on the following day indicating that he was found fit for promotion. It is also contended that

he was also informed by the Head of the Division that he had been found fit as per information received from the Director General,CSIR,who happened to be the chairman of the assessment committee. It is also his contention that he has reliably come to know that according to the recommendations of the assessment committee after the interview held on 28.7.88, the name of the applicant for his placement as Scientist C was included in the select list, but as these recommendations did not find favour with the appointing authority he referred these illegally to non-members,namely, Dr.B.M.Reddy, Scientist,National Physical Laboratory and Dr.Iyengar, Addl.Director General,CSIR and it was on their advice that his name was removed from the recommended list. All these contentions have been rebutted by the respondents. We have also seen the minutes of the meeting of the Expert Assessment Committee which met on 24th,25th,27th and 28th July,1987, which were made available to us by the respondents. These minutes show that the name of the applicant was not among the names of those who were recommended for promotion and there is no material in the relevant file to show that any change was made in these minutes either by reference to somebody else or otherwise, so far as the applicant is concerned. The relevant file also has the criteria adopted for assessment by the committee under various

heads and application of that criteria to the case of the applicant as for others and the result thereof is also made available on the file. All these go to show that the applicant did not secure cut-off marks either for the first chance or for the second chance. It may also be stated here that the expert committee assessed the candidates not only for the first chance but also for the subsequent chances, these being only two for the applicant as he reited on 30.11.87. Thus, there is no basis for the contentions raised by the applicant in regard to his alleged selection by the committee and later on removal of his name from the list of recommended names. The committee had also before it the ACR dossier of all the candidates who were assessed by it and the dossier of the applicant also has on it his self-assessment report of the work done by him for the year ending 31st March 1987. His ACR for the year ending 31.3.87 was also on the dossier. Thus, the applicant's other contention that in the absence of any self-assessment report of the applicant for the period ending 31.3.87, he could not have been assessed by the expert committee for promotion on the second chance which fell due on 24.2.87, is also not based on facts.

4. Another contention of the applicant is that during the interview of the applicant no specific questions about his performance were asked for from him and the interview ended abruptly when he informed the committee that he was retiring in November, 1987. The respondent in the reply has clearly stated that the pending retirement of the applicant in November, 1987 had nothing to do with the assessment of the Expert Assessment Committee. The marks awarded to the applicant under the head 'interview' by the expert assessment committee also do not substantiate the above contention. His another contention that he was erroneously assessed by the Expert Committee as he did not possess qualifications prescribed for the direct recruits, the minutes of the committee clearly show that he was assessed under the erstwhile Bye-law 71(b) and that the qualifications prescribed for direct recruitment were / the basis of his assessment. His case was assessed along with many others by the same expert assessment committee and others were also assessed for more than one chance by the same committee and in a series of meetings held on more than one day continuously. Thus, it is not possible to uphold the contention of the applicant that the committee did not act fairly in his case. There is no allegation of mala fide.

5. In the light of the foregoing discussion, we are of the considered view that the grievance of the applicant in this OA is primarily based on assumptions which are not correct. The OA is devoid of merit and is accordingly dismissed leaving the parties to bear their own costs.

J.P.Sharma
(J.P.SHARMA)
MEMBER(J)

P.C.Jain
(P.C.JAIN)
MEMBER(A)

SNS