

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

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O.A. No.122 of 1988

Dated at New Delhi the 28 th Day of January, 1994

Hon'ble Shri J. P. Sharma, Member (J)

Hon'ble Shri B. K. Singh, Member (A)

Shri Tara Nand Singh
S/o Late Sh. T. P. Singh
R/o Lr.No.26C, Type III
C.M.R.S. Colony
Barwa Road
Dhanbad 826001
BIHAR

... Applicant

By Advocate Shri K. K. Rai

Vs.

1. Director General
C.S.I.R.
Rafi Marg
NEW DELHI 110 001

2. Director
C.M.R.S.
Barwa Road
Dhanbad 826 001
BIHAR

3. Dr M. N. Das
Scientist C
C.M.R.S., Barwa Road
Dhanbad 826 001
BIHAR

... Respondents

By Advocate Shri A. K. Sikri

O R D E R

Hon'ble Shri J. P. Sharma, M(J)

The applicant is working as Scientist 'C' in the Central Mining Research Station Dhanbad (CMRS). He has challenged the Order No (1)/86-VCR/Asse/Grade IV dated 10.8.1986 passed by the Respondent No.2 viz., Director, CMRS, Dhanbad regarding Empanelment of candidates under VCR for assessment year ending 31.3.1986.

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2. The applicant has prayed for grant of relief that the name of the Respondent No.3, viz.,

Dr. M. N. Das be deleted from the assessment year ending on 31.3.1986.

3. The main ground taken by the applicant for grant of the aforesaid relief is that the empanelment of Dr M. N. Das has been done in violation of promotional provisions enumerated in para 4.6 of the VCR. Secondly, the empanelment of Dr M. N. Das along with the applicant, is arbitrary and opposed to Article 14 of the Constitution of India in as much as that would also limit the chances of promotion of the applicant.

4. The applicant has also moved M.P. No. 3430/93 for adding another relief that the result declared on the basis of impugned panel (Annexure-1) for the assessment year ending 31.3.1986 from the post of Scientist 'C' to Scientist 'E-1', be quashed. The same is allowed and this relief is also taken as the relief prayed for by the applicant.

5. The Respondents contested the application and in their reply stated that the applicant has already filed U.A. no.127/87 in which he has also impugned the aforesaid order of 10.8.1986. It is stated that Dr M. N. Das earned eligibility for

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consideration of his name for assessment promotion to Scientist 'E-I' Grade w.e.f. 1.4.1985. The applicant also became due for assessment w.e.f. 21.4.1985. Under the relevant provisions of N.R.A.S. Dr M. N. Das as well as the applicant along with one Shri M. L. Gupta were rightly empanelled in the 1985-86 assessment years batch. Shri M. L. Gupta is Respondent No.3 in O.A. 127/87 filed by the applicant. The relevant Assessment/Core Committee met at C.M.R.S. on 6th and 7th October, 1987. Dr M. N. Das, Respondent No.3 along with the applicant were assessed by the said Assessment Committee on 6th October 1987. Shri M. L. Gupta, Respondent No.3 in O.A. 127/87 was assessed by the said Assessment Committee on 7th October, 1987. Because of the stay granted in O.A. 1353/87 filed by the applicant himself, the result was not declared till the stay was vacated vide order dated 10.11.1987. Dr M. N. Das and Shri M. L. Gupta came out successful while the applicant was not declared successful.

6. Para 4.7 N.R.A.S. for Scientists belonging to A-Group lays down that for assessment, action shall be initiated six months in advance and the same will be completed as far as possible of all those who would be in requisite length of service by 31st March of each year. In para 4.6, the assessment will be the financial year. The certain percentage marks

should be fixed for eligibility for promotion in order to maintain high standards since promotion will be based on relative assessment. Regarding Scientist 'C' for assessment to Scientist 'E-I', percentage eligible to person who could be promoted is 75%. The guidelines/clarification lays down that for advance increment performed at the interview, Confidential Reports and records of work would be judged on the basis of marks - 50, 25 and 25 respectively. The staff members securing 60% and above in over all grading will be considered as suitable for promotion. 60% should be the marks obtained which would be the minimum qualifying marks. The Advance Increments are recommended on the basis of higher percentage of marks. But that is not relevant in the present case.

7. Heard the learned counsel of the parties at length. The learned counsel for the respondents has filed a copy of the Judgement delivered by the Principal Bench in J.A.127/87 decided on August 18th, 1992, Shri Tara Nand Singh Vs. Director General, C.I.S.R. and others in which also the applicant has prayed for quashing of the order dated 10.8.86. The Bench considered that matter in the aforesaid Judgement, that an order which says that the persons mentioned therein have opted for V.C.R./deemed to

over have come to New Recruitment and Assessment Scheme and completed the minimum number of years of service needed for assessment in their respective Group/Grade upto 31.3.1986. In the said order, the applicant is at sl.12 and the Respondent No.3, Dr M. N. Das is at sl.11 and Shri M. L. Gupta, another Scientist 'C', is at sl.13. The Tribunal, by its Judgement, dismissed the application, saying that the aforesaid empanelment eligibility is not interfered with. The matter stands decided so the present application is barred by the principles of sub-judicata. We agree with the reasoning given in the said Judgement.

8. Regarding the validity of the Scheme, it may be stated that the Tribunal or the Court is not to interfere in the work of the Scheme and their implementation as per rules and regulations prescribed therein unless they are violative of Article 14 and 16. In this connection, reliance has been placed by the counsel for the respondents on the decision of the Hon'ble Supreme Court in the case of Khan Zoda Vs. Reserve Bank of India A.I.R. 1982 S.C.p.917 and Kiran Paul & Ors. Vs. U.O.I. reported in 1985(2) S.C.C. p.457. The matter of the validity of the assessment has also been considered in the Judgement in O.A. 127/87. Thus, it cannot be said that the Scheme N.R.A.S. is in any manner, violative of Article 14 of the Constitution of India.

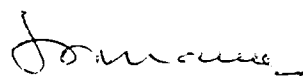
9. The contention of the learned counsel for the applicant that the name of Dr M. N. Das was wrongly clubbed in the aforesaid order of 10.8.1986 with the Assessment Panel of the financial year 1985-86, we find no basis to accept the same. The applicant as referred to above, was eligible for consideration for promotion to Scientist 'E-I' w.e.f. 21.4.85 while Dr M. N. Das became eligible w.e.f. 1.4.85. So, both of them have been empanelled in the assessment year 1985-86. The contention of the applicant that since Dr M. N. Das completed six years earlier to him, he could not have been clubbed along with him, has no justification. The Scheme N.R.A.S. fixes the eligibility in the particular financial year. Thus, this contention of the learned counsel that the name of Dr. M. N. Das had been wrongly clubbed with him, has no basis.

10. Regarding the quashing of the result of assessment ending financial year 31.3.1986, the learned counsel could not show that the applicant has not been fairly assessed by the Core Committee. During the course of arguments, the learned counsel for the respondents pointed out that the applicant only got 46% marks in the total while the minimum qualifying marks prescribed is 60%. Even if Dr M. N. Das has been wrongly considered, that the fact is not admitted, the applicant had no chances of success because of having been graded much below the minimum qualifying marks of 60%.

11. The application, therefore, has no merit and is dismissed accordingly, leaving the parties to bear their own cost.



(B. K. Singh)
Member (A).



(J. P. Sharma)
Member (J)

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