

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00113/2015

Date of CAV : 04.03.2021

Date of Pronouncement : 11 .03.2021



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

Bathula V Satya Ramesh,
S/o Late Bathula Venkataswamy,
Senior Scientist, RMS Division,
Indian Institute of Chemical Technology (CSIR)
Ministry of Science & Technology,
Government of India, Tarnaka, Hyderabad-7.

...Applicant

(By Advocate : Mr. K.Sudhaker Reddy)

Vs.

1. Union of India, Rep by its
Secretary, Recruitment & Assessment Board,
Council of Scientific & Industrial Research,
Ministry of Science & Technology,
Government of India, Rafi Marg, New Delhi.

2. The Director,
Indian Institute of Chemical Technology (CSIR)
Ministry of Science & Technology,
Government of India, Tarnaka Road, Hyderabad-7,
State of Telangana.

....Respondents

(By Advocate : Mr. M. Srikanth, SC for CSIR)

ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:

2. The OA is filed seeking a direction to the respondents 1 & 2 to promote the applicant to the post of Principal Scientist (Scientist – E II) as per the revised screening criteria under CSIR Scientists Assessment Promotion Rules 2011 in the assessment year 2012-13.

3. Brief facts of the case are that the applicant is working as Sr. Scientist in the Indian Institute of Chemical Technology (for short “**IICT**”) and is eligible to be promoted as Principal Scientist as per the screening criteria laid down by the respondents vide letter dated 14.2.2012 for the assessment year 2012-13. Scientists, who complete the prescribed residency period and on evaluation of their APARs, they are considered for promotion to the next the higher grade. The applicant figured at Sl. 11 in the tentative list released on 17.1.2014 to consider for promotion based on CSIR Scientists Recruitment & Assessment Promotion Rules 2001 (for short “**CSRAP Rules 2001**”). Further, information in regard to the work report of the applicant in the prescribed performa has not been called from him. Later, a letter was issued on 4.9.2014 stating that the screening method prescribed vide letter 14.2.2012 is kept in abeyance and that the original screening protocol as prescribed under Rule 7.4 of CSRAP Rules 2001 would be followed. Aggrieved over the change in criteria as well as for non selection of the applicant as Principal Scientist, the OA is filed.

4. The contentions of the applicant are that the applicant is fully eligible to be promoted as Principal Scientist and that several other persons



immediately after completion of the prescribed residency period were promoted who were working in IICT and other labs of CSIR, but not the applicant. The change in screening method has been done without giving reasons. Non grant of promotion will put the applicant to irreparable loss and is in violation of Articles 14 & 16 of the Constitution of India.



5. Respondents in the reply statement state that the applicant without making any representation has directly filed the OA and hence, it has to be treated as premature. The respondents' organization is a Society registered under the Societies Registration Act, 1860 and the Governing Body decision in regard to service matters is final. Applicant joined the respondents organization in 1997 as Scientist 'B' which has been re-designated as Junior Scientist. As per CSRAP Rules 2001, the applicant is eligible to be promoted to the next level of Scientist C, re-designated as Scientist, provided he completes the minimum residency period of 3 years and secures a minimum threshold marks of 85% on an average in the APARs during the period under consideration. An assessment committee thereafter interviews those who satisfy the above 2 criteria and on being found fit, are promoted. Applicant was found fit after completing 5 years of service and hence, promoted on 1.1.2003 as Scientist. For the next promotion to the level of Senior Scientist, the residency period prescribed is 4 years and the minimum threshold marks to be secured in the APARs is 85% on an average during the period under consideration. Here too, the applicant was found fit in the 6th year and therefore, promoted on 1.1.2009. Thereafter, applicant is eligible to be considered for promotion to the post of Scientist E II, re-designated as Principal Scientist, after completing the

minimum residency period of 4 years and on securing the threshold marks of 85% on an average in the APARs during the period under consideration. The applicant was due to be considered on 1.1.2013 as per the existing criteria laid down in letter dated 14.2.2012. However, the assessment criteria was revised on 4.9.2014 for the assessment year 2012-2013 and accordingly, applicant was considered on completing the residency period of 4 years and he did not secure the minimum thresholds marks of 85% as required under Rule 7.4 of CSRAP Rules, 2001, resulting in non grant of promotion. The contention of the applicant that the promotion to the grade of Principal Scientist has to be considered as per letter dated 14.2.2012 is misplaced since the criteria laid down has been approved by the Governing Body. The work reports from all the Senior Scientists who scored the threshold marks in the APARs were called for, but not from the applicant since he did not score the threshold marks required. About assessments made in other CSIR labs, the deponent to the reply statement claims that he is not aware of the same.

6. Heard both the counsel and perused the pleadings on record.
7. I. The dispute is about the non grant of promotion to the applicant to the level of Principal Scientist in the year 2012-2013. To resolve the dispute, a little bit of elaboration of the background of the respondents organisation would be useful. The respondents organisation is registered as a Society under the Societies Registration Act, 1860. It is governed by the bye-laws framed for administering the Society. The Governing Body is supreme in taking decisions for the respondents organisation and its decisions are final. The employees are thus bound by

the rules and regulations framed under the bye-laws and by the decisions of the Governing Body. As for example, bye-law 15 lays down that the service rules framed by the Govt. of India are applicable to the respondents organisation to the extent made applicable.



II. With the above in view, the case of the applicant has to be examined. The facts reveal that the applicant joined the respondents organisation in 1997 as Junior Scientist. Promotions of the Scientists are governed by CSIR Scientists Recruitment & Assessment Promotion Rules (CSRAP Rules) 2001. According to the cited Rules, the applicant should have to complete a minimum residency period of 3 years and secure the minimum threshold marks of 85% on an average in the APARs during the period under consideration to be promoted as Scientist. Thereafter, for the next level of Sr. Scientist, the minimum residency period prescribed is 4 years and minimum threshold marks in APARs on an average is 85% for the period under consideration. Scientists, who satisfy the criteria stipulated are interviewed by a duly constituted Assessment Committee and those fit are promoted. Thus, the Scientists have to cross the 3 hurdles namely residency period, minimum threshold marks of 85% in APARs and to be found fit by the Assessment Committee. Any failure at any hurdle would be a disqualification. The applicant was accordingly considered for promotion to the level of Scientist after completing the minimum residency period of 3 years but was found fit on 1.1.2003 and again for the promotion as Sr. Scientist after completion of 4 years of residency period but was found fit only on 1.1.2009. Thus, as seen from the above, for promotion of the applicant as Scientist and Sr. Scientist, there has been delay of a few years

for not securing the minimum threshold marks of 85% on an average during the period under consideration. So far so good. There is no dispute in regard to the promotions granted to the applicant till the level of Sr. Scientist.



III. However, when it came to the promotion from Sr. Scientist to Principal Scientist, the claim of the applicant is that the criteria hitherto followed as per letter dated 14.2.2012 was changed as per letter dated 4.9.2014 and the same was applied for assessment year 2012-13. The question raised is whether the assessment can be done as stipulated in latter letter dated 4.9.2014. The respondents did explain that since the Governing Body took a decision to follow the revised criteria, the same was adopted by the Screening Committee, as specified hereunder:

	Number of years in the grade					
	3	4	5	6	7	8
Minimum averaged percentage of ACR scores for eligibility						
Scientist Group –IV (1)/ Jr. Scientist to Scientist IV (2)/ Scientist	85%	80%	70%	65%	60%	----
Scientist Group –IV(2)/ Scientist to Scientist IV (3)/ Senior Scientist	--	85%	80%	75%	70%	60%
Scientist Group –IV(3)/ Scientist to Scientist IV (4)/ Principal Scientist	--	85%	80%	75%	70%	60%
Scientist Group –IV(4)/ Principal Scientist to Scientist IV (5)/ Sr. Principal Scientist	--	--	85%	80%	75%	70%
Scientist Group –IV(5)/ Sr. Principal Scientist to Scientist IV (6)/ Chief Scientist	--	-	85%	80%	75%	70%

According to the revised criteria, the applicant was not found fit for the year 2012-13.

IV. As was mentioned earlier, the decision of the Governing Body is final as far as the respondents organization is concerned. Respondents

applied the same yardstick to all others including the applicant. The applicant could not measure up to the standards prescribed in the letter dated 4.9.2014 and hence was not selected. There was no discrimination since the same yardstick was uniformly applied to all those eligible.



Further, we observe that the applicant was not able to get the promotions immediately after completing the residency period to the post of Scientist and Sr. Scientist since he was not able to secure the required marks in the APARs as per norms. Therefore, even if the norms were to be changed, if the applicant's performance was as per the revised criteria, the question of his non selection would not have arisen. Hence, blaming the criteria fixed for not being selected is incorrect. It was the inability of the applicant to live up to the standards fixed, which is indeed the cause for non selection. Further, it is not for the applicant to state as to which criteria has to be followed in regard to promotion. The respondents have the full discretion to prescribe the norms of promotion. Hon'ble Supreme Court in *Sudhakar Babu rao Nangnure v Noreshwar Raghunathrao Shende* in Civil Appeal No.2468-2470 of 2019, referred to its own judgment in *R.Prabha Devi v Union of India* wherein it was held as under:

The rule making authority is competent to frame rules laying down eligibility condition for promotion to a higher post. When such an eligibility has been down by the service rule, it cannot be said that a direct recruit who is senior to the promotees is not required to comply with the eligibility condition and he is entitled to be considered for promotion to the higher post merely on the basis of his seniority.

Albeit, the judgment was in the context of seniority, but considering the legal principle involved and applying it perse to the case on hand, we safely conclude that the Governing body is the rule making authority in the

respondents organization for framing rules and eligibility conditions for promotion to higher posts. The Governing Body has decided to follow the criteria as circulated in letter dated 4.9.2014. It is binding and has to be followed in respect of promotions and therefore, the decision of the respondents to evaluate the performance based on letter dated 4.9.2014 cannot be found fault with. The applicant cannot take a stand that he is not to be evaluated by the norms of 4.9.2014 letter but by those as per letter dated 14.2.2012. In case if the plea of the applicant is accepted for a moment, though not admitted, then injustice would be done to others who could not be selected because of the same reason but are not before the Tribunal because they accepted the decision of the Governing Body as final.

V. Besides, applicant has raised the contention that work reports from others were called for and not from him, for processing the promotion at the relevant period of time. The norm is that the work reports are called from those who satisfy the criteria of residency period and required minimum threshold marks in APARs. Applicant did not satisfy the said criteria and hence, his work report was not called for in respect of the promotion to the post of Principal Scientist.

VI. The other contention is that several others were granted promotions but not the applicant. True, others have been granted the promotions since they satisfied the laid down criteria for promotion. The applicant, as per his track record has not been able to make to the Scientist and Sr. Scientist positions in time because he could not score the required marks in the APARs. Similarly, he was not promoted as Principal Scientist

for the assessment year 2012-2013 since he did not fulfill the criteria expounded in paras supra. Others who satisfied have marched ahead and that is not uncommon in any selection. Thus, the contention made is not maintainable.



VII. In view of the facts and circumstances stated, the OA lacks merit and hence is dismissed with no order as to costs. Consequently, the interim order passed on 30.1.2015 stands vacated.

(B.V.SUDHAKAR)

ADMINISTRATIVE MEMBER

(ASHISH KALIA)

JUDICIAL MEMBER

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