

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

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O.A.No. 1483/90.

DATE OF DECISION 2.8.93

<u>SHRI T.R. TOMAR</u>	Petitioner
<u>SHRI M. CHANDER SEKHAR WITH</u>	Advocate for the Petitioner(s)
<u>SHRI MADHAV PANIKAR</u>	
Versus	
<u>UNION OF INDIA THROUGH</u>	Respondent
<u>DIRECTOR, NATIONAL PHYSICAL</u>	
<u>LABORATORY, NEW DELHI.</u>	
<u>SHRI A.K. SIKRI WITH</u>	Advocate for the Respondent(s)
<u>SHRI A.K. RAO,</u>	

CORAM

The Hon'ble Mr. I.K. Rasgotra, Member (A)

The Hon'ble Mr. B.S. Hegde, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT (ORAL)

[Delivered by Hon'ble Shri I.K. Rasgotra, Member (A)]

We have heard the Ld. Counsel for the petitioner,
Shri M. Chander Sekhar with Shri Madhav Panikar and the
Learned Counsel, Shri A.K. Sikri, with Shri V.K. Rao.

The case of the petitioner is that he was appointed in
the National Physical Laboratory (NPL) as Sub-Overseer
in 1956. He was promoted as Junior Engineer in 1959
and Technical Operator (Rs. 550-900) on 14.5.1976. Under
the 'Faster Track' Promotion Scheme (New Recruitment and



Assessment Scheme) which came into effect from 1.2.1981, the petitioner was promoted as Technical Officer 'B' from 21.7.1983 in the payscale of Rs. 700-1300. The qualifications prescribed for Technical Officer 'B' are M.Sc./B. Tech. or equivalent with 4-6 years relevant experience. The scheme also provides that M.A. degree in subjects like economics, geography may be regarded as equivalent to M.Sc. degree, "the main criterion being the relevance of the subject to the areas of work of the CSIR for Laboratory through the subject may not be a Physical/Biological science itself." In the case of the petitioner M.A. (Economics) was equated by the Director, NPL to the M.Sc. degree which was further approved by the Executive Committee (now called Management Council) of NPL. By virtue of this equation of M.A. (Economics) with M.Sc. the petitioner became eligible for 5 yearly assessment for promotion under NRAS. The petitioner thus received the benefit of NRAS w.e.f. 1.2.1981 and continued to work in the scale of pay of Rs. 700-1300 till he was issued a show-cause notice on 17th October, 1989 asking him to show-cause as to why he should not be reverted for the following reasons :-

" Shri P.R. Tomar has all along been working

[Signature]

in the Civil Engineering Section. In Group V(A) of NRAS, only the employees possessing the qualifications of BE/ B. Tech. degree in Architecture or equivalent on or before 1.2.1981 were eligible for faster track assessment under NRAS. The qualification of M.A. in Economics which is possessed by Shri Tomar did not have any connection or relevance to the areas of work of Civil Engineering Section. The degree of M.A. (Economics) cannot be regarded as equivalent to M.Sc. i.e. entry level examination for Group IV level".

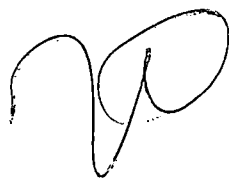
2. The petitioner submitted a reply on 15.11.1989 but no order was passed on this representation. The petitioner approached this Tribunal then this O.A. under Section 19 of the Administrative Tribunals Act, 1985 on 13th July, 1990. When the matter came up on 30th July, 1990 before the Bench, the respondents were directed to not to implement their impugned order dated 17.10.1979 for a period of 14 days. This interim order has continued from time to time till date. The undisputed facts of the case are that the petitioner has all along been working in the Civil Engineering Section from the year of recruitment i.e.

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1956. Even the Show-Cause Notice makes note of this. His qualification of M.A. (Economics), having regard to his experience and the areas of work was equated by the Director, NPL with M.Sc. thereby making him eligible for the benefit under NRAS. The said action of the Director was approved by the Executive Committee now called Management Council of NPL. However, when the case was referred to CSIR for approval, the CSIR did not approve the decision taken by the Executive Committee and the Director, NPL. In the mean time, the petitioner continued to enjoy the benefit of the NRAS from 1981 till 1990 when he approached this Tribunal. Thereafter, he continued to hold the same post in accordance with the interim order passed by the Tribunal.

3. On 28.7.1993 we had directed the respondents to produce the relevant record to enable us to appreciate the considerations which led to the establishment of the equivalence of M.A. (Economics) with M.Sc. and the subsequent consideration which led to the revocation of that equivalence.

4. When the case was heard today, the respondents could only produce the letter which was finally issued




by the CSIR leading to the issue of the show-cause notice. No other material as called for was available. It has also been brought to our notice that the petitioner is due to retire on superannuation in December, 1996. Since the reasons which made the Director, NPL and subsequently by the Executive Committee to to equate M.A. (Economics) with M.Sc. making him eligible for the post of Technical Officer Group 'B' are not before us, we are of the opinion that the petitioner having continued in the post for over nine years, obviously met the requirements of the job. There is no material before us to indicate that the Director, NPL, a high level scientist and administrator made a wrong decision. The fact that Executive Committee approved the action of the Director, NPL further justifies his decision. It is only in 1989 that a show-cause notice was issued to the petitioner duly observing that petitioner has all along been working in Civil Engineering Section. In these circumstances, we are of the opinion that the reversion of the petitioner who has neither been found wanting professionally nor his competency questioned would be justified in equity and fairness. It is on record that the petitioner had completed two years' probation successfully. Thereafter he was allowed to cross E.B. at two stages - one in the

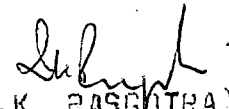


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old scale and the other in the new scale. This is, however, not to say that the respondents are not competent to decide the qualification required for the job and to establish the equivalence which required for the job. In fact, the rules prescribed by the respondents are not under challenge. Having regard to the above facts and circumstances of the case, we are of the opinion that the decision of the CSIR should be given effect to prospectively without treating this case as a precedent. The Learned Counsel for the petitioner accepted this situation. The petitioner, who was present in the court himself submitted that he would not seek any further promotion under the Faster Scheme (NRAS). The Learned Counsel for the respondents having regard to the circumstances of the case also agreed with our view. Accordingly, the show-cause notice is hereby set aside and quashed. The respondents are further directed to allow the petitioner to continue in the post of Technical Officer 'B' till his superannuation, as personal to him. This shall not be cited as a precedent.

5. The O.A. is disposed of as above with no order as to costs.


(B.S. Hegde)
Member (J)


(I.K. RASGOTRA)
Member (A)