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**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH**

**Original Application No.2455/2004**

**New Delhi, this the 5th day of July, 2005**

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. S.A.Singh, Member (A)**

Dalel Singh  
S/o Sh. Bhim Singh  
Senior Hydrologist  
Scientist 'C'  
Central Ground Water Board  
Ministry of Water Resources  
Jam Nagar House  
New Delhi.

... Applicant

**(By Advocate: Sh. N.S. Dalal)**

Versus

1. U.P.S.C.,  
Through its Secretary  
U.P.S.C. Bhawan  
New Delhi.
2. Union of India  
Through its Secretary  
Ministry of Water Resources  
Shram Shakti Bhawan  
New Delhi.


... Respondents

**(By Advocate: Sh. Rajinder Nischal for R-1 and Sh. Amit Anand for R-2)**

**O R D E R (Oral)**

**By Mr. Justice V.S. Aggarwal:**

Applicant (Dalel Singh) seeks for setting aside of the order of 16.9.2004 by virtue of which he has not been promoted to the post of Scientist 'D' and to direct the respondents to re-constitute the Board of Assessment and include the Chairman and Member, Central Ground Water Board as its members as is the norm and practice.



2. Some of the relevant facts are that the applicant joined as Junior Hydrologist in the Central Ground Water Board. He was promoted as Senior Hydrologist, Scientist 'C' in 1998. The next promotion is to that of Scientist 'D' and the process of selection to the same is that a Board is to be constituted. The applicant was also eligible and he applied for the said post. The process of selection, it is claimed, is that through the assessment/papers including Annual Confidential Reports. The applicant claims that he had brilliant record but has wrongly been ignored. The persons selected were not having the published work as compared to that of the applicant. The selection was based on bias and malafides. The constitution of the Board was not proper and even the two alleged experts did not have the required knowledge in the discipline of Rain Water Harvesting and, therefore, it is claimed that the reliefs prayed should be granted.

3. The application has been contested.

4. In the reply filed, the Union Public Service Commission (for short 'UPSC') contends that it is a constitutional body deriving its power from the Constitution of India. A proposal from the Ministry of Water Resources for consideration by the Board of Assessment had been received. The Board meeting was called. The applicant was also considered on the basis of the available ACRs, personal talk and service record. He was not recommended by the Board. It is denied that the selection of the applicant suffers from bias or that the contentions of the applicant has any such basis.



5. Respondent No.2 filed a separate reply. In the reply filed, the assertions of the applicant had been denied.

6. We have heard the parties' counsel and have seen the relevant record.

7. As per the recruitment rules, the Board of Assessment for the said post comprises as under:

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Board of Assessment (for considering promotion):		Section of each occasion shall be made in consultation with the U.P.S.C.
1. Chairman/Member, Union Public Service Commission.	<b>Chairman</b>	
2. Additional Secretary/Joint Secretary/Commissioner, Ministry of Water Resources	<b>Member</b>	
3. Chairman, Central Ground Water Board	<b>Member</b>	
4. Two or more experts to be nominated by the Commission	<b>Members</b>	

- Note: 1. Absence of any Member other than Chairman will not Vitiate the proceedings of the Board.
- Note: 2. The proceedings of the Board will be subject to approval by the Commission.
- Note: 3. The date from which the recommendations of the Board will be effective shall be decided in consultation with the Commission."

8. The grievance of the applicant was that the Chairman, Central Ground Water Board was not there. The Joint Secretary in the Ministry of Water Resources was holding the post of Chairman, Central Ground Water Board. He did not have much knowledge in this regard.

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9. In our considered opinion, the said plea has to be stated to be rejected. Once the Joint Secretary was working as the Chairman, Central Ground Water Board, necessarily he has to work and take part in the deliberations. It cannot, therefore, be taken that constitution of Board was bad.

10. In fact, the recruitment rules, which we have already reproduced above, clearly show that absence of any Member will not vitiate the proceedings except the Chairman of the Board. It will clearly reveal that in any event looking at the matter from either angle, it cannot be held that the constitution of the Board was bad.

11. It was in that event, highlighted that the two experts, who had been nominated in the Board, were not special experts in the field of Rain Water Harvesting. Even in this regard, in our considered opinion, the argument necessarily must fail. The post was in the discipline of Hydrology. The two Members were experts in that subject. Thus, consequently, even this particular plea necessarily has to be rejected.

12. In fact, the applicant took part in the interview. We do not dispute that in such a situation, he could only challenge the constitution of the Board after he came to know about it. But this Tribunal will not sit as a Court of appeal over the proceedings of the DPC. When a decision has been taken by the Departmental Promotion Committee, unless it suffers from the vice of malafides or the constitution was not proper, the Tribunal would be reluctant

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to interfere. The merits of the candidates had been gone into and it is not for this Tribunal to look into it.

13. The Supreme Court in the matter of M. BYRANNA v. DIRECTOR, CENTRAL CATTLE BREEDING FARM AND ANOTHER, (1997) 11 SCC 67 had gone into this controversy and held that it is not for the Tribunal to go into the question on the merits of the individual candidates.

14. A similar view was taken by the Supreme Court in the case of UNION OF INDIA AND ANOTHER v. N. CHANDRASEKHARAN AND OTHERS, (1998) 3 SCC 694. Therein, the constitution of the Committee was headed by a Joint Secretary. The Supreme Court held:

“14. A look at the above composition will place beyond any reasonable doubt that there was no scope for arbitrary exercise of selection or favouritism. It is also relevant to point out that though in the pleadings mala fides was raised vaguely, nothing was established nor did the Tribunal discuss about it. In the absence of any mala fides pleaded and established and in the facts and circumstances of this case, the importance given to the interview cannot by any means be terms as arbitrary or violative of Article 14 or 16 of the Constitution.”

15. In the present case, the Committee was headed by the Member of the UPSC as the Chairman. We have already given the other constituents of the Committee. When there are no other factors to bring the case of the applicant in the exceptions, we find that it is not a fit case for interference.

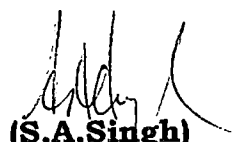
16. No other arguments had been advanced.




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17. Resultantly, the Original Application being without merit must fail and is accordingly dismissed.

  
**(S.A.Singh)**  
**Member (A)**

  
**(V.S.Aggarwal)**  
**Chairman**

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