

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 898/2004

New Delhi, this the 30<sup>th</sup> day of November, 2004

HON'BLE MR. SHANKER RAJU, MEMBER (J)  
HON'BLE MR. SARWESHWAR JHA, MEMBER (A)

1. Virendra Singh,  
S/o Shri S.N. Singh,  
R/o 56/16, Dakshanpuri,  
New Delhi
2. Jagdish Singh,  
S/o Shri Suraj Bhan,  
R/o H.No.425, Village & PO Auchandi,  
New Delhi – 110 030

Applicants

(By Advocate : Shri Arun Bhardwaj)

Versus

1. Union of India through  
Secretary,  
Ministry of Communication & Information Technology,  
Electronics Niketan,  
CGO Complex,  
New Delhi – 110 003
2. The Director,  
Electronics Regional Test Laboratory (North),  
Okhla Industrial Area, Phase-II,  
New Delhi – 110 020

Respondents

(By Advocate: Shri K.C.D. Gangwani)

O R D E R (Oral)

By Hon'ble Mr. Sarweshwar Jha, A.M. :

The applicants, who have been working as Laboratory Assistant "B" from 24.5.1994/13.6.1994, have prayed for their promotion to the post of Scientific Assistant "A", as they are eligible for the same with effect from the date on which they have been promoted as Tradesman "E", i.e., 1.10.2001 and to grant them all consequential benefits from the said date by treating them as promoted to the rank of Scientific Assistant "A" from the said date.

2. The applicants were confirmed as Laboratory Assistant "B" w.e.f. 28.6.1995/8.7.1995 (Annexure A/2). They were further promoted to the next higher grade, i.e., Laboratory Assistant "C" in the scale of pay of Rs.4500-125-7000/- on 7.4.1998.

They have sought promotion to the post of Scientific Assistant "A" on the ground that they were already holding Diploma in Electrical Engineering in the year 2000, as conveyed by the applicant No.2 to the Director, ERTL (N), New Delhi vide his letter dated 4.6.2001 (Annexure A/5). No such letter or certificate, however, is available on record in the case of applicant No.1. In support of their claim for the said promotion, a reference has been made by the applicants to the Personnel Policy and Practices for Scientific and Technical Officers and Staff below Group 'A' level in the Department of Electronics (DOE) and Units of/under the DOE and the Electronics Commission (EC) as given in the Office Memorandum dated 18.7.1983 (Annexure A/6 Colly.) in which there is a reference in para 6 thereof that –

“The S&T employees who acquire additional qualification while in service may be considered for appointment to the post for which they become eligible as per the norms prescribed in Annexure II.”

They have also made a reference to paragraph 7.2 of the said Office Memorandum which provides for review promotion to the grade of Scientific/Technical Assistant "B" after three years of service. The said provisions were applicable to the existing Draftsmen with Diploma in Engineering in the grade of Rs.425-700/-.

3. The applicants, who were promoted to the post of Draftsmen "E" w.e.f 1.10.2001 in the scale of pay of Rs.5000-8000, have alleged that the said promotions were given to them in violation of the rules, as they were eligible for promotion to the post of Scientific Assistant "A". They represented to the authorities concerned requesting them to convert their appointment to the equivalent grade of Scientific Grade "A" on the basis of the Diploma in Electrical Engineering and followed it up with several representations. A reference has also been made to the Director, Grievance, STQC Directorate, Ministry of Communications & Information Technology asking the respondent No.2 to consider the case of the applicants sympathetically, whereafter the applicants made representations again; no action is reported to have been taken by the respondents till date, though verbal assurances were given in this regard.

4. The respondents in their reply have submitted that the applicants are working in the Electronics Regional Test Laboratory (ERTL), New Delhi under Standardization, Testing and Quality Certification (STQC) Directorate, which is an attached Office of the Department of Information Technology (DIT), New Delhi. They have contended that while sub-para (b) of para 3k of DIT's Office Memorandum dated 1.10.1984 (Annexure R/1) provides that while the acquisition of an additional qualification will make an employee eligible for consideration for the appropriate post, it will not ipso-facto make

him eligible for a higher grade. The candidate's suitability will be assessed with reference to his confidential record, a test of skill where prescribed and interview. The representations were examined by the respondents and they were also replied to vide ERTL (N)'s letters dated 16.7.2002, 25.7.2002, 5.8.2002 and 9.9.2003. According to the STQC Directorate, no provision existed in the S&T policy for below Group 'A' for change of designation on the basis of acquiring higher qualification, as already conveyed to the applicants. It has been further confirmed by the respondents that the applicants did participate in the trade test, but did not raise objection at the time of taking such a test. They were accordingly promoted to the post of TM "E". Their subsequent request for change of designation from TM "E" to SA "A" is not permissible, according to them, as per personnel policy. The case of one Shri S.N. Kachchap having been promoted from Lab Assistant "C" to Scientific Assistant "A" vide ERTL (N), New Delhi's Office Order dated 27.7.1998 is reported to have been made on the recommendations of the Selection Committee for review promotion,. Such a recommendation does not exist in the case of the applicants, as informed by the respondents. The allegation of discrimination against the applicants has, therefore, been denied by the respondents.

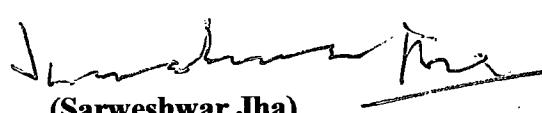
5. I have gone through the rejoinder as filed by the applicants in which, again, the case of Shri Kachchap has been referred to, on which the respondents have clarified the position. The applicants have alleged that the department did not conduct any trade test for them at the time of interview. They have also referred to the case of one Shri Ashok Kumar having been promoted as Scientist "C" on the basis of his having acquired additional qualification. Some other cases have also been referred to by them in the rejoinder. Incidentally, the applicants have prayed for the words Scientific Assistant "C" figuring in paragraph 8 (1) and 5.8 of the OA being read as Scientific Assistant "A", which is a typographical error, according to them.

6. On careful perusal of the facts of the case, it is observed that the case of the applicants hinges entirely on the fact that they have acquired additional qualification while working in the respondents' organisation and should have been given the benefit of promotion to the higher grade, i.e., Scientific Assistant "A". While their concern may be appreciated in view of the fact that such benefit has been given to some others, as mentioned by them, it appears that such promotions cannot be given ipso-facto with acquisition of higher qualification. The applicants will certainly have to go through the process of selection/tests including trade test and interview. No promotion can be automatic in the category of the applicants, as the rules/guide-lines in this regard do not provide for the same. While each case which has been referred to by the applicant appears to have its own merit and which has gone through the process of selection etc., it is expected of the respondents that the relevant provisions/scheme for giving review

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promotion on the basis of higher qualification being acquired are made applicable to the applicants also. In other words, they should be given an opportunity to be put through the process of selection/trade test/interview as per the scheme. They have already informed the respondents about their having acquired the additional qualifications and it would be for the respondents to do the needful as per the Scheme.

7. In the result, we dispose of the OA with a direction to the respondents to consider the case of the applicants for review promotion to the post of Scientific Assistant "A", if they are otherwise eligible for the same under the Scheme, by following the process of selection/trade test/interview within a reasonable period, in any case when they have become eligible for the same. Ordered accordingly. No costs.



(Sarweshwar Jha)  
Member (A)



(Shanker Raju)  
Member (J)

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