

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 4 1 198 5  
T.A. No.

DATE OF DECISION 9.5.1986

Shri Triloki Nath Rawal Petitioner

In person Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

Shri K.C.Mittal Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P.MUKERJI, MEMBER

The Hon'ble Mr. H.P.BAGCHI, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ~~No~~ Yes *h*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*

JUDGEMENT

The petitioner has come up under Section 19 of the  
Administrative Tribunals Act praying that he should be promoted

from Grade II to Grade I of Senior Scientific Officer in the Defence Science Service (DSS) Cadre in the Defence Research and Development Organisation from 1973 and he should be given seniority, pay and arrears from 21.10.1970 when he started holding <sup>/the</sup> equivalent post of Deputy Manager at AFD, Tundla. He has also prayed that he should be inducted automatically to the Defence Research Development Service from 13.1.1979. The brief facts of the case which are not in dispute can be summarised as follows.

2. The applicant was recruited through the UPSC as Senior Scientific Officer (SSO) Grade-II in the Defence Science Service (DSS) in 1966 in the scale of Rs.700-1300. Through UPSC again, he was selected for the post of Deputy Manager at Accelerated Freeze Drying (AFD) Factory, Tundla under the Department of Defence Production and worked there till 1977 in the scale of Rs.1100-1600 which is the same as for SSO Grade I. On the winding up of factory, the petitioner was reverted to his substantive cadre of SSO-II and posted at Chief Inspectorate of Materials, Kanpur. On 13.1.1979, a new Service called the Defence Research Development Service (DRDS) was created along with another Service called Defence Quality Assurance Service (DQAS) by splitting up of the Defence Science Service Cadre. Those DSS officers who were working in the Defence Research Development Organisation on 13.1.79 were taken automatically in the DRDS while those DSS officers like the petitioner who were working in the Directorate General of Inspections were taken automatically in the DQAS. However, the DSS officers who were working under the Directorate General of Inspections were also given an option to opt for the DRDS followed by a

screening. The petitioner gave such an option but the Screening Committee did not find him suitable to be inducted in the DRDS and he remained in the DQAS.

3. While the petitioner was on deputation with the factory at Tundla, in 1973 a DPC met for promotion of officers from Grade II to Grade I of SSO but did not find the petitioner fit for such promotion. The petitioner's contention was that if his record of service between 1970 and 1973 had been with the DPC he would have been selected. The DPC again met in 1975 but since the petitioner's CR of 1974 was not available they did not give any decision about him but kept a vacancy reserved for him till his case could be considered on receipt of the CR from Tundla factory. After the CR was received in 1984, the review DPC met in 1985 and placed him in the panel of 1975. In the meantime, the petitioner had been promoted to SSO Grade-I in 1978 under the Directorate General of Inspections. The petitioner's plea is that if his CR had been available in 1973 or 1975 when the DPC met he would have been promoted as SSO-I in 1973 or 1975 and thereby got a vacancy in the DRDO and would have been automatically inducted in the DRDS on 13.1.1979.

4. We have heard the arguments of the learned Counsel for both the parties and gone through the documents very closely. It is unfortunate that the case of the petitioner went by default in 1975 before the DPC because his CR of 1974 was not available. However, the DPC which met in 1975 rightly mentioned against the petitioner, " the committee decided that his case may be taken up after the report on him for the year 1974 becomes available.

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Meanwhile, a vacancy may be kept reserved for him." When the review DPC met in 1985, the petitioner was found fit for SSO Grade I and he was placed in <sup>the</sup> 1975 panel. However, as he had not worked as SSO-I between 1975 and 1978, this promotion could be made only on a notional basis from 1976 inasmuch as his seniority and pay fixation as in 1978 were improved but he did not get arrears of pay in the Grade I between 1976 and 1978. As regards promotion by the DPC in 1973, the DPC considered the case of the petitioner and found him not fit for promotion. According to the learned Counsel for the respondents, the DPC had all the relevant CR dossiers of the petitioner in 1973. We, therefore, find it unnecessary to go into the 1973 selection as that is in any case time barred also under Section 21 of the Administrative Tribunals Act. The cause of the petition has arisen because of the review DPC meeting held in 1985 and the order passed on 3.7.1985 placing him in the panel of 1975. The 1973 panel is nowhere in the picture.

5. As regards the contention of the petitioner that the DPC of 1975 had kept a vacancy in the DRDO for him, we find that this is not supported by the minutes of the DPC which we examined during the course of arguments. Relevant portion of the minutes <sup>/as</sup> quoted in para 4 above indicates that a vacancy in the SSO Grade I and not in the DRDO was to be kept for the petitioner. Even if for the sake of arguments, it is assumed that a vacancy in the DRDO had been kept for the petitioner, since 1975, there was no guarantee that he would have been retained

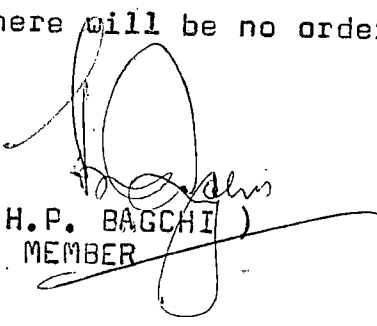
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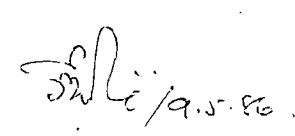
in that organisation till 1979 when the DSS was trifurcated. Before 1979, any SSOs in any grade could be transferred from research to the Inspectorate and vice-versa. We, therefore, think that promotion of the petitioner to SSO Grade I with effect from 1975 does not 'per se' give him any right to be inducted in the DRDO or DRDS automatically as on 13.1.1979. Accordingly, he has no claim for automatic induction in the DRDS with effect from 13.1.1979.

6. The petitioner has already retired with effect from 31st December, 1985. It is admitted that on his notional promotion to SSO Grade I from 1976 he has been given all the consequential benefits of higher pay fixation, future promotion and seniority as from 1976 but arrears of higher pay between 1976- and 1978 have not been given to him. From the record of service of the petitioner it is clear that from 1970 till 8. 7.1977 when he was on deputation with the AFD, Tundla, he as Deputy Manager was getting pay in the scale of Rs.1100-1600 which is the same as that of SSO Grade-I. In 1978, he was promoted in his own cadre to SSO Grade I. It is, therefore, a matter of a few months between his reversion as SSO Grade II in July, 1977 and promotion to Grade I in 1978 that he got pay in <sup>the</sup> lower scale of 700-1300. Since he had not discharged the higher duties of SSO Grade-I during this period and had even otherwise got a premature promotion to the higher scale of 1100-1600 from 1970 when others of his seniority got it in the cadre between 1973 and 1975, we do not find it a fit case to resort to the rather extraordinary course of granting him the higher pay

scale of SSO I while he was working in the lower grade. Since he has already got all the consequential benefits of higher pay fixation and seniority on the basis of his notional promotion from 1976 and he retired on 31.12.85, there will be no further improvement in his pension either by granting him higher pay scale between 1977 and 1978.

7. In effect, we find no merit in the application and reject the same. In the circumstances of the case, there will be no order as to costs.

  
( H.P. BAGCHI )  
MEMBER

  
( S.P. MUKERJI )  
MEMBER