

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A. No.303/92

13

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR (J), CHAIRMAN
HON'BLE SHRI R.K. AHOOJA, MEMBER (A)

New Delhi, dated this the 7th day of November, 1996

1. Shri Jagdish Chandra,
s/o late J.P. Khanduri,
working as Scientist 'B' in the
Central Road Research Institute
SSRR Division, P.O. CRR I,
New Delhi - 110 020.

and resident of
C-34, CRR I Staff Quarters
Maharani Bagh,
New Delhi - 110 065.

..... Applicant

(By. Shri H.B. Mishra, Advocate)

Vs.

1. Council of Scientific & Industrial Research
Anusandhan Bhawan
Rafi Marg, New Delhi - 110001.
through its Joint Secretary (Administration)
2. Director
Central Road Research Institute
Delhi-Mathura Road, P.O. CRR I
New Delhi - 110020.
3. Shri M.R. Arora
Roads Division
4. Shri G.K. Tike
R.P. Division
5. Shri T. Muraleedharan
Roads Division
6. Shri Anand Prakash
Traffic & Transportation Division
7. Shri Khem Chand
Traffic & Transportation Division
8. Shri S.M. Lal
Traffic & Transportation Division

Sw

... 2/-

(1X)

9. Shri N.L. Bhatia
Traffic & Transportation Division
10. Shri Satish Kumar
Geotechnical Engg. Division
11. Shri Jai Bhagwan
G.T.E. Division
12. Shri O.P. Yadav
G.T.E. Division
13. Shri P.K. Jain
Flexible Pavement Division
14. Shri Satendra Kumar
Rigid Pavements Division
15. Dr. A.K. Misra,
S.S.R.R. Division
16. Ms. Renu Mathur,
S.S.R.R. Division
17. Dr. (Mrs.) Saroj Gupta
Rigid Pavements Division
18. Shri R.K. Swami,
S.S.R.R. Division
19. Shri S.D. Sharma,
Roads Division
20. Shri Sukumar Saha
G.T.E. Division
21. Shri Deepak Mukherjee
G.T.E. Division
22. Shri R.S. Bharadwaj,
Information Division
23. Shri Prasanna Kumar
Electronics Division
24. Mrs. Nishi Mittal
E.R.T.S. Division
25. Shri P.N. Goel
Rigid Pavements Division
26. Mrs. Savita Bharadwaj
Roads Division

Scientists
Central Road Research Institute
P.O. CRRI, New Delhi - 110 020

... Respondents

(through Shri V.K. Rao, proxy for
Shri Sikri, Counsel for
Respondents)

nee

... 3/-

ORDER



R.K. AHOOJA, MEMBER (A)

The Applicant joined the Central Road Research Institute (CRR I) under the Council for Scientific and Industrial Research (CSIR) in 1969. He was promoted as Scientist 'A' in the pay scale of Rs.650-1200 (now Rs.2000-3500) w.e.f. 20.6.1980. The CSIR introduced a New Recruitment and Assessment Scheme (NRAS) for assessment-promotion/placement of Scientific and Technical Staff. This scheme came into force w.e.f. 1.2.1981. The case of the Applicant was also considered for assessment promotion to the higher grade of Group IV (1) Scientist 'B' in the scale of Rs.700-1300. The Applicant is aggrieved that this was done as late as in February 1984 along with the cases of Respondents Nos. 3 to 8 who were all in the lower scale of Senior Scientific Assistant. While Respondents No.3 to 8 were directly placed in the grade of Group IV (1) Scientist 'B' w.e.f. 1.2.1981, the Applicant who was already in a higher grade was arbitrarily given promotion only w.e.f. 1.2.1983. The Applicant alleges that various representations made by him proved of no avail and the Respondent No.2 vide order dated 1.8.1991 (Annexure 1) rejected his representation. The Applicant

... 4/-

Dec

claims that under the NRAS he had the right of automatic placement in Group IV (1) but the Respondents arbitrarily delayed it for two years and on the other hand behind his back promoted Respondents No.3 to 8, who were working in lower pay scale, to Grade IV (1) w.e.f. 1.2.1981 and remaining respondents who were even two grades junior were promoted w.e.f. 1.2.1983 along with the Applicant.

2. Out of the private Respondents, Respondent No.4, 6, 10, 11, 15, 16, 18, 22 and 26 have, in their brief reply, stated that the grievances set out by the Applicant are all correct and are not controverted by them. Respondent No.1 and 2, i.e., CSIR and CRR I respectively, have controverted the allegations of the Applicant. They submit that the NRAS allowed for assessment-promotion of persons working in lower grades directly to Group IV grades if they possessed the requisite qualifications. Accordingly, after assessment Respondents No.3 to 8 who were found to be eligible were promoted before the Applicant. The concerned DPC considered the case of the Applicant for promotion to Grade IV (1) w.e.f. 1.2.1981 but found him suitable only w.e.f. 1.2.1983. The Applicant had only the right to be considered for promotion and since he was considered but not assessed suitable for promotion from 1.2.1981, he has no basis for his grievance.

... 5/-

Dr

(A)

3. Learned Counsel for the Applicant drew our attention to the procedure for implementation of the Core/Varadarajan/Valluri Committee recommendations for Recruitment and Assessment of Scientific and Technical Staff. As per Section 4 thereof, the NRAS would consist of five pay scale in Grade IV ranging from Rs.700-1300 to Rs.2000-3500.

4. The Learned Counsel for the Applicant submits that the Applicant who possessed an M.Sc./ M.A. degree in Geography was holding the post of Scientist A-I w.e.f. 26.9.1980 and was eligible for one advance increment in the grade of Scientist A-I and was thus to be placed in the grade of Scientist 'B' which was equal to new Group IV (1) since his pay had already crossed Rs.700. Further in obtaining his promotion to the level of Scientist A-I, the Applicant had, in 1980, undergone an assessment and had been found fit. He also produced a comparative chart to show how respondents with far less service had been either promoted to Grade IV before the Applicant or at the same time. He particularly cited the case of Mrs. Nishi Mittal, Respondent No.24, who joined in the grade of Rs.425-640 as Junior Scientific Assistant and otherwise eligible for next promotion of Senior Scientific Assistant in the

... 6/-

Ok

grade of Rs.550-900 only on 1.2.1981, instead
got a promotion to the grade of Rs.650-1200.

5. We have carefully considered the pleadings and arguments on behalf of the Applicant but find no merit therein. To begin with, the Application itself is time barred in as much as the cause for action arose on 29.2.1984 when the orders of his promotion from a subsequent date to 1.2.1981 were issued. However, the Applicant chose to come to this Tribunal only in 1992, after a lapse of nearly eight years. His plea that his representation was finally rejected vide Annexure A-I only on 1.8.1991 is not valid. It has been held in S.S. Rathore Vs. State of M.P. AIR 1990 SC 10 that cause of action shall be taken to arise on the date of the order of the higher authority disposing of the appeal or representation. But where no such order is made within six months after making such appeal or representation, the cause of action would arise from the date of expiry of six months. Thus the letter of rejection of the representation against an order passed several years earlier does not result in a cause of action. The Applicant having been tardy in approaching the Tribunal cannot now claim any relief. We therefore consider that the Application is time barred.

... 7/-

Ors

6. Even otherwise on merits we find little of substance in favour of the Applicant. There is no dispute that the promotion by faster track under the NRAS requires assessment of the applicant for suitability for promotion to the next grade. The applicant only has the right to be considered, not a right for automatic promotion. We have perused minutes of the assessment committee and find that his case was duly considered and a recommendation was made to allow his promotion only from 1983. The learned Counsel's contention is that he should have been assessed on 1.2.1981 and on all subsequent occasions whenever his juniors were considered and not in one go in 1984. We find from the minutes of the assessment committee that the committee had after making assessment, fixed different dates for assessment promotion of different employees. It cannot therefore be said that the suitability for promotion on an earlier date in respect of the Applicant had not been considered. Similarly, the allegation that certain juniors, some of them even two steps below the Applicant, had been promoted, and that this showed an arbitrary approach by the committee is not valid. The whole purpose of the NRAS was to provide faster track promotion to those who were highly qualified but were working in lower grades. There is no allegation that anyone was promoted who did not fulfill the basic requirements laid down by the NRAS in terms of educational

20

qualifications, pay scales or qualifying service.

As held in State Bank of India Vs. Mohd. Maynuddin AIR 1987 SC 1889, whenever promotion to a higher post is to be made on the basis of merit, no officer can claim promotion to the higher post as a matter of right by virtue of seniority alone. It was also held that there is good reason for taking the view that the court is not by its very nature competent to appreciate the abilities or attributes necessary for the task, office or duty of every kind of post in the modern world and it would be hazardous for it to undertake the responsibility of assessing whether a person is fit for being promoted to a higher post which is to be filled up by selection. We find that an expert body duly constituted has assessed the applicant regarding his suitability for promotion and we cannot on the circumstances of his seniority or length of service question the assessment of the expert body.

7. In the light of the above discussion, we dismiss the application. No costs.

Dated this 7th day of November, 1996.

R. K. Ahooja
(R.K. AHOOJA)
MEMBER (A)

Chettur Sankaran Nair
(CHETTUR SANKARAN NAIR (J))
CHAIRMAN

/avi/