

In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. GA-468/92

Date: 6.11.1992

Dr. M.N. Qureshy

.... Applicant

Versus

Union of India and Ors.

.... Respondents

For the Applicant

.... Shri V.S.R. Krishna, Advocate

For the Respondents

.... Shri Jog Singh, Advocate

CDRAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether reporters of local papers may be allowed to see the judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

Dr. Qureshy, who joined the Department of Science and Technology in 1973 as Director, retired from service on attaining the age of superannuation on 31.1.1991. He had worked as Adviser (Earth Sciences) in the scale of Rs.5900-7300 from 1983 onwards and till some time in August, 1989, when he accepted the offer made to him regarding his appointment as the first Director of the NAM S&T Centre for a period of two years, pursuant to the decision of the Meeting of the Governing Council of the "Centre for Science and Technology of the Non-aligned and other Developing Countries" on 21.8.1989. This was on deputation basis and on standard foreign service terms

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and he was given a fixed pay of Rs.10,000 per month.

2. Before the applicant was sent on deputation as Director of the NAM, he had applied for the post of Adviser in the scale of Rs.7300-7600 pursuant to an advertisement issued in the Employment News. He was on 4.8.1989 interviewed by a High Power Search-cum-Selection Committee comprising five Secretaries to the Government of India and was selected for the post. Thereafter, his name was forwarded to the Appointments Committee of the Cabinet (A.C.C.) for its approval. The respondents, however, withdrew his candidature from the A.C.C. as in the meantime, he had been selected for the deputation post of Director of the NAM. The A.C.C. returned the case on 4.10.1989 with the observation that the Department may suggest further names for the post. The respondents did not further pursue their proposal.

3. The grievance of the applicant is that two of his colleagues in the same department - Dr. P.J. Lavakre and Shri V.S. Rajan - have been appointed as Advisers in the scale of pay of Rs.7300-7600 and that his non-appointment as Adviser in the same pay-scale for no fault of his has adversely affected his pension and other retirement benefits.

4. The case of the respondents is that the posts of Advisers in the Department are isolated ones in their own

disciplines and there is no common seniority between specialists of separate disciplines. Since the applicant gave his consent for going as Director of the NAM on deputation basis, the question of his appointment to the post of Adviser in the scale of pay of Rs.7300-7600 did not arise. He accepted the more lucrative post of Director of the NAM voluntarily.

5. In our opinion, the treatment meted out to the applicant in the instant case was neither fair nor just. During the period of his deputation to the NAM, the applicant was holding his lien in the office of the respondents. He had a right to be repatriated and considered for appointment to the higher post of Adviser in his parent department which was denied to him. The respondents also did not act fairly when they decided to withdraw from the A.C.C. the proposal to appoint him as Adviser in the scale of pay of Rs.7300-7600, as recommended by the Search-cum-Selection Committee, which has adversely affected his pensionary benefits permanently.

6. The Supreme Court has held that an officer is entitled to get increments in the pay-scale attached to the post in the parent department and also to get promotion (vide State of Mysore Vs. M.H. Bellary, AIR 1965 SC 868; State of Mysore Vs. P.N. Nanjundiah, 1969 (3) SCC 633; R.L. Gupta Vs. Union of India, 1988 (2) SCC 250). In our

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opinion, the applicant had the right to be considered for appointment to the higher post in his parent department despite the fact that he was at the relevant time on deputation to another department and that being so, the withdrawal from the A.C.C. of the proposal for appointing him to the higher post, is not legally sustainable. As the applicant has already retired from Government service on attaining the age of superannuation, we hold that the only relief that can be granted to him at this stage is to direct the respondents to revise his pension and other retirement benefits, treating him to have been appointed to the post of Adviser in the scale of pay of Rs.7300- w.e.f. 4.1.1989. *OK* 7600/ We order and direct accordingly. The respondents shall issue appropriate orders as directed above expeditiously and preferably within a period of three months from the date of receipt of this order. As we have reached the above conclusion, it is not considered necessary to go into the various other contentions raised by the applicant. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal)
Administrative Member *6/11/82*

P.K. Kartha
(P.K. Kartha)
Vice-Chairman(Judl.) *6/11/82*