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CENTRAL

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

- 1) O.A. NO.2376/1993
- 2) O.A. NO.2468/1993

New Delhi this the 19/5 day of August, 1999.

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI N. SAHU, MEMBER (A)

- 1) O.A. NO.2376/1993
- 2) O.A. NO.2468/1993

Dr. Harish Chandra Goel,
A-78/2, SFS, Saket,
New Delhi-110017.

... Applicant
(in both O.As.)

(By Shri G. K. Aggarwal, Advocate)

-Versus-

1. Union of India through
Secretary, Department of
Defence Research & Development
AND Scientific Adviser to
Defence Minister AND
Director General Research and
Development, South Block,
DHQ PO, New Delhi.

2. The Chairman,
Defence Research Development
Service Assessment Board-1992
from Sc-E to Sc-F in
RADIO BIOLOGY,
Recruitment & Assessment Centre,
Defence Research Development Orgn.,
Timarpur, Delhi-110007.

... Respondents
(in both O.As.)

(By Shri V. S. R. Krishna, Advocate)

O R D E R

Shri Justice K. M. Agarwal :

Dr. Harish Chandra Goel is the applicant in both the O.As. and in both the O.As. he has made a common prayer for striking down Schedule 1A and Schedule 1C of the Defence Research and Development Service Rules, 1979, (in short, "DRDS Rules, 1979").

Jm. In the first O.A. he has made a prayer for directing

the respondents to promote him from Scientist 'E' to Scientist 'F' after quashing his non-selection by the Assessment Board of 1992. In the second O.A., similar prayer is made with reference to the Assessment Board of 1993.

2. Briefly stated, the applicant is working as a Scientist at Institute of Nuclear Medicine and Allied Sciences at Delhi in Defence Research Development Organisation, (in short, "DRDO") under the Department of Defence Research and Development since July, 1986. As per the DRDS Rules, 1979 the Defence Research and Development Service comprises of Group-A gazetted civilian scientists in various grades of B, C, D, E, F, G, etc. in the ascending order. As stated in paragraph 4.02 of both the O.As. "Promotion from the next lower grade to a grade upto Sc-F is made on the principle of what is referred to as 'flexible-complementing' (FC). FC means that a scientist in a particular grade is 'assessed' by a Board as 'fit' or 'not fit' for promotion to next higher grade, after he has put in a specified period of regular service in a grade and is promoted to the next higher grade in situ (that is, at the same place while doing the same work) if the Board assessed him 'fit' for promotion." The applicant having put in requisite period of regular service for promotion to grade 'F' from grade 'E' was considered by the Assessment Board in 1992 and also in 1993. In both the years the Board found him not fit and, therefore, he could not be promoted from the post of Scientist 'E' to that of Scientist 'F' either in

1992 or in 1993. Under these circumstances, the applicant has filed the aforesaid two O.As. for the said reliefs.

3. At the very outset, the learned counsel for the applicant gave up his challenge to Schedule 1A and Schedule 1C of DRDS Rules, 1979. Similarly giving up all other grounds of attack taken in paragraph 5 of both the O.As. the learned counsel concentrated and restricted his arguments to ground Nos. G-5 and G-6, which are as follows :

"G-5. The members of the Committee and the Chairperson of the Committee have independent statutory status under Schedule 1A of the Rules (annex A/2), but the members did not function in their own right, their function and status were reduced to being mere advisers to the Chairperson. The members did not record their assessment nor did they sign any minutes/proceedings of the Committee. The Committee never functioned as a committee.

G-6. The members of the Board and its Chairperson have independent statutory status under Schedule 1C of the Rules (annex A/2), but the members did not function in their own right, their function and status were reduced to being mere advisers to the Chairperson. The members did not record their assessment, nor did they sign any minutes/proceedings of the Board. The Board never functioned as a Board."

4. Under Schedule 1A of the DRDS Rules, 1979, the Internal Screening Committee to review the confidential performance appraisal reports of Scientists 'B' to 'E' consists of one Chairperson and five Members and the Assessment Board under Schedule 1C for assessing suitability of Scientists for promotion upto Scientist 'F' level consists of *Jm* Chairperson, two External Members, two Departmental

Members and one Director of the Laboratory or his the Laboratory or his representative. In the grounds of attack taken by the applicant, it is not said that either the Internal Screening Committee or the Assessment Board was not properly constituted at the time of reviewing the confidential performance appraisal reports of Scientists 'E' or for assessing suitability of Scientists 'E' for promotion to Scientists 'F' level in Defence Research and Development Service. What is alleged is that the Members of either of the Screening Committee or those of Assessment Board did not function in their own right and that their functioning and status were reduced to that of advisers to the Chairperson. This is denied by the respondents in their reply to paragraphs 5.g(iv) to 5.g(viii). The applicant also did not disclose any basis for such allegations except saying that the Members did not sign any minutes/proceedings of the Committee. The proceedings recorded by the Board were produced before us and it is no doubt true that it was found to bear the signature of only the Chairperson and not those of all the Members who participated in the meeting held by the Board for assessing suitability of Scientists 'E' for promotion to Scientists 'F'. However, on this basis alone, the proceedings cannot be said to be vitiated, particularly in view of the fact that no allegations have been made as to the correctness of those proceedings recorded and signed by the Chairperson. Upon enquiry, we were informed that a *new* procedure has developed under which the proceedings

are only signed by the Chairperson and not by all the Members who participate in the Board meetings. This may not be proper. But on that ground alone the proceedings cannot be held to be illegal. It may be said to be irregular but unless this irregularity is shown to have resulted in prejudice or injustice to the applicant, the proceedings cannot be quashed. To reiterate, proceedings have not been alleged to have been incorrectly or falsely recorded by the Assessment Board.

5. For the foregoing reasons, we see no merit in these O.As. and accordingly they are hereby dismissed but without any order as to costs.

(K. M. Agarwal)
Chairman

(N. Sahu)
Member (A)

Attested.

[Signature]
19/8/99

(S. N. SHARMA)
Private Secretary
Central Administrative Tribunal
Principal Bench, Faridkot House
New Delhi-110001