

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 22nd day of November, 2001.

Original Application No. 293 of 1998.

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

Anupam Khare Son of Sri Umesh Chandra Khare,
Resident of 41-A-2, Motilal Nehru Road,
Allahabad.

(Sri K. Ajit, Advocate)

. Applicant

Versus

1. Union of India through
Principal Secretary
Ministry of Defence,
New Delhi.
2. Defence Research and Development
Organisation through Director
General Research and Development,
Raksha Mantralaya, New Delhi.
3. Director J.K. Institute of Applied Physics
and Technology, University of Allahabad.

(Km. Sadhna Srivastava, Advocate)

. Respondents

ORDER (O r a l)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this application under Section 19 of the
Administrative Tribunals Act, 1985, the applicant has
prayed for the following reliefs:-

(i) The Hon'ble Tribunal be pleased to direct
the respondent no.1 and 2 to give the appointment
to the petitioner as Group 'B' Scientist.

(ii) The Hon'ble Tribunal may be pleased in
the alternative to direct the respondent no.2 and
3 to permit the petitioner to appear in the
re-examination for the papers of his choice in
all IV Semesters of M.Sc. Computer Science
according to the rules of the University with
regard to to the permissibility of appearance
in restricted number of papers and practicals.

(iii) The Hon'ble Tribunal may be pleased to
direct the respondent no.1 and 2 to compensate
the petitioner for the loss suffered by him due
to wrongful act on their part as consisted in
the body of this application.



(iv) The Hon'ble Tribunal may be pleased to pass such other and further orders as it may deem fit and proper in the circumstances of the case, and

(v) The Hon'ble Tribunal may award costs of this petition to the applicant against the respondents.

2. The facts giving rise to this application are that the applicant was admitted to M.Sc. Course of Computer Science(Software) of the year 1988-90^u. This ^uand Development course was sponsored by the Defence Research/Organisation (hereinafter referred to as DRDO), respondent no.2 for offering employment as Scientist Group 'B' in their organisation on successful completion of the course. It is undisputed that the condition was that in the event of trainee not scoring 60% marks in the course, would not be offered appointment. The applicant, though completed course, but he could not score 60% marks. As the course was to be completed in the J.K. Institute of Applied Physics & Technology, which is the Department ^uof ^uElectronics & Communication, ^uof ^uUniversity of Allahabad, the applicant requested that he may be allowed a second chance of appearing in the examination to improve his percentage of numbers. It is undisputed that under the rules prevalent in Allahabad University such an opportunity can be provided. However, as the course was sponsored by the DRDO, the University referred the application of the applicant, ^ufor ~~this second opportunity~~ ^u, to DRDO for availing a second opportunity. The DRDO vide letter dated 23-4-1991 addressed to the applicant expressed its stand as under :-


"I am directed to refer to your letter dated 27 March, 1991 and to say that as per the provisions of bond executed by you at the time of joining the Course, you could not be offered an appointment of Scientist 'B' in DRDO since you have failed to secure 60% or above marks in the M.Sc., exams in the first attempt. Candidates who secure 60% or above in second attempt are not considered for appointment in DRDO as per existing provisions of the bond. However, as per University regulations (copy enclosed) you can improve your score. You may apply in future against the posts advertised by DRDO."

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3. It is undisputed that the applicant did not make any second attempt for improving his percentage of marks. In the circumstances, the relief claimed for directing the respondents to give appointment to the applicant cannot be granted and in one way this application is premature.

4. The applicant received letter dated 23-4-1991 but he filed this OA on 9-3-1998 i.e. after about seven years while the limitation for filing an application under Section 19 as provided under Section 21 of the A.T. Act, 1935 is one year. The applicant is also not entitled for the relief as it is grossly time barred.

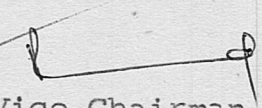
5. Learned counsel for the applicant, however, submitted that the applicant was misled by the letter dated 23-4-1991 and when he learnt that ^{appointments} ~~demands~~ have been offered to the candidates ^{who} ~~of~~ improved ^u their percentage in second attempt at Pune and also at Allahabad and other places, he filed this OA. We are not impressed by this explanation. The letter dated 23-4-1991 clearly stated that as per University Regulation, the applicant can improve his score and he may apply in future against the post advertised by the DRDO. If the applicant was really interested in securing appointment as Scientist 'B', in the organisation, he should have immediately applied before the University for a second chance to appear in the examination to improve his percentage. No such attempt was made during all these years by the applicant. Even during pendency of this application, the applicant has not made any attempt before the University to appear for re-examination. On his own saying the applicant has now overage and cannot get appointment as Scientist 'B'



in the organisation. In these facts and circumstances, in our opinion, the applicant is not entitled for any relief claimed in this OA. The application is accordingly dismissed. There shall be no order as to costs.



Member (A)



Vice Chairman

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