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Reserved

Central Administrative Tribunal, Allahabad.

Registration T.A.No.87 of 1987 Civil Suit No.207 of 1983

Dr. M.A.Matin ... Applicant

Vs.

Council of Scientific & Industrial
Research through its Chief
(Administration), New Delhi ...
and others

Respondents

Connected with

Registration T.A.No. 253 of 1987 Civil Suit No. 29 of 1984

Dr. M.A.Matin ... Applicant

Vs.

Council of Scientific & Industrial
Research, New Delhi through Chief
Administration/Director General ...
and others

Respondents

And

Registration T.A.No. 88 of 1987 (Civil Appeal no ⁵⁹~~88~~ of 1984)

Dr. M.A.Matin ... Applicant

Vs.

The Council of Scientific &
Industrial Research New Delhi
and others ...

Respondents.

And

Registration O.A.No. 12 of 1987

Dr. M.A.Matin ... Applicant

Vs.

Council of Scientific & Industrial
Research through its Chief
(Administration) New Delhi
and others ...

Respondents.

Hon.D.K.Agrawal, JM
Hon.K.Obayya, AM

(By Hon.D.K.Agrawal, JM)

The Applicant Dr. M.A.Matin employed as Scientist 'E'
in Industrial Toxicology Research Centre (for short ITRC) Lucknow
has filed Suits/Applications, one after another, agitating the
question of his promotion as Scientist E-2 and Scientist 'F'.

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Civil Suit No. 207 of 1983 instituted in the Court of Munsif South Lucknow, registered as T.A.No. 87 of 1987 in the Tribunal was the first Suit. It was for a declaration that the Applicant was entitled to promotion to the post of Scientist 'E-2' and the decision of the Assessment Committee dated 28.1.1983 otherwise was bad in law. The plaint was amended on 31.7.1986 seeking a declaration that the promotion of Dr. Mrs.S.V.Chandra, defendant no.9 as Scientist 'E-2' by an order dated 10.3.1986 was bad in law.

2. Civil Suit No.29 of 1984 instituted in the Court of Munsif South Lucknow, registered as T.A.No. 253 of 1987 in the Tribunal, was the second Suit. It was also for a declaration that the Applicant be deemed to have been promoted to the post of Scientist 'F' and the verdict of the Selection Committee dated 3.8.1981 and 13.7.1983 otherwise was bad in law. An application for interim relief dated 13.1.1984 made by the Applicant in the said Suit was dismissed by the learned Munsif by an order dated March 16, 1984. Aggrieved with the order of the learned Munsif, the Applicant filed an appeal which was registered as Misc. Civil Appeal No. 89 of 1984 which on transfer to the Tribunal was registered as T.A.No.88 of 1987.

3. Original Application No.12 of 1987 was third in series. It was filed after some more promotions were made to the post of Scientist 'E-2' on 18.12.1986. The said Application was filed after Civil Suit No. 485 of 1986 instituted in the Court of Munsif South Lucknow was ordered to be returned to the Applicant on the ground that after the commencement of the Administrative Tribunals Act XIII of 1985, the Civil Court had no jurisdiction to entertain the claim of the Applicant.

4. The facts, in brief, are that the Plaintiff-Applicant was the only eligible candidate for promotion to the post of Scientist 'E-2'. According to the new promotion scheme of Council of Scientific and Industrial Research (for short CSIR), and Assess

Dr. S. V. Chandra

ment Committee was formed to judge the suitability of the candidates for the post of Scientist 'E-2'. The Assessment Committee had fixed 60 per cent marks as qualifying marks. The Applicant could secure 44 per cent marks and it was therefore, found by the Assessment Committee in its meeting dated 28.1.1983 that the Plaintiff-Applicant was not upto the standard and, therefore, not fit for promotion. Aggrieved with the decision of the said Assessment/Selection Committee the Plaintiff-Applicant filed Suit No.207 of 1983, i.e., T.A.No. 87 of 1987 challenging the formation of the Executive Committee and the Assessment/Selection Committee, after having voluntarily appeared before the very Assessment/Selection Committee but being aggrieved with the decision, its very formation was challenged. Mala fides were also alleged against Dr. C.R.Krishnamurthy, the then Director, ITRC although he had never participated in the Assessment/Selection Committee meeting held on 28.1.1983. Subsequently, Dr. (Mrs.) S.V.Chandra was arrayed as defendant no.9 who was selected to the post of Scientist 'E-2' vide an order dated 10.3.1986. Subsequently, Assessment/Selection Committee held its meeting on 13.12.1986 for selection to the post of Scientist 'E-2' wherein the Plaintiff did not appear despite being called for interview and consequently, Opposite Parties nos.4 and 7 to 11 (O.A.No. 12 of 1987) were selected as Scientist 'E-2' and the order of appointment issued on 18.12.1986. The Plaintiff in the first instance filed Civil Suit No.485 of 1986 on Nov.29,1986 in the Court of Munsif South Lucknow and prayed for an injunction to restrain the Defendants to hold the selection. Learned Munsif did not grant interim order in favour of the Plaintiff and directed the return of the plaint by an order dated 11.12.86 against which an appeal was filed by the Applicant which

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was registered as Misc. Civil Appeal No. 329 of 1986 and an interim order passed on 12.12.1986 directing the Selection Committee not to declare the result of the selection upto 15.12.1986. However, the appeal itself was dismissed on 17.12.1986 on the ground that the Civil Court had no jurisdiction to entertain the claim in regard to the service matter of the Plaintiff- Applicant after the relevant notification u/s.14 of the Administrative Tribunals Act XIII of 1985. Therefore, the results were declared on 18.12.1986 declaring the appointments of Opposite Parties nos. 4 and 7 to 11 (O.A.No.12 of 1987).

5. The selection to the post of Scientist 'F' has been challenged vide Civil Suit No.29 of 1984(T.A.No. 253 of 1987 and Misc. C.A.No.59 of 1984- T.A.No. 88 of 1987). The meeting of the Assessment/ Selection Committee was held twice, i.e, on 3.8.1981 and 13.7.1983, for selection to the post of Scientist 'F'. However, suitable candidates were not available and, therefore, the selections were not made. Instead it was directed that the post be readvertised. At some stage, the competent authority acting under Bye-law 67(A)(a) of the Bye laws framed under the Societies Registration Act of the CSIR, appointed Dr. G.B.Singh and Dr. S.H.Clerk as Scientist 'F' on adhoc basis.

The Plaintiff-Applicant harbouring under a belief that his name was recommended for appointment as Scientist 'F' in the meeting of the Selection Committee dated 3.8.1981 and 13.7.1983, filed the aforesaid case seeking a declaration that he be deemed to have been appointed as Scientist 'F' and that the Respondents be restrained by means of permanent injunction not to make any other appointment to the post of Scientist 'F' unless the Plaintiff was provided an appointment. The Respondents have filed the proceedings of the meeting before us. We have perused them. In the said meeting the Selection/Assessment Committee did not come to any conclusion and, therefore, directed the post to be readvertised. Therefore, the litigation initiated by the Plaintiff is to be held as infructuous.

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6. It may be further observed here that Scientist 'E-1' cannot be promoted to the post of Scientist 'F' directly. One gets promotion step by step, i.e., Scientist 'E-1' has to be promoted to the post of Scientist 'E-2' and in turn Scientist 'E-2' is entitled to be promoted to the post of Scientist 'F'. Therefore, the claim of the Applicant for promotion directly to the post of Scientist 'F' is not sustainable. In these circumstances, we have only to consider as to whether the promotion of the Applicant from the post of Scientist 'E-1' to the post of Scientist 'E-2' was wrongly denied to him. Consequently, T.A.No.253 of 1987 or T.A.No.88 of 1987 or O.A.No.12 of 1987 are liable to be dismissed.

7. As regards T.A.No.87 of 1987 (Civil Suit No.207 of 1983), we have to consider whether the decision of the Assessment Committee dated 28.1.1983 denying the promotion to the Applicant from the post of Scientist 'E-1' to the post of Scientist 'E-2' is bad in law for the reasons urged by the Plaintiff/Applicant. The constitution of the Executive Committee and the Assessment Committee as such has been challenged by the Applicant. To our mind, it is not open to the Applicant to challenge the constitution of the Executive Committee or Assessment Committee. The reason is that once the Applicant himself agreed to submit to the decision of the Assessment Committee, he is estopped from challenging its formation [✓] ~~itself~~. The Assessment Committee is constituted by the Executive Committee which in turn is constituted by the governing body of the CSIR. The CSIR is a registered body under the Societies Registration Act, 1960 with Prime Minister as its Ex-Officio President and Director General as the Principal Executive Officer. The governing body of CSIR is the highest authority vested with powers to frame or amend the Bye-laws, Rules and Regulations. The Assessment Committee in question was constituted by the Executive Committee of ITRC in its meeting held on 6.2.1982. The first meeting of the Assessment Committee scheduled to take place on 8.12.82

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was postponed due to the non-availability of its Chairman. Thereafter the Applicant himself insisted that Assessment Committee may hold its meeting and elect its Chairman from amongst the members of the Assessment Committee, as permissible under Bye law 37. It was under these circumstances that the meeting of the Assessment Committee was held on 28.1.1983 and Prof. M.M.Ghosh was elected as Chairman of the meeting. The said Assessment Committee did not find Dr. M.A.Matin (Applicant) suitable for the post of Scientist 'E-2'. The proceedings of the Assessment Committee were approved by the Director General CSIR. After approval by the Director General, the result was communicated to the Applicant. It was then that the Applicant filed the present Suit in the Court of Munsif South Lucknow challenging the formation of Executive Committee and Assessment Committee.

8. The next plea raised by the Applicant Dr. M.A.Matin is malice against Dr. C.S.Krishnamurthy, the then Director, ITRC. The facts in this regard are that Dr. Krishnamurthy did not attend the meeting of the Selection Committee. The allegations are otherwise false. Dr. Krishnamurthy has filed an Affidavit also in this regard. The original proceedings of the Assessment Committee indicate that Dr. B.N.Dhawan was nominated as nominee of the Director. It is also alleged that Dr. Krishnamurthy had recorded an adverse remark on the application of Dr. M.A.Matin which has also been falsified by bringing original application on record. In this manner, there is no good ground to set aside the proceedings of the Assessment Committee dated 28.1.83. Consequently, T.A.No.87 of 1987 is also liable to be dismissed.

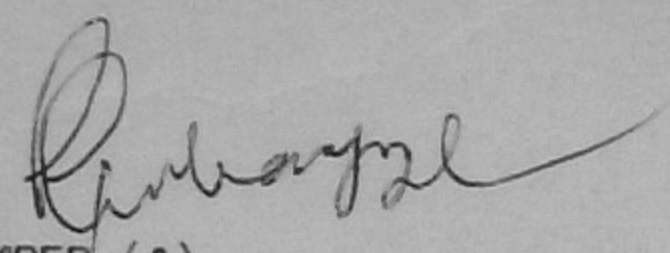
9. Before we part with, we will like to record that despite the fact that Dr. Matin has resorted to ^{fruitless} ~~fruitless~~ litigation, the authority concerned may consider him for appointment to the post of Scientist 'E-2' in a future vacancy even if he has exhausted his chances and if found suitable, he may be promoted.

Dr. Aggarwal

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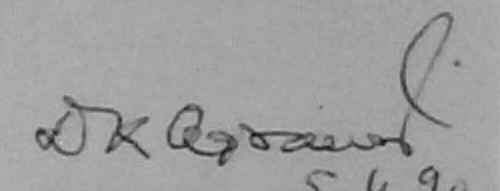
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10. Registration T.A No.87 of 1987 (Civil Suit No.207 of 1983);
T.A.No. 253 of 1987 (Civil Suit No.29 of 1984); T.A.No.88 of 1987
(Civil appeal No.59 of 1984) and O.A.No.12 of 1987 are dismissed with-
out any order as to costs, subject to the above observations.



MEMBER (A)

Dated 5th April, 1990
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MEMBER (J)