

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

Date of Order: 26.6.2001.

O.A. No.273/99

R.S.L. Gupta, Scientific Assistant 'B', Safety Section
Heavy Water Plant, Rawatbhata, son of Shri S.L. Gupta,
aged 42 years, resident of J-29, Heavy Water Plant Colony,
Rawatbhata, Kota.

APPLICANT.

VERSUS

1. Union of India, through The Chief Secretary,
Dept of Atomic Energy, O.Y.C. Building, C.S.M.
Marg, Mumbai-400 039.
Chief Executive Officer, Heavy Water Board, 5th
Floor, Vikram Sarabhai Bhavan, Anushakti Nagar,
Mumbai.
3. The Administrative Officer, Heavy Water Plant,
Rawatbhata, Kota.



RESPONDENTS.

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Mr. R.S. Saluja, Counsel for the applicant.

Mr. Vinit Mathur, Counsel for the respondents.

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Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. A.P. Nagrath, Administrative Member.

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ORDER

(per Hon'ble Mr. A.K. Misra)

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The applicant had filed this OA with the prayer
that the impugned order dated 11.11.98 Annexure A/1A

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rejecting the representation of the applicant be quashed, and the respondents be directed to redesignate the applicant as S.O.(C) w.e.f. 1997, and consider the case of the applicant for promotion to the post of S.O.(D) on acquiring higher qualification in June 1998. It is further prayed by the applicant that, if the applicant is found fit for promotion to S.O. (D) he be accordingly promoted when others were so promoted on the aforesaid post with all consequential benefits.

2. Notice of the OA was given to the respondents who have filed their reply to which no rejoinder was filed by the applicant.

3. It is stated by the respondents in their reply that the applicant joined Heavy Water Plant, (Kota) as category - I Trainee on 18.11.81 and was absorbed in the department as Scientific Assistant 'B' on 18.11.82. In due course of time he got three promotions i.e. Scientific Assistant 'C' in November 1987, Scientific Assistant 'D' in February 1992 and Scientific Assistant 'E' in February 1997. In the year 1997 the applicant acquired additional qualification of AMIE. The case of the applicant was considered for promotion in the higher grade i.e. Scientific Assistant 'D' to Scientific Assistant 'E' under the Merit Promotion Scheme which is Annexure R/1/duly constituted by Standing Selection Committee. After interviewing, the applicant the not find committee did/him suitable for promotion to the grade of S.O.'C' as was recommended by the department. It is further stated by the respondents that only one opportunity of consideration for promotion is accorded to a candidate on acquiring additional qualification. The applicant was

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this provided an opportunity on acquiring additional qualification, but he could not clear the DPC and was not found suitable for the grade of S.O. 'C'. Therefore, the claim of the applicant is without any merit. It is also stated by the respondents that post of S.O. 'C' is a Gazetted Scientific post, whereas the applicant is working on the post of Scientific Assistant 'E'. Both the post are different in status and applicant cannot claim to be redesignated as S.O. 'C' while he is working on the post of Scientific Assistant 'E'. Under the merit promotion scheme, promotion is accorded as per the performance and not as per the seniority. On acquiring higher qualification such higher promotion cannot be accorded in a routine manner. The applicant could not fulfil the norms under the merit promotion scheme, therefore, he cannot claim to be promoted on the post of Scientific Officer 'D'. The representation of the applicant in this regard was rightly rejected and the applicant was communicated accordingly. It is stated by the respondents that duly constituted selection committee interviewed the applicant. After considering the performance of the applicant in the interview, the selection committee recommended his case for promotion to Scientific Assistant 'E' and not for the post of Scientific Officer 'C'. Therefore the principle laid down by Hon'ble the Supreme Court as has been cited by the applicant in support of his contention does not help the applicant. The OA is devoid on merit and deserves to be rejected.

4. We have heard the learned counsel for the parties and have gone through the case file.

5. The respondents have annexed merit promotion scheme

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as Annexure R/1. Under the scheme, Standing Screening Committee is required to consider the cases of candidates for Scientific Promotions on the basis of confidential report and guidelines prescribed for further promotions. On considering the abilities, achievements and managerial experience and after interviewing the individuals, the committee makes the recommendation for further promotion of such individual. In this case the applicant was considered on acquiring higher qualification, by the Standing Screening Committee, and recommendations were made for applicant being promoted as Scientific Assistant 'E'.

It is not for us to judge whether the applicant was wrongly denied the promotion on the post of S.O. 'C'.

The applicant is working in an institution which is constantly carrying out the work of research and advancement in scientific field relating to Atomic Energy. Therefore, the evaluation of a candidate for further promotion is expected to be considered as per the performance of individual in the scientific field. This being a very technical assessment relating to one's own achievement in scientific field. Therefore, the assessment of the DPC cannot be subjected to a scrutiny by a Court or Tribunal. This is no-body's case that applicant was not considered at all. A candidate can claim a right to be considered for the next promotional post. But he cannot claim ~~for~~ promotion as a matter of right. In this case what the applicant is claiming ^{is} promotion on the higher post, on the basis of his acquiring higher qualification. Rules provide that on acquiring higher qualification an individual would be considered for the next promotional post.

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and on being found suitable ~~for~~ the promotion can be accorded. In other words acquiring of higher qualification is no guarantee for according promotion to an individual. The suitability of an individual for being further promoted is based on his performance, achievement and managerial capacity which is judged by the Standing ~~Screening~~ Committee. Consequently the applicant was considered and was recommended for further promotion by the committee as per his suitability. There is nothing on record to substantiate the claim of the applicant that on promotion to the post of Scientific Assistant 'E' as person is entitled for redesignation as S.O. 'C'. Needless to repeat, in the case of the applicant was recommended for consideration for promotion on the post of S.O. 'C', but as per the performance of the applicant in interview and as per his achievements he was found fit to be promoted on the post of Scientific Assistant 'E'. Therefore, the applicant cannot claim to be redesignated as S.O. 'C'. It is not the case of the applicant that he was not considered for the post of S.O. 'C'. All what is necessary is objective consideration of a candidate which has been accorded to the applicant, and in view of this the claim of the applicant bears no merit. In an earlier order rendered in OA No.259/97 decided on 22.12.2000, it was held that as per the guidelines a person may be promoted to a post of SO-SB or SO-SC as found suitable. It was also observed that no person has got the right to be promoted from the post of Scientific Assistant 'D' to Scientific Officer 'B' or 'C'. Detailed reasons were given in that order about such consideration by the committee and its recommendation according to suitability under the Merit Promotion Scheme. Those reasons are not required to be repeated again by us.

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It would suffice to mention in brief that suitability as per the performance and achievements of a candidate are the prime considerations for further promotion and not his seniority and acquisition of additional qualifications. For the reasons mentioned in the aforesaid order and as per foregoing discussion, we are of the opinion that the case of the applicant bears no merit and deserves to be rejected.

6. The application is therefore rejected, parties are left to bear their own costs.

Apd
(A.P. Nagrath)

Admn. Member

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26/6/2001
(A.K. Misra)
Jud 1. Member

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