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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....
Date of Order : 15.10.2001

O.A.NO. 90 OF 2001

O.P.Poonia S/o Shri Magha Ramji, aged about 43 years, R/o C-40, Nursing Vihar, Lal Sagar, Jodhpur (Rajasthan), presently working on the post of Scientist B in the Office of Central Ground Water Board, State Unit 64, Polo I, Jodhpur (Rajasthan).

.....Applicant.

VS.

1. Union of India through
the Secretary, Ministry of Water Resources,
Shram Shakti Bhavan, New Delhi.

2. Central Ground Water Board through
its Chairman, Ministry of Water Resources,
Central Government Offices Complex, N.H. No. 4,
Faridabad.

.....Respondents.

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CORAM :

Hon'ble Mr.Justice B.S.Raikote, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

.....
Present :

Mr. S.K.Malik

For the applicant

Mr.S.K.Vyas

For the respondents

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D/S

PER HON'BLE MR.JUSTICE B.S.RAIKOTE :

This application is filed for including the name of the applicant in the eligibility list dated 11.4.2001 treating him as eligible for promotion to the post of Scientist 'C' and if found suitable, a Review DPC/Board of Assessment may be directed to promote the applicant from the date the persons shown in the eligibility list, who were juniors to him, have been promoted to the post of Scientist 'C', with all consequential benefits.

2. The applicant has brought to our notice a judgement and order of Jaipur Bench of the Tribunal dated 12.2.1998 passed in O.A.No. 60/96 and MA No. 24/98 and also a Judgement of the Hon'ble High Court of Rajasthan passed in D.B.C.Writ Petition No. 4628/1998 decided on 25.2.2000 confirming the judgement of the Tribunal referred to above. He also contended that the other Benches also had issued similar interim orders directing the respondents to consider the case of the applicants therein, in case his juniors were being considered for promotion to the post of Scientist 'C'. He also brought to our notice the seniority list vide Annex.A/11 dated 19.3.2001 of Scientist 'B' as on 31.12.99. He contends that his name is shown at Sl.No. 40 whereas the name of the persons by name Shri M.K.Sharma (whose name is found in the impugned order Annex.A/1), is at Sl.No. 60. From this fact, it is clear that Shri M.K.Sharma was junior to the applicant and he is being called by the Review Board for consideration against the claim of the applicant. Therefore, there should be a direction to the respondents to consider the claim of the applicant, if any person junior to him, is being considered for such promotion from Scientist 'D' to Scientist 'C'.

B/S

3. The respondents by filing a counter stated that few other persons who were juniors to the applicant, were being called because of the interim orders of the various benches. From a reading of the entire reply, it is clear that the respondents are not disputing the seniority list. If that is so, some persons juniors to the applicant, are being called for consideration by the Review Board against the claim of the applicant. It is an established principle of law that when a junior person is being considered, the senior has got to be considered, if he is eligible, otherwise there would a breach of Article 14 of the Constitution of India. In fact, in O.A.No. 60/1996 decided by the Jaipur Bench of the Tribunal on 12.2.1998 the Tribunal, directed to consider the case of the applicants when their juniors were considered on the basis of the eligibility list dated 25.10.1995 vide Annex.A/1 filed in that case. By following the judgement of the Jaipur Bench, in O.A.No. 60/96, we have disposed of number of matters also. In this case, we do not have any material to differ with the said judgment. In this case, we had also passed an interim direction directing the respondents to consider the case of the applicant provisionally in a Review DPC/Board of Assessment to be held on 4.5.2001 at Mysore. But, it is brought to our notice that the said selection has been cancelled and further selection has not yet been called for. In this back ground, we think it appropriate to dispose of this application by following the judgement of Jaipur Bench rendered in O.A. No. 60/96 on 12.2.98. Accordingly, we pass the order as under :-

4. The respondents are directed to hold a Review DPC/



Board of Assessment, in order to consider the case of the applicant for promotion to the post of Scientist 'C' if he is found suitable, in accordance with the rules, in case his junior is being called, on any future date or as and when, the selection is scheduled to be held. No order as to costs.

Gopal Singh

(Gopal Singh)
Adm. Member

BR
(Justice B.S.Raikote)
Vice Chairman

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jrm

10/10/01

file
S.K.Malik ADW
22/9/01

Part II and III destroyed
in my presence on 22/9/01
under the supervision of
section officer () as per
order dated 13/3/02

NGKA
Section officer (Record)