

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 507/2000

Monday, this the 16th day of September, 2002

C O R A M

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR K.V.SACHIDANANDAN, JUDICIAL MEMBER

1. Gopakumar. V,
Groundsman,
LNCPE (Lakshmi Bhai National College of Physical
Education),
Trivandrum.
2. Parameswaran Pillai. N,
Groundsman,
LNCPE, Trivandrum.
3. Gopakumar. P,
Groundsman,
LNCPE, Trivandrum.
4. Sureshkumar. K,
Groundsman,
LNCPE, Trivandrum.
5. Ajithkumar. A,
Groundsman,
LNCPE, Trivandrum.

..Applicants

[By Advocate Mr. K.C. Eldho.]

Vs.

1. The Principal,
LNCPE, Trivandrum.
2. The Secretary,
Sports Authority of India,
J.N. (Jawaharlal Nehru) Stadium,
New Delhi.
3. Union of India, represented by
the Secretary to the Government,
Department of Sports,
Central Secretariate,
New Delhi.

..Respondents

[By Advocate Mr. Govind K. Bharatan.]

The application having been heard on 28.06.2002, the
Tribunal on 16th September, 2002, delivered the following:

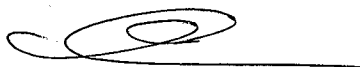
O R D E R

HON'BLE SHRI K.V.SACHIDANANDAN, JUDICIAL MEMBER



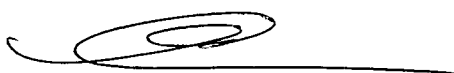
Applicants abovenamed are working as Groundsman Grade III under the first respondent in the pay scale of Rs. 750-940 with effect from 19.05.88 and have completed eight years of service by the end of May, 1996. Annexure A/I By-laws is relating to the appointment, promotion and staff recruitments rules. As per Annexure A/I, the next promotional post of the applicant is Groundsman Grade II in the scale of pay Rs. 950-1500, which is 100% promotion post. Almost all the cadres under the first respondent are given next higher grade on completion of eight years of service as a policy matter. Considering the lack of promotional avenues among the Groundsmen, the matter was considered by the Governing Council of the Sports Authority of India (SAI, for short) in its meeting held on 18.01.91 and approved the proposal for promotion of the Coaches in regard to length of service for promotion. The proceedings of the said meeting is Annexure A/II. The members of the staff in Group 'C' and Group 'D' are not liable to be transferred as per Annexure A/I By-law and hence the applicants do not have any promotion avenue and is entitled to promotion as Groundsman Grade II by upgrading the post of Groundsman Grade III, which the applicants are presently holding. Since there are three grades in the Groundsman, such as Grade-I, Grade-II and Grade-III, it is stated that promotion will be granted on completion of the eligibility period and also undergoing the orientation course on grounds preparation, maintenance and other related matters.

2. The Groundman Grade III is an entry cadre and the applicants are entitled to be granted promotion to the post of Groundsman Grade II by upgrading Grade III post on completion of eight years of service. It is stated that though there are three grades in the cadre of Groundsman, the nature of duties and the works are one and the same. Since no one is working in the



Grade-II post under the first respondent in view of creation of three grades as per Annexure A/I and A/II, the posts of Groundsman Grade-III are to be upgraded and posted to the post of Groundsman Grade II on satisfactory completion of the eligibility criteria as provided under Annexure A/I By-law. The applicants have already completed eight of service and the orientation course. The second respondent has upgraded and promoted all Groundsman in all other Institutions of the SAI except the first respondent's Institution. The applicants are kept in the entry cadre. A copy of the order issued by the second respondent dated 12.02.96 granting approval for promotion of Groundsman Grade-III to the post of Groundsman Grade-II is Annexure A/III. The applicants are similarly placed and qualified to be promoted to the post of Groundsman Grade II. But the applicants have been discriminated by not giving the benefit of the By-law. Aggrieved by the action of the respondents, the applicants approached this Tribunal earlier vide OA No. 1464/96 and as per the directions of this Tribunal dated 22.09.99 (Annexure A/IV), Annexure A/V dated 27.12.99 was passed by the respondents. Similar orders were issued to other applicants also. Aggrieved by the said orders, the applicants have filed the present O.A. under Section 19 of the Administrative Tribunals Act, 1985, seeking following reliefs:

- "(a) Call for the records leading to Annexure A/V and quash the same as illegal.
- (b) Direct the respondents to promote the applicants to the post of Groundsman Grade II with effect from the date on which the applicants acquired qualifications as provided under Annexure AI By-law and to fix the scale of pay accordingly and to release all consequential benefits.
- (c) Declared that the applicants are entitled to be promoted to the post of Groundsman Grade II at par with the Groundsman Grade III promoted as Grade II as borne out by Annexure A/III.
- (d) Such other relief as this Tribunal thinks fit and proper."




3. The learned counsel for the respondents have filed reply statement contending that the applicants become eligible for placement in the scale of 950-1500 on completion of eight years of service subject to their clearing an orientation course and availability of vacancy. There is no provision for obligatory promotion merely on attaining the eligibility criteria. On successful completion of eight years and the orientation course, the cases of the applicants were forwarded to the competent authority of SAI, New Delhi, for necessary action vide letter dated 04.04.97 as the respondent No.1 had no authority to upgrade the posts. In the meantime, the Government of India vide their letter dated 07.11.96 imposed a ban on promotions and in compliance of the said letter, the SAI issued a circular dated 26.12.96 imposing ban on promotions. As such when the applicants became eligible for promotion, there was already a ban and accordingly, no vacancies could be filled by direct recruitment or by promotion until further orders. Therefore, the applicants could not be considered for promotion by the respondent No.2. That ban continued till 29.07.99. The Ministry of HRD, Government of India, advised the SAI that in case of Group 'C' and Group 'D' and also for other isolated posts, the Scheme of Assured Career Progression (ACP, for short) may be adopted by SAI for its staff. Under the ACP Scheme, the applicants are eligible for next higher scale on completion of twelve years of service. Since they have already completed twelve years of service, the question of their placement in the next higher pay scale is under active consideration of the competent authority.

4. It is also stated by the respondents that the Groundsman working at different centres of the respondent No. 2 became eligible for promotion much before the ban on promotion was imposed by the Government of India on 07.11.96 who had also completed the required orientation course successfully. As such



they were promoted vide SAI office order dated 12th February, 1996. Earlier, the SAI had introduced a Scheme for those who are in the isolated cadre and had no promotional avenues, for grant of next higher scale on completion of eight years of service. Accordingly, all those who had completed eight years of service in that cadre were granted the next higher scale until the Government of India ban on promotion vide letter dated 07.11.96. The applicants filed O.A. No. 1464/96 on 09.12.96, praying that they are eligible for time bound promotion on completion of eight years of service, knowing fully well that they did not fall under the category of isolated cadres. Vide order dated 22.09.99, this Tribunal directed the respondents to consider the case of the applicants and accordingly, the respondents disposed of the matter on 27.12.99. Being aggrieved, the applicants have filed the present O.A.

5. It is stated by the respondents that the time bound promotion was discontinued by the Government of India vide letter dated 07.11.96. That Scheme was available only for the isolated cadres, who had no promotional avenues. The applicants have nothing to do with this Scheme as their posts are promotional posts and they were not eligible for grant of higher pay scale under the said Scheme. One of the conditions in the By-law Annexure A/1 states that the applicants are liable to be transferred anywhere in India and vide order dated 24.06.98 in OA No. 728/98, this Tribunal confirmed the same. Lack of promotional avenues cannot be considered to be a reason for automatic promotion of the applicants merely on attaining the minimum eligibility criteria. They became eligible for promotion only when sufficient number of Grade II posts or creation of such posts are ordered by the competent authority. The case of the applicants was forwarded to the competent authority for consideration vide letter dated 05.04.97. But due to imposition




of ban on all promotions, by the Government vide letter dated 07.11.96, their cases could not be considered. However, as stated by the respondents, under the new ACP Scheme introduced by the SAI, the applicants will be considered for the next higher scale. They have maintained their arguments that mere attaining the eligibility criteria does not confer on the applicants for automatic promotion to the next higher grade. The order Annexure A/V has been passed with due application of mind taking into consideration all aspects of the matter. In the circumstances, the respondents pleaded that there is no merit in the O.A. and, therefore, it deserves to be dismissed.

6. We have heard the learned counsel for the parties and have given thoughtful consideration to the pleadings and arguments advanced by them.

7. The learned counsel for the applicants submitted that there is no promotional avenues to the applicants and issuance of Annexure A/V order is not in conformity with the directions given by the Tribunal in O.A.No. 1464/96. On the other hand, the learned counsel for the respondents submitted that there is no provision for obligatory promotion merely on attaining the eligibility criteria. However, this aspect has been considered Group 'C' and 'D' as also other isolated posts, the Scheme of ACP may be adopted for giving the benefits to its staff.

8. On the pleadings and arguments advanced by the parties, it is clear that the case of the applicants were forwarded to the competent authority on completion of eight years service and successful completion of the required orientation course for favourable action, since the respondent No. 1 had no authority to upgrade the post. However, the Government of India imposed a ban on promotions vide letter dated 07.11.96 and on the basis of



which, the SAI issued a circular dated 26.12.96 giving effect to that order. When the applicant became eligible for promotion, there was already a ban as stated above and, therefore, no vacancy could be filled by direct recruitment or promotion. The case of the applicants could not be considered by the respondent No. 2 since there was a ban till 29.07.99. The Ministry of HRD advised the SAI that in case of Group 'C' and 'D' and in case of isolated posts, the Scheme of ACP should be adopted for its staff. Therefore, the applicants are entitled for the next higher scale under this Scheme on completion of 12 years of service. Since they have already completed twelve years of service, the question of their placement in the next higher scale is under active consideration of the competent authority.

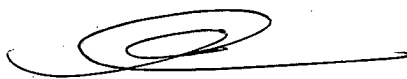
9. The grounds advanced in setting aside the above order is that the applicants are qualified and are entitled to be promoted to the post of Groundsman Grade II at par with the Groundsman Grade III, who were promoted to the post of Groundsman Grade II vide Annexure A/III. It is clear that Annexure A/III list of promotees in the pay scale of Rs. 950-1500, was ordered on 12.02.96. It is quite evident that these persons have completed eight years of service and also the orientation course much before the ban was imposed by the Government of India on 07.11.96. When the applicants became eligible, the ban came into existence and the respondents could not do anything. Therefore, it cannot be said that the applicants are similarly situated as that of the promotees in Annexure A/III. The recruitment rules also stipulate that the applicants are liable to be transferred anywhere in India and the contention that there is no promotional avenue, cannot be accepted. On going through Annexure A/5 order, we are of the view that the respondents have given due consideration to the directions of this Tribunal. By giving effect to that order and considering various aspects in the



recruitment rules and documents, the claim of the applicants for promotion in the next higher grade has been duly considered and passed an appropriate order. This cannot be faulted. Besides, when the applicants became eligible, there was a ban imposed by the Government of India, which has to be adhered to by all the departments with true spirit. Therefore, the impugned order Annexure A/5 is in no way faulted and there is no reason to quash the same. The consequential benefits sought in the O.A. cannot also be granted.

10. Apart from the above, we are convinced that the interest of the applicants have been duly protected/safeguarded by implementing ACP Scheme by the Government, extending and making them entitled to promotion to the next higher grade under the said Scheme with effect from the date when he/they completes/complete 12 years of service subject to the condition that the said Scheme is adopted and remain operative till then. Further, the respondents have assured in Annexure A/V that in case a decision is taken to continue the Scheme of promotion as envisaged in the Recruitment Rules, the case of the applicants will be considered for promotion subject to availability of vacancy in Grade II, and his seniority. The order Annexure A/V was addressed to the first applicant, Shri Gopa Kumar. V. So, the said order is applicable to all other applicants in this O.A. We trust and hope that the respondents would take appropriate action as enunciated in the order Annexure A/V granting either ACP Scheme or avenues of promotion to the applicants, as the case may be, if not already granted to them within a frame work of three months from the date of receipt of a copy of this order.

11. In the conspectus of the facts and circumstances, we do not find any reason to interfere with the order Annexure A/V and quash the same. It cannot be said to be faulted. However, the



respondents are directed to comply with the order, either granting ACP Scheme or avenue of promotion to the applicants , as the case may be, if not already granted within the frame work of three months from the date of receipt of a copy of this order.

12. With the above observations, the Original Application is disposed of. Parties are directed to bear their own costs.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



G.RAMAKRISHNAN
ADMINISTRATIVE MEMBER

cvr.

A P P E N D I X

IN O.A. NO. 507/2000

Annexures submitted by the applicant:

1. Annex.A/1 True copy of the relevant portion of the Draft Notification/Bye-law of SAI of the year 1992.
2. Annex.A/2 True copy of the relevant portion of the approved proposals in the meetings of the Governing Body of the Sports Authority of India.
3. Annex.A/3 True copy of the orders issued by the second respondent dated 12.02.96 vide No. 44/96.
4. Annex.A/4 True copy of the order of this Hon'ble Tribunal dated 22.09.99 in OA No. 1464/96.
5. Annex.A/5 True copy of the order issued by the second respondent dated 27.12.99 vide No. 13(115)96-legal cell.
