

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 528 of 2013

**Monday this the 26th day of September, 2016
CORAM**

**Hon'ble Mr. Justice N.K.Balakrishnan, Judicial Member
Hon'ble Mrs. P. Gopinath, Administrative Member**

*M.P. Varkey, aged 52 years S/o M.P. Poulouse,
Lab Assistant, National Institute or Interdisciplinary
Science & Technology, Council of Scientific &
Industrial Research, Industrial Estate PO, Pappanamcode,
Trivandrum-695 019, residing at Mangalath
House No. TC 54/734, nafuvathu, Nemom PO
Trivandrum-20.*Applicant

(BY Advocate Mr. T.C.Govindaswamy)

Vs.

1 *The Director General,
Council of Scientific & Industrial Research
Anusandhan Bhawan,
Rafi Marg, New Delhi-110 001.*

2 *The Director,
National Institute for Interdisciplinary Science &
Technology, Industrial Estate PO
Pappanamcode, Trivandrum-695019.*

...Respondents

(By Advocate Mr. Sunil Jacob Jose)

***The above application having been finally heard on 19.09.2016, the
Tribunal on 26.09.2016 delivered the following:***

ORDER

Per: Justice N.K. Balakrishnan, Judicial Member

This OA has been filed for a declaration that the applicant is
entitled to be changed over to Group II in grade I in scale Rs. 3050-

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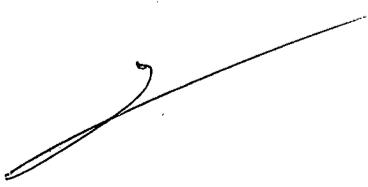
4590 w.e.f. 25.6.1998 with further progression in that Group and for a direction to be given to the respondents for that purpose and also for grant of benefit of promotion/fitment to Group II Grade II in PB 2 plus Grade Pay of Rs..4200/- w.e.f. 25.6.2012 and consequential benefits.

2. The gist of the case pleaded by the applicant is stated thus.

The applicant was initially appointed on 25.6.1984 as Helper in Group I Grade I in the scale Rs. 196-232/Rs. 750-940. When the applicant joined the department he had a qualification of SSLC failed. He subsequently passed SSLC in March 1987 vide Annexure A1. According to Merit And Normal Assessment Scheme (MANAS for short) the applicant is entitled to be considered for fitment in the next higher grade on completion of 7 years. Accordingly he was considered and fitted in Group I Grade II w.e.f. 25.6.1991 in the scale of Rs. 800-1150. Thereafter the respondents sponsored the applicant for seven months course of diploma in computerized office management. The applicant successfully underwent the course and a competency certificate was issued by the Universal Institute of Information Technology, Trivandrum vide Annexure A2. Applicant was again subjected to an assessment of 7 years from 25.6.1991 as per MANAS. He was thus fitted in the scale of pay of Rs. 3050-4590 w.e.f. 25.6.1998 Group II of the MANAS also with scale of pay of Rs. 3050-4590. As

per the scheme a Group I employee having the qualification prescribed for initial entry against Group II Grade I, is entitled to be changed over to Group II Grade I from Group I Grade III. With effect from 25.6.1998 the applicant should have been automatically brought over to Group II grade I in the same scale of pay of Rs. 3050-4590. A representation was made by the applicant. He was informed that the minimum educational qualification for induction in the initial grade of Group II is SSC/Xth standard with 50% marks and ITI certificate of two years duration in the relevant trade or SSLC or HSC/12 standard with relevant technical subjects and 60% marks in aggregate.

The applicant made representations but no further progression was granted by the respondents. The assessment in Group I & II is on completion of 7 years in each Grade until one reaches the maximum grade in any particular Group (Group II). The applicant would get further advancement of 7 years to PB 2 in Grade Pay Rs.4600/- also. Various institutes under CSIR persons on attaining Grade III stage of Group I were brought over to Grade II Group 1 provided they had the qualification of SSLC. The applicant is entitled to be brought to Group II and is to be fitted in Pay Band 2 plus grade pay of Rs. 4200/- w.e.f. 25.6.2012. The qualification for appointment to the entry level of Group II is ITI certificate/matriculation (10 years in the new system)



plus two years experience. The applicant had the qualification of matriculation and he had also 14 years of experience. Therefore on and w.e.f. 25.6.1998 the applicant should be considered for change over to Group II grade and accordingly he should have been placed in the entry level of 3050-4590 w.e.f. that date. But as against the same the applicant was placed only in Group I Grade III in the same scale of pay of Rs. 3050-4590. Hence according to the applicant the failure on the part of the respondents to change the applicant over to Group II and to grant further progression in that Group is arbitrary and discriminatory. In 11 institutes where MANAS is uniformly made applicable persons in Group I were brought over to Group II Grade I subject to possession of the entry level qualification. Thus the applicant claims that he is entitled to the reliefs sought for.

3. The respondents resisted the claim contending as follows.

The applicant was initially appointed on 25.6.1984 as Helper A Grade I in the scale of Rs. 196-232 with qualification of SSLC failed. Qualification required for appointment of Helper A was 8th standard. During 1987 the applicant acquired 10th pass qualification and later he had 7 months computer course certificate also. Appointment to the level in Grade II and above is by consideration of promotion through internal assessment. Only those staff who were in position as on



1.12.1981 and had acquired the qualification prescribed for the next group of Grades upto 31.12.1981 will be eligible for the benefit of fast track promotion subject to New Recruitment and Assessment Scheme (NR&AS) and orders issued thereunder. Prior to 1.4.1988 the assessment at Grade I staff was regulated as per provisions of New Recruitment and Assessment Scheme (NR&AS); between 1.4.1988 and 1.3.1992 it was as per the provisions of Merit and Normal Assessment Scheme (MANAS) and with effect from 1.4.1992 it is as per the revised MANAS. Accordingly the applicant was promoted to the next higher grades. NR&AS was made applicable upto 31.3.1988 to the staff in position as on 1.2.1981 who had acquired the qualification prescribed for the entry level posts for the higher group of grades upto 31.12.1981.

4. Since the applicant has not acquired the prescribed qualification for the entry level post and since the applicant was not in position as on 1.2.1981 the provisions of MANAS or revised MANAS are not applicable and so the applicant is not entitled to get the reliefs sought for. Thus the respondents prayed for dismissal of the application.

5. A rejoinder was filed by the applicant producing Annexures A8 and A9 and contended that the cut off date shown as 31.12.1981



was removed as per letter No.17/66/94-PPS dated 5.2.1999 (vide Annexure A8) and as such the employees whose date of two year earlier assessment falls between 1996-97 but have not completed the prescribed residency period for normal assessment as on 1.4.1996 will have the benefit to the extent that their date of assessment will be preponed to 24.5.1996. It is also contended that again there was a clarification vide Annexure A9 dated 19.2.1999 to the effect that the employees who had already been promoted under normal assessment at a later date, if found to be eligible for consideration for the benefit of earlier assessment, will have to be assessed afresh irrespective of the fact that both the dues dates ie., under earlier provision and under normal assessment it may happen to fall in the same assessment year . The applicant also contends that he had the qualification of matriculation and also had 14 years of experience and therefore on and w.e.f 25.6.1998 the applicant should have been considered eligible to change over to Group II Gr.I and as such he should have been placed in the scale of Rs. 3050-4590 wef. 25.6.1998 as against which applicant was placed only in Group I-Gr.II in the same scale of Rs.3050-4590. MANAS is uniformly applicable to all institutes. Persons in Group I were brought over to Group II Gr.I level in other institutions subject to possession of entry level qualifications.

6. Revised MANAS which came into force w.e.f 1.4.1992 also says as per para 0.3, that assessment prior to 1.4.1988 will be regulated as per the provisions of NR&AS. The applicant is eligible for the benefit of fast track promotion subject to NR&AS and clarificatory orders issued as per revised MANAS.

7. An additional reply has been filed by the respondents to the rejoinder filed by the applicant. The entry level qualification to Gr. II/Gr.I as per revised MANAS with effect from 1.4.1992 is SSC/10th standard with 50% marks in the aggregate and ITI certificate of 2 years duration in relevant trade or SSSC/HSC/12th standard with relevant technical subjects and a minimum of 60% marks in aggregate. Whereas the applicant passed the SSLC during 1987 with less than 40% marks. Hence he does not have the entry level qualification of 10th standard with 50% marks, which is needed for Group change. The 2nd respondent's office never sponsored the applicant for any course of study as stated and he did not submit pass certificate of any course of study. Instead, he submitted only a course and conduct certificate of Universal Institute of Information Technology, Trivandrum vide Annexure A2. From Annexure A2 it is evident that the course of study was not an approved one either by the state government or by the central government. Since the applicant is not having the entry level

qualification in Gr.II/Grade I he is not eligible for group change as contended by him.

8. As per MA 597/2016 three documents were produced as MA1, MA2 and MA3. Those documents are referred to here as Annexures A10, A11 and A12 respectively.

9. The point for consideration is whether the applicant is entitled to a change over to Group II Grade.I with effect from 25.6.1998 and for further progression in that group as claimed by him?

10. We have heard the learned counsel for both sides and have also gone through the pleadings ad documents.

11. It is not disputed that the applicant was initially appointed as Helper A Grade I on 25.6.1984 in the pay scale of Rs. 196-232. It is also not disputed that as on that date the applicant had not passed SSLC. He was shown as SSLC failed. It is also not disputed that he passed the SSLC only in 1987. The fact that he did not secure 50% marks but only 40% or less is also not in dispute. (He secured only 239 out of 600). (vide Annexure A1).

12. Annexure A2 is the course and conduct certificate dated 2.2.1993 obtained from Universal Institute of Information Technology, Trivandrum. It is seen stated in Annexure A2 that the applicant was a student of diploma in computerized office management during the

academic year 1991-92 in the three subjects mentioned therein. It is further mentioned that the duration of course was only 7 months and that he has completed the course of study in the three subjects mentioned therein. The other portion is only a conduct certificate. Apart from what is shown in the certificate that he has completed the course of study in three subjects mentioned above, there is nothing to show that he has actually passed the said course (No pass certificate is produced). The completion of the course is one thing and declaration of pass in the examination is quite another, the respondents contend.

13. The applicant contends that he has acquired the entry level qualification since he had passed the SSLC in 1987 and also because he has obtained Annexure A2 certificate. The respondents in the additional reply has specifically contended that what has been produced is only a course and conduct certificate. Not only that the said institute is not an approved one either by the State or by the Central Government. That could not be controverted by the applicant.

14. It is specifically contended by the respondents that the appointment to other levels in grade ie. (Gr.I/Group II) and above is only by consideration of promotion through internal assessments and that only those staff members who were in position as on 1.2.1981 and who had acquired the qualifications prescribed for the next higher

group of grades upto 31.12.1981 will be eligible for the benefit of fast track promotion subject to NR&AS and orders issued thereunder from time to time. According to the respondents as per the prevailing CSIR instructions the assessment at Grade I staff will be regulated as follows:

<i>Prior to 1.4.1988</i>	<i>: As per provisions of New Recruitment & assessment Scheme (NRAS)</i>
<i>Between 1.4.1988</i>	
<i>1/3/1992</i>	<i>: As per provisions of Merit and Normal Assessment Scheme (MANAS)</i>
<i>w.e.f. 1.4.1992</i>	<i>: As per provisions of Revised Merit and normal Assessment Scheme (Revised MANAS)</i>

Accordingly he was promoted for the next higher grades as follows:

<i>Group 1(1)</i>	<i>196-232, 750-940</i>	<i>25.6.84</i>
<i>Group 1(2)</i>	<i>2650-4000</i>	<i>25.6.91</i>
<i>Group 1(3)</i>	<i>3050-4590</i>	<i>26.6.98</i>
<i>Group 1(4)</i>	<i>4500-125-7000</i>	<i>26.6.05</i>

Since the applicant was initially appointed on 25.6.1984 he should be treated as a staff who was in service prior to 1.4.1988. He was posted in Group I/Grade I w.e.f. 25.6.1984 and in Group I/Grade II w.e.f. 25.6.1991 and from Group I/Grade II to Grade IIII w.e.f 26.6.1998 and thereafter from Group I/Grade III to Group I/Grade IV w.e.f. 26.6.2005.

15. Though the applicant contended that he was sponsored by the respondents for a seven month's course of diploma, the respondents have stoutly denied that contention and stated that they did not sponsor the applicant for undergoing any such course. They also contended that

Annexure A2 was not issued by any institution recognized either by the State or the Central Government nor is it a diploma certificate ^{or} ITI certificate required as per the scheme. Those aspects could not be controverted by the applicant by producing any such document. The applicant admits that on completion of 7 years from 25.6.1991 he was fitted in the scale of pay of Rs. 3050-4590 w.e.f. 25.6.1998.

16. According to the applicant he had the prescribed entry level qualification for appointment against Group II/Grade I and so he is entitled to get a change over to Group II Grade I w.e.f. 25.6.1998. In order to substantiate his claim he must satisfy that he had the entry level qualification as prescribed under the scheme.

17. The applicant also admits the fact that since he was an employee who joined prior to 1.4.1988 he was governed by the provisions of NR&AS. Annexure A5 is that Scheme (NR&AS). Annexure A4 is Merit and Normal Assessment Scheme (MANAS). Explanation to para 1.3.1 of MANAS says that the cases of employees relating to period before MANAS came into operation (ie., prior to 1.4.1988) will continue to be regulated as per circulars etc. issued as per the earlier scheme. (NR&AS) (Annexure A5). Paragraph 0.9 of Annexure A4 (MANAS) also says that since essential features of the assessment scheme remain unchanged, no fresh option is permissible to

those governed by NR&AS as on 1.4.1988 except to the extent mentioned in Annexure A4. NR&AS was issued on 2.11.1981. Para 1.11.1 says that there may be staff members in this group of grades who have qualifications prescribed for entry levels to a higher group of grades and such persons shall be assessed immediately for consideration for promotion to the next higher grade in the same group of grades. It is further stated that they shall have 4 assessments chances, the first one immediately, the second one two years thereafter (if they did not succeed in the first assessment), the third one again after two years and the fourth one after remaining for one year at the top of the grade for movement from Group I to Group II (or from Group II to Group III). The entry level qualification of Group II with effect from 1.4.1992 is SSC/10th standard with 50% marks in the aggregate and ITI certificate of two years duration in the relevant trade or SSLC or HSC/12 standard with relevant technical subjects and 60% marks in aggregate. Admittedly the applicant does not have that qualification. With effect from 21.7.2010 the entry level qualifications of Group-II/Grade I was again modified that it should be SSC/10th standard with science subjects with 55% marks plus ITI certificate or 2 years full time experience as an apprentice training from a recognized institution in the relevant trade. The respondents would contend that the applicant

was initially appointed as Helper A Grade I on 25.6.1984 with a qualification of SSLC failed. The appointment to other levels in Group I is by promotion through internal assessments. The respondents would contend that the basic stipulation in NR&AS is that the staff ~~would be~~ ^{should have been} in position as on 1.2.1981 and had acquired the qualification prescribed for the entry level posts for the next group of Grades upto 31.12.1991 and ^{only} such persons shall be eligible for the benefit of fasten track promotion. As said earlier NR&AS was brought into force w.e.f. 2.11.1981 and it was there till 31.3.1992. Para 0.4.8 says that the assessment of the incumbents in service as on 1.2.1981 in the four Group of Grades would be done for promotion to the next higher grade in the same group in accordance with the prescribed procedure. Para 0.4.9 says that a fast tract promotion is available to the incumbents who have got the prescribed entry level qualification for the next higher groups. It is made clear that it would also apply to the appointments made between 1.2.1981 and the date of the issue of those orders (2.11.1981). Since the applicant came to be appointed as Helper only on 25.6.1984 the provisions of this scheme cannot come to the rescue of the applicant.

18. It is contended that as per the NR&AS the minimum qualification for future recruitment to the post of Group II/Grade I the

scale of pay of which was Rs. 260-350 was ITI Trade certificate/matriculation (two years in the new scheme) plus two years experience. There can be no dispute regarding the fact that the entry level qualification to the Group II/Grade I as stated in MANAS or revised MANAS were not acquired by the applicant. The applicant having joined the institution on 25.6.1984 with qualification Xth standard failed, was admittedly not in position as on 1.2.1981. Only those staff who were in position as on 1.2.1981 and had acquired the qualification prescribed for the next higher group of grades upto 31.12.1981 will be eligible for the benefit of fast track promotion subject to NR&AS.

19. Paragraph 0.3 of the revised MANAS shows that the assessments for the period prior to 1.4.1988 is governed by the provisions of NR&AS. Since the applicant was initially appointed on 25.6.1984 the provisions of NR&AS alone is applicable. That is not disputed by the applicant also. It was stated in revised MANAS itself that it is not a new scheme but only an improved and updated version of the old MANAS which had been in operation till 31.3.1992. Provisions of revised MANAS came to be applicable w.e.f. 1.4.1992. It is contended by the applicant that as per CSIR letter No.17/(66)-94-PPS dated 13.2.1996 relating to revised MANAS it was clarified that

the employees who acquire the qualifications of the next higher group at any time after 31.12.1981 will also be considered without the restriction of any cut off date for acquiring the same. But the very same clarification says that the benefit envisaged under the said provision is admissible to all the employees who were in position as on 1.2.1981. Therefore, since the applicant was not in position as on 1.2.1981 this clarification letter dated 13.2.1996 also does not come to the rescue of the applicant.

20. Paragraph 2.3.4 and the clarification issued pertaining to the same does not help the applicant in view of the specific condition that the provision to change over to Group II would be allowable if only the employee was in position as on 1.2.1981. True, the date of acquisition of the qualification subsequently has been taken away but that does not take away the first condition that such employee should be in position as on 1.2.1981. It is important to note that there is no challenge regarding NR&AS or MANAS or the revised MANAS. Therefore, the parties are bound by the terms of those schemes. The very foundation for consideration for grant of benefit under the scheme is that the employee should have been in position as on 1.2.1981. The applicant was appointed only on 25.6.1984. Therefore the basic requirement as mentioned earlier is lacking making him ineligible for the benefit of



being placed in Group II.

21. Though Annexure A8 has been very much relied upon by the applicant that also is found inapplicable to the case of the applicant since it is specifically noted that the benefit of the assessment if recommended for promotion by the assessment committee in their case would be admissible from 24.5.1996 only. Annexure A8 is only a clarification with respect to the applicability of the provision contained in the revised MANAS. It has no effect on the employees who were in position and governed by NR&AS.

22. The applicant had also referred the names of one Kamat Dattaram.S and Shariff Md Bepari to contend that those persons were granted the benefit as claimed by the applicant. But it is pointed out by the respondents that those two persons had possessed the educational qualification of SSCE and SSLC and had initially joined the CSIR on 23.6.1979 and 17.11.1980 respectively and therefore it is a case where those two employees not only had the qualification but also that they were in position as on 1.2.1981 which is the basic requirement for the eligibility to sustain the claim. Therefore, the fact that those two named persons had been granted the benefit also cannot help the applicant.

23. Though the applicant had subsequently passed SSLC but

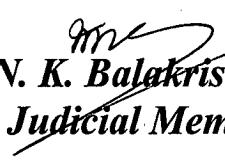


with less than 40% marks in 1987, he was not in position as on 1.2.1981. He has not satisfied the required conditions so as to sustain the claim made by him. As such this Original Application is found to be devoid any merit which is accordingly dismissed. No order as to costs.

Dated this the 26th day of September, 2016


(Mrs. P. Gopinath)
Administrative Member

kspps


(N. K. Balakrishnan)
Judicial Member