

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 588/93

Friday, this the 8th day of July, 1994

HON'BLE SHRI N. DHARMADAN (J)
HON'BLE SHRI S.KASIPANDIAN (A)

K. Bharathan,
Staff Code No.20509,
Sr. Technician 'A', EMD,
Vikram Sarabhai Space Centre,
Trivandrum. .. Applicant

By Advocate Shri P. Ravindran.

V/s

1. The Chairman,
Indian Space Research Orgn.,
Dept. of Space, Bangalore.
2. Government of India, rep. by its
Secretary, Dept. of Space,
Vikram Sarabhai Space Centre,
Trivandrum.
3. The Head Personnel and General
Administration, Vikram Sarabhai
Space Centre, Trivandrum. .. Respondents

By Advocate Shri C.N. Radhakrishnan, ACGSC.

ORDER

N. DHARMADAN (J)

Applicant is a Senior Technician 'A' working in the Vikram Sarabhai Space Centre (VSSC for short), Trivandrum. His main grievance is against Annexure-I Memorandum issued on 11.1.93 rejecting his representation for promotion to the post of Scientist/Engineer-SB considering his acquisition of Diploma in Civil Engineering in 1982 July.

2. The facts are as follows: The applicant entered service in 1968 as Tradesman-A (Plumber). He was promoted as B, C, D, E, F & G. The norms for providing promotion in Indian Space Research Organisation provide for review for

promotion in every three years. On the basis of suitability and eligibility of candidates, the Departmental Promotion Committee will consider the case of each incumbent. In 1976 the respondents amended the existing norms to provide opportunities to career change for second class diploma holders. This was introduced to avoid stagnation and consequential frustration among the employees. For a Tradesman in order to get a change of career as Technical Assistant 'B', he has to acquire additional qualifications. Appointment to the post of Technical Assistant 'B' is made by way of direct recruitment as also by way of transfer. A first class diploma in Engineering is a requisite qualification. But for inservice personnel, the second class diploma alone was insisted upon and it is clear from Annexure-II office memorandum dated 26.8.1976 which is in fact a clarification of the original office memorandum dated 12.12.1975 (Annexure-R2). But, later, according to the applicant, modifications were introduced to the norms and orders were passed insisting first class diploma as an essential requirement for the appointment by transfer to the post of Technical Assistant 'B'. The said office memorandum dated 6.1.1981 is produced as Annexure-III. Since Annexure-III resulted in denial of valuable right of inservice personnel for a consideration for promotion to the post of Technical Assistant 'B' they have filed representation. In 1982 Annexure-IV fresh order was passed whereby all inservice personnel who did not possess a first class diploma were required to take a written examination and interview for career change. It again caused difficulties for inservice personnel. Hence, they have again filed representations. When Annexure-V order was passed giving benefit of exemption from passing the career change examination to SB Engineers. That order gives benefits only to a limited group of persons. Majority of

officers holding ~~the post~~ below that of SB Engineers were not benefitted by the same. This anomaly was again sought to be rectified by Annexure-VI office memorandum. But, according to the applicant, inadvertently, it also omitted the category of Tradesman and thereby they were denied the benefit of promotion with the second class diploma. Applicant acquired diploma in Civil Engineering in the year 1982. Since the applicant's case was not considered, he filed Annexure-VII representation which was rejected by the impugned order, Annexure-I. It reads as follows:-

" Further to the Memorandum No.VSSC/EST/F/9(1) dated 16/19.10.92 Sri. K.Bharathan, Senior Technician-A, EMD is informed that his representations for considering his 2nd class Diploma in Civil Engineering and the experience gained after acquiring the qualification for promotion to the post of Sci/Engineer-SB has been considered by ISRO HQ with reference to the existing orders on the subject and conveyed that it has not been found feasible to agree to his request as per the existing norms."

Though the applicant has challenged Annexure-VI office memorandum, he confined his contentions, at the time of final hearing, for quashing Annexure-I and issuing a direction to the respondents to consider his claim for promotion as Technician Assistant 'B' with effect from 1985.

3. The respondents filed a detailed reply denying the various averments and allegations in the O.A. So also the applicant filed his rejoinder.

4. Having heard the learned counsel on both sides and after perusing the documents, the only question arising for consideration in this case is as to the interpretation of annexure-III office memorandum dated 6.1.81 which was issued in connection with career opportunities for Scientific/Technical staff. The relevant paragraphs read as follows:-

" The existing orders issued vide office memorandum No. HQ:ADMN:4:20(1) dated 4th October 1976 on career opportunities for Scientific/Technical staff provide that additional qualifications acquired by a candidate should normally be taken up for consideration only at the time of his next review and not on any adhoc basis as and when he acquires the qualification. It has also been laid down that in exceptionally outstanding cases it would be open to the Director of the Centre to take up the matter as a merit case. No special review was contemplated to consider additional qualifications acquired by a candidate under the above orders.

2. It has, however, been observed that the above procedure is not being uniformly followed in all ISRO Centres. The matter has been reviewed and the following procedure is laid down for consideration of additional qualifications acquired by Scientific/Technical staff while in service in ISRO to be followed by all ISRO Centres/Units."

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"2.5 As the special review based on additional qualifications acquired by the employee will be for the appropriate post for which he will be eligible as per norms by virtue of the additional qualifications in terms of the norms, the same will be equivalent to direct recruitment to the post. Since the reference to Degree or Diploma in the norms for direct recruitment is First Class or equivalent as per para 9.2 of ISRO Headquarter office memorandum No.HQ:ADMN:4.20(3) dated 12th December 1975, consideration at special review will be given only to those who obtain a First Class or duly certified equivalent when classes are not awarded, in the additional qualification if it is a Degree or a Diploma. Degree or Diploma not obtained with a First Class shall not be considered."

5. According to the learned counsel for the applicant, Shri P. Ravindran, the provisions in Annexure-III do not modify, supersede or repeal Clause 10 of Annexure-II O.M. which was issued as a clarification of Annexure-R2 which contains the norms for promotion of technical posts. Clauses 9.1 and 9.2 of Annexure-R2 make it clear that First Class Degree or Diploma is insisted for promotion. Clauses 9.1 and 9.2 are extracted below:-

"9.1 The norms for recruitment of Scientific and Technical personnel will stand revised as indicated in Tables I and II attached to this O.M. These norms will be given effect to with effect from 1st of January 1976 and will have no retrospective effect. They will be referred to as "New Norms".

9.2 The reference to Degree or Diploma in the norms will be treated as First Class or equivalent."

Annexure-II is a clarification of Annexure-R2. Clause 10 of Annexure-II stipulates that with regard to First Class or equivalent as referred to in para 9.1 of the O.M. (Annexure-R2) will apply only in the case of "personnel recruited after 1st January, 1976". Since the applicant was recruited as Tradesman in 1968, before 1976, according to the applicant, on the basis of the aforesaid clarification he is eligible for promotion notwithstanding the fact that he does not possess First Class or equivalent Diploma in Engineering. Since Annexure-III office memorandum does not supersede or modify the aforesaid proceedings in Annexure-II it still stands and the applicant is eligible to be considered for promotion notwithstanding Annexures-III to VI.

6. This argument of the learned counsel for the applicant cannot be accepted for two reasons: (1) The subsequent O.M., Annexure-III, specifically makes mention of acquisition of additional qualifications by Scientific/ and such case alone by Technical staff while in service/ is to be governed by Annexure-III, which insists a First Class Degree or Diploma in Engineering as an essential requirement for promotion, and (2) The institution in which the applicant is working, ISRO Centre, requires the service of Scientific/Technical staff of superior qualification/calibre. It is on account of this fact that First Class or equivalent in Degree or Diploma is being insisted right from the beginning in Annexure-R2.

7. Applicant's interpretation that since Annexure-II has not been referred to in the subsequent O.M., Annexure-III, dated 6.1.81, it is to be applied in this case cannot be accepted on the facts and circumstances of the case particularly when the applicant has acquired the Diploma while in service, in 1982, accepting the position that Annexure-III insists First Class or equivalent position for Degree of Diploma as an essential

requirement for promotion in his representation and sought for exemption. The applicant had already appeared for the written test and failed to obtain the required minimum marks under the category change merit scheme. Thus, he is estopped from raising these contentions at this stage. It is made clear in the reply filed by the respondents that the applicant has to appear for the written test and score pass marks if he so desires to become a Scientific/Engineer SB.

8. As indicated above, ^{after 4} a combined reading of the provisions of Annexures-II and III bearing in mind the object with which the same has been issued, the contentions raised by the applicant cannot be accepted. When the ISRO became a Government Organisation under the Department of Space with effect from 1.4.1975, the need for a uniform policy relating to recruitment, promotion, etc. arose. Hence, Annexure-R2⁴ O.M. was issued by the Department of Space on 12.12.1975 making it effective from 1.1.76. Para 9.2 of the said O.M. stipulated that "The reference to Degree or Diploma in the norms will be treated as First Class or equivalent". But, later a clarification, Annexure-II, was issued stating that the stipulation regarding First Class or equivalent in para 9.2 of the O.M. will apply only to the personnel recruited after 1.1.1976. The object of the clarification is to confer benefit on those persons who have acquired Diploma/Degree on or before the date of issue of Annexure-R2 O.M. and in regard to those persons stipulation of First Class will not be insisted upon. The clarification, Annexure-II, makes it further clear that First Class is insisted only in the cases of persons who are recruited after 1st January, 1976 with the qualification of Degree or Diploma. The applicant's case will not come within the ambit of

Annexure-II because he was recruited as Tradesman in 1968
he
and /acquired the Diploma only in 1982. His case, according
to us, will come in Annexure-III, clause 2 read with clause
2.5.

9. Having considered the matter in detail, we are of
the view that the applicant's contention and his
interpretation of Annexure-II O.M. cannot be accepted and
we see no merit in this O.A. It is only to be dismissed.
Accordingly, we dismiss the same. There will be no order as
to costs.

S. Kasipandian
8.7.94

(S. KASIPANDIAN)
MEMBER (A)

N. Dharmadan
8.7.94

(N. DHARMADAN)
MEMBER (J)

v/-