

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 140 of 2010

Wednesday, this the 6th day of April, 2011

Hon'ble Mr. George Paracken, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

P.A. James, S/o. P.A. Anthony, aged 58 years,
residing at Pukkatt House, P.O. Eroor South,
Thrippunithura, Ernakulam District.

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Applicant

(By Advocate – Mr. P.K. Ramkumar)

V e r s u s

1. Hindustan Organic Chemicals Ltd.,
Represented by its Chairman and Managing Director,
A.S. Didolkar, Harchand Rai House,
No. 81, Maharshi Karve Marg, Mumbai.
2. The General Manager, Hindustan Organic
Chemicals Ltd., Cochin Unit, Ambalamugal,
Ernakulam District.
3. The Chief Personal and Administrative Manager,
Hindustan Organic Chemicals Limited,
Cochin Unit, Ambalamugal.

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Respondents

(By Advocate – M/s. Menon & Menon)

This application having been heard on 06.04.2011, the Tribunal on the same
day delivered the following:

ORDER

By Hon'ble Mr. George Paracken, Judicial Member –

The relief sought for by the applicant in this Original Application is to
declare that he is eligible to get salary and emoluments applicable to the post of
Manager (Production) from July, 2005 onwards.



2. The brief facts which are relevant to this case are that the applicant was holding the post of Deputy Manager (Production) from 1.7.2000 and he was eligible for promotion to the next higher post of Manager (Production). As per the promotion policy of the respondents' company, personnel having five years experience as Deputy Manager are eligible to become Manager (Production). The applicant has completed five years as Deputy Manager in July, 2005. He claims that he is entitled to be promoted from that date as Manager (Production). He has further submitted that an interview was held for selection to the post of Manager (Production) from among the Deputy Managers on 5.6.2007. But he did not receive any call letter for interview. As a result his junior Mr. Ravikumar was interviewed and promoted. When he came to know about the next interview for promotion to the post of Manager (Production) scheduled to be held on 22.9.2007 he made Annexure A-3 representation dated 21.9.2007 to the Chief Personnel and Administration Manager through proper channel. However the same was returned to the applicant by his immediate superior officer, namely, the CM(Production) with the following remarks:-

“An interview was conducted to the post of Manager on 5th June, 2007 and call letter was issued to you and Mr. Ravikumar, Dy. Manager (Prodn.) for the same. You have not turned up for the interview and has not communicated anything regarding it till date. As the contents of the letter particularly “ignoring my claim to be considered for the said post” and this time also is not factually correct. The request is not forwarded.”

3. As a result he was not considered for promotion to the post of Manager (Production) even on 22.9.2007. However, according to the respondents and as accepted by the counsel for the applicant, the applicant was finally promoted to the post of Manager (Production) on 1.1.2008. Aggrieved by the refusal to sent a call letter for the interview which was scheduled to be held on 5.6.2007 and the


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refusal on the part of his superior officer in forwarding his Annexure A-3 representation dated 21.9.2007 to the Chief Personnel and Administration Manager, he had filed a Writ Petition No. WP(C) 28264 of 2007 before the Hon'ble High Court of Kerala. However, the learned Single Judge vide his judgment dated 15.10.2008 dismissed the same. Against the said judgment the applicant has filed Writ Appeal No. 614 of 2009 and the same is pending.

4. The respondents have filed a reply stating that the applicant's challenge against the aforesaid Annexure A-3 is misconceived and unsustainable in law and on facts. The endorsement thereon does not amount to an order but it only amounts to recording of the fact. They have also submitted that the interview was held on 22.9.2007 as scheduled. However, the applicant was considered for promotion subsequently and promoted to the post of Manager (Production) on 1.1.2008 which was accepted by him till he resigned from service on 23.12.2008.

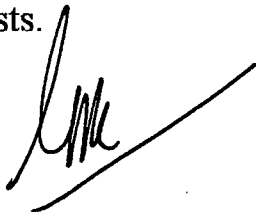
5. We have heard the learned counsel for the parties and perused the pleadings and records of the case.

6. The prayer of the applicant in this OA is to declare that he is eligible to get the salary and emoluments applicable to the post of Manager (Production) from July, 2005 onwards. In order to get his salary, first of all he has to establish that he was promoted to that post from the date he has been claiming the salary. Admittedly, the applicant was promoted as Manager (Production) only on 1.1.2008. Moreover, he has no case that anyone junior to him has been promoted from July, 2005. His only contention in this OA is that in the interview held on 5.6.2007 and 22.9.2007 he was not given the call letter to attend the interview and



therefore, he could not appear in the interview and hence not selected. This is the issue which is being adjudicated by him in Writ Appeal No. 614 of 2009 and the same is pending before the Hon'ble High Court of Kerala.

7. In view of the above facts and circumstances of the case, we do not express any opinion on the merits of this case. The claim of the applicant depends upon the judgment of the Hon'ble High Court in the aforesaid Writ Appeal No. 614 of 2009 (supra). We, therefore, dismiss this case as premature. There shall be no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(GEORGE PARACKEN)
JUDICIAL MEMBER

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