

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date: 28-3-90

Present

Hon'ble Shri NV Krishnan, Administrative Member
and

Hon'ble Shri N Dharmadan, Judicial Member

DA No.176/89

C Gopalakrishna Pillai : Applicant

Vs

- 1 Head PGA, VSSC, Trivandrum-22
- 2 Controller, VSSC, Trivandrum-22
- 3 Director, VSSC, Trivandrum-22
- 4 Administrative Officer (EST),
VSSC, Trivandrum-22
- 5 Union of India rep. by the
Secretary, Department of Space,
Government of India, Bangalore : Respondents.

M/s GP Mohanachandran, KR Haridas
and SK Vijayasankar : Counsel of Applicant

Mr PS Biju, ACGSC : Counsel of Respondents

ORDER

Shri NV Krishnan, Administrative Member.

The applicant is aggrieved by the fact that though he claims to be fully qualified for promotion as Engineer 'SB' in the establishment of Respondent-1, such yet he has not been given promotion. He has been informed by the impugned letter dated 18.2.84 (Annexure A6) that the additional qualifications acquired by him will render him eligible for the post of Technical Assistant 'B'. He has further been informed by the impugned order dated 6.10.87 (Annexure A9) that the mere qualification of Diploma in Engineering in First Class while working

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as a Tradesman will not entitle him to be considered for the post of Engineer 'SB' because he does not have the necessary relevant experience. Hence, the application has been filed to set aside the impugned in An.6 and An.9 orders and to direct the respondents to promote him as Engineer 'SB' with effect from October, 1986.

2. The background to the case is as follows:

The Vikram Sarabhai Space Centre, Trivandrum, the Centre for short, has specified the career opportunities available for Scientific and Technical Staff. It is admitted that while working as a Tradesman 'G', the applicant acquired additional qualifications of Diploma in Engineering in July, 1982. The applicant contends that para 6.1 of the circular dated October 20, 1982 states that (Annexure A3) L Tradesman 'G' who are only ITI Certificate holders like him and who have obtained a Diploma Engineering qualification in First Class will be considered for promotion to the post of Engineer 'SB' in the areas specified therein. Nevertheless, he has been denied such a promotion, though in the case of one Darshan Singh similarly situated, such promotion has been ~~has been~~ granted. He also refers to Annexure A4 circular dated 10.4.84 which indicates that First Class Diploma holder can be considered for promotion as Engineer 'SB' grade on completion of 3 years service in the scale of Rs 550- 900 grade which is the grade in which he was working. He claims that under this provision also he is entitled to be considered for promotion as Scientist 'SB'.

3 The respondents have filed a reply denying that any relief is due to the applicant. It is contended that the applicant has mis-interpreted the provisions of the rules having a bearing on this subject. It is stated that Tradesman 'G' in the grade of 550- 900 (pre-revised) can normally get promoted to the higher grades of Tradesman 'HJ&K', the last grade having a pay of Rs 1100-1600.

4 However, the applicant while working as Tradesman 'G', having acquired a Diploma in Mechanical Engineering with First Class in 1982, he could have opted for/ corresponding post of Scientific Assistant/ Technical Assistant as provided in the OM dated 6.1.81 and changed over to the scientific stream. (Annexure R1). It is stated therein that the case of review of a candidate who has/^{acquired} additional qualifications to are normally/be taken up for consideration only at the time of his next review and not on ad-hoc basis/and as when he acquires the qualifications. It is clarified that the review based on the additional qualifications acquired by the employees will be treated as a special review and not a normal promotional review. While the applicant contends that such a review was not conducted in this case, the counsel of respondents points out that such a special review will be taken/only if the employees submit their applications for consideration to the eligible post vide para 2.8 of Annexure R1 Memorandum. Such a request was not made by the applicant and therefore, his case was not considered in the special review.

5 Therefore, considering the aforesaid instructions it is contended that the Memorandum issued to the applicant by the impugned Annexure A6 order dated 18.2.84 that his case can be considered only for the post of Technical Assistant 'B' (Rs 470 - 750) represents the correct position and cannot be assailed. Similarly, the other impugned Memorandum dated 6.10.87 (Annexure A9) is also unassailable when it ~~is~~ states therein that by acquiring the additional qualifications, he became eligible for the ~~only~~ post of Technical Assistant 'B' and that he was not eligible to be considered for the post of Engineer 'SB' on the basis of additional qualifications alone because he did not have the "relevant experience". The counsel explained that in the light of averments made about the avenues of promotion in the counter affidavit, it is clear that to become a Scientist 'SB' it is necessary to be a Technical Assistant 'C' and have 3 years experience. As the applicant did not have this qualifications he could not be considered for promotion to the post of Engineer 'SB'.

6 It is in these circumstances that the applicant was informed by the Memorandum dated 16.2.89 (Annexure R3) that the written test for promotion to the post of Scientist / Engineer 'SB' grade under "Category Change, Merit Selection Scheme" was to be held shortly and that

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if he wish to appear in that test he should have communicated his readiness to the Assistant Administrative Officer of the Centre. Therefore, the applicant was given an opportunity to be considered for the post of Scientist/Engineer 'SB' under the aforesaid reference, this is a separate scheme which is contemplated in the Annexure R2 Memorandum dated 1.10.82.

7 As the applicant did not avail himself of this opportunity he cannot make any complaint that he has not been considered for the post of Scientist/Engineer 'SB'.

8 We have perused the records of the case and heard the learned counsel. The simple issue under consideration is how does a Tradesman become an Engineer 'SB'.

their reply. It is also clear from Annexure A3. The respondents have indicated the line of promotion in As Tradesman, one can go upto the grade of Tradesman 'K'. However, the Tradesman can also be considered for the alternate line of Technical Assistant/ Scientific Assistant if (i) if he acquires additional qualification of Diploma Engineering in First Class and (ii) he specifically makes a request ~~maximum~~ acquiring this additional qualifications he be considered to the particular eligible post. In that event, a special review will be conducted and he will be promoted to that post. The

Technical Assistants/ Scientific Assistants Grade 'C' having 3 years experience alone can become Scientist 'SB'.

A mere Tradesman 'G', like the applicant, with an additional qualification of Diploma Engineering in First Class cannot directly become a Scientist 'SB'. He did not apply to

be considered for the post of Technical Assistant/Scientific Assistant after acquiring additional qualifications in 1982. Had he done so, he would in all probability have by now qualified to be considered for the post of Engineer 'SB'.

9 Respondents-2 has also issued a circular to benefit those persons who have obtained higher qualifications, but not in the First Class or having acquired the qualifications was considered in the special review but not found fit. It would also include persons like the applicant who having acquired the qualifications did not apply to be considered in a special review for the next eligible post. Such people who are in the category of Tradesman have now been given an opportunity by the Annexure R2 Memorandum to get promoted to the post of Engineer 'SB' as mentioned in para-6 of that Memorandum. It is in pursuance of this provision that the Annexure R3 letter was issued to the applicant intimating him that he was being considered for Category Change Merit Selection Scheme in the Mechanical line and he could appear in the test which would help him in changing over from the category of Tradesman to the category of Scientist 'SB'. As the applicant has refused to avail himself of the opportunity, we are of the view that he is not entitled to any relief in this regard.

10 However, it is alleged by the applicant that it is not necessary to follow this channel indicated by the respondents. He cites the example of Shri Darshan Singh a Tradesman 'G' in the Space Application Centre, Ahmedabad who has been promoted directly as Engineer 'SB'.

The order dated 22.5.85 granting such promotion to Darshan Singh is exhibited at Annexure A2.

11. In this regard, the Respondents have contended in their reply that in the case of Shri Darshan Singh he was considered and promoted to the post of Engineer 'B' an due to erroneous interpretation of orders/clerical error. The respondents have produced in this connection Annexure R5 being a letter dt. 26.4.89 from the Space Application Centre, Ahmedabad to Respondent-1 which corroborates this statement. The learned counsel for the respondents submitted orally that the mistake could not be rectified in view of certain interim orders passed by the Ahmedabad Bench of the Tribunal before whom a similar application is pending, as can be seen from Annexure R5.

12. We are of the view that if a promotion is given to a candidate by mistake that will not be proper authority to claim promotion by another candidate similarly circumstanced, particularly when remedial action is taken to rectify this mistake.

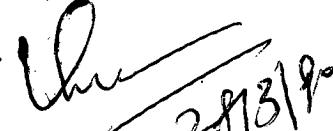
13. The learned counsel for the respondents also brought ~~drawn~~ ~~maxxatkentim~~ to our notice that an order passed in TAK 438/87 by the Ernakulam Bench of the Tribunal dealing with a similar matter wherein the application was rejected. It has been held therein that the promotion of Tradesman 'G' to the category of Scientist 'SB' after can be only either by becoming Technical Assistant/ Scientific Assistant in the first instance by a special

review and gaining experience or in the alternative, to pass the test conducted for category change. However, the grounds raised in that application are somewhat different from what has been raised in the present application.

14 We are satisfied that the applicant has chosen not to comply with the established procedure to get promotion and he himself has to blame if he has not yet been promoted. We do not find any merit in this application and deserves to be dismissed. It is accordingly ordered.

15 There will be no order as to costs.


N. Dharmadan
Judicial Member
28-3-90


NV Krishnan
Administrative Member
28/3/90

28-3-90