

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 195/91
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~~199~~

DATE OF DECISION 1-6-92

D Parameswara Iyer Applicant (s)

(Applicant in person) Advocate for the Applicant (s)

Versus
The Director
Vikram Sarabhai Space Centre Respondent (s)
Thiruvananthapuram and
another.

Mr NN Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. NV Krishnan, Administrative Member
and

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

Sh NV Krishnan, A.M

The applicant is working as a Senior Lab. Assistant, ASD in the Vikram Sarabhai Space Centre, Thiruvananthapuram under the Respondent-1. He had earlier filed Original Application No.568/89 Annexure-A1 which was disposed of by the Tribunal's judgment dated 17.8.90 at/ with the following directions:

" Under the circumstances, we are of the view that the applicant's case for promotion to the post of Senior Scientific Assistant requires to be reviewed by a review DPC from 1987 onwards without taking into consideration the uncommunicated adverse entries but after interviewing him and at the same time taking into account the suggestions of the reporting and reviewing authorities for a change of job/environment of the applicant for improving or better utilisation of his services. If that DPC finds him to be suitable for any other job or in the present job from any earlier date, he shall be given the promotion and consequential benefits in accordance with the decision of the review DPC."

2 Accordingly, steps were taken by the respondents to test his suitability for promotion to the post of Sr. Scientific Assistant. In that regard, the applicant was directed to appear in a trade test in which he participated, but failed.

3 In this connection, the applicant made a representation on 28.11.90 to the Respondent-1 (Annexure A3) which has been disposed of by the Annexure A8 order dated 18.1.91. As he failed in the first trade test relatable to the promotion as on 31.12.87, he was directed to appear for a further trade test on 7.2.91 to consider his eligibility for promotion as on 31.12.88 vide Annexure A9.

4 The applicant is aggrieved by these proceedings and hence he has filed this application seeking the following reliefs:

"(1) To quash Annexure 8 order passed by Head Personnel and General Administration Memorandum No.VSSC/EST:F/1(12) dt. January 17th 1991 declaring the applicant that he has failed in the Trade Test conducted by the DPC on 19.12.90.

"(2) Promote the applicant to the post of Scientific Assistant (B) with effect from 31.12.87 because the applicant has proved that malafide actions and deliberate attempt made by the DPC to make fail the applicant in the Trade Test conducted on 19.12.1990 as per the directives of the Hon^{ble} Central Administrative Tribunal in OA 568/89.

(3) To pass an order so as to enable to get some preferential treatment to the Physically Handicapped persons including the applicant with immediate effect as provided under Article 15(4) and 16(4) in the Constitution of India."

5 The applicant's first contention is that the trade test conducted on 19.12.90 to test the fitness for promotion as on 31.12.87 is biased and malafide and that it should be quashed and that the Annexure A8 order stating that he failed in the examination should also be quashed. In this

connection, in the representations at Annexure A7 dt. 21.12.90 and Annexure A10 dated 16.1.91 the applicant has alleged that other persons who were similarly trade tested in the past had been given greater amount of assistance which has been denied to the applicant.

6 We first consider the Annexure A10 representation of the applicant. His complaint is as follows:

" 1. I am presenting herewith a copy of the question paper and the procedure both for simple Salt Analysis and titration issued to Mr TK Parameswaran of Electro Plating section of AVMD in connection with the Trade Test conducted on 9.3.1988 for the category change merit promotion to SAB. Please note that the procedure issued for titration includes calculation also.

" 2. Whereas in my case where preferential treatment is granted the committee did not give me either procedure for Salt Analysis or Periodic Table for finding the Atomic weight for the second question."

Thus, it is alleged that in the case of TK Parameswaran, he was given the question paper and 5 printed pages of procedure for Salt Analysis and one typed page of procedure and formula for calculation for the second question. Similar procedure was followed in the case of Mohan Kumar also. In this connection, the applicant has enclosed a copy of the representation dt. 16.1.91 at Annexure A10 relating to the allegation concerning TK Parameswaran and representation dated 21.12.90 at Annexure A7 the allegation relating to Mohan Kumar.

7 We have seen the question papers enclosed with Annexure A10. The question paper of 9.3.88 (Part-I) does not, on the face of it, show that any procedure for finding the solution to the problem is enclosed therewith ~~by the applicant in the part-I Question Paper.~~

u with Part I ⁻⁴⁻ question paper

What is enclosed is a Xerox copy from some text book from page Nos: 43 to 53 relating to Analysis of Simple Salts. Obviously, such an assistance would not have been supplied by the Department. In fact, the respondents have denied supplying this procedure. The applicant has enclosed the question paper of 9.3.88 given to TK Parameswaran for Part-II. The examinee has been asked to write down the procedure for ~~extending~~ ^{estimating} the strength (normality) of the given solution of Sodium tetrathionate. This is to test his theoretical knowledge. Secondly, he has to find out the strength practically. ^u for this purpose, the procedure was ^u ~~applied~~ ^{su} applied to him and that question paper shows on the face of it, that the detailed procedure will be given to the examinee ^u ~~the~~ ^{for} practical application as it contains the following clause " you will be provided with the detailed procedure". Enclosed to that question paper is the procedure given by the Department in one sheet of typed paper. Thus, it is clear from the question papers of Part I and Part II enclosed by the applicant himself that if the department wanted to give the procedure to help the examinee that fact is indicated in the question paper itself. The procedure is also prepared by the Department itself and is not supplied by taking Xerox copy from standard text books. Therefore, the allegation that TK Parameswaran was helped in Question Paper-I by giving the procedure to him is found to be false.

8 We can now consider Annexure A7 representation where it is alleged that help was given to Mohan Kumar *u* but denied to him. His allegation in regard to Mohan

Kumar is as follows:

"As I have stated in my letter referred 3, for the Trade Test conducted to Mr. Mohan Mumar of PDO, he was given ONE QUESTION and he was asked to write down the procedure. After getting the procedure written by Mr Mohan Kumar the Department Promotion Committee has served him actual procedure (copy enclosed herewith) and asked him to do the test as per the procedure. Kindly note that the procedure given to Mr Mohan Kumar was having only one typewritten page including the calculation."

9. We doubt the veracity of this allegation for the following reasons:

(i) The copy of the question paper given to TK Parameswaran (enclosed with the Annexure A10 representation) carried the following:

"TRADE TEST FOR CATEGORY CHANGE PROMOTION
TO S.A. 'B' - 9.3.88

Question Paper

PART-I

2½ hours. "

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xxxx

xxx

Similar details are given in Part II also. The alleged question paper given to Mohan Kumar does not contain any such detail. It sets out the question blandly.

(ii) If a procedure was also supplied, it should have been mentioned in the question paper itself as is the case with Part-II question paper of TK Parameswaran, enclosed to Annexure A10.

(iii) The typed sheet of procedure does not disclose to which examination it relates. In the enclosure to Part-II (Ann.A10), such an indication is given.

(iv) Here again Xerox copies of pages from a text book are enclosed.

10. Therefore, the applicant's allegation that others were given help and he was not given help has no basis.

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The respondents have clearly pointed out in their reply that the applicant was appointed already to the highest post of Sr.Lab.Assistant to which, one having this qualification can aspire. However, in their organization, arrangements exist for further promotions also, for even such people who may not have the necessary qualification, provided they passed the trade test. Thus, the next higher post of Scientific Assistant-B requires considerable knowledge acquired either out of educational qualifications or practical experience. It is stated in the counter that the applicant was given a very simple test comprising one simple Salt Analysis and two calculations using the ^e experimental data provided by the DPC. Normally, in such trade tests, two practical tests are given. In view of the applicant's physical handicap, only one Salt Analysis was given to him. The other questions were theoretical in nature. As he failed in the test, he could not be considered for promotion.

11 In the circumstance, we find that the allegation of bias to fail him in the test is totally baseless. We are satisfied that the applicant was not found fit for promotion with effect from 31.12.87, purely on merits and the decision of the DPC cannot be assailed.

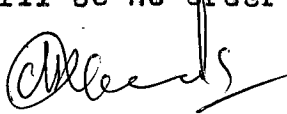
12 The applicant refers to the observations we have made in para 5 of our judgment at Annexure A1 regarding preference being given to handicapped employees. This was only an observation and was not part of any direction

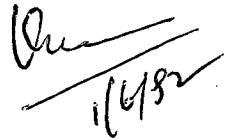
in that case. Nevertheless, the respondents have taken up the matter with the Govt. of India, as is evident from the impugned Annexure A8 order, wherein it is stated that copy of that judgment containing the specific suggestions has been sent to the ISRO Headquarters for consideration and proper action.

13 In the circumstance, we find that this application is without any merit and hence it deserves to be dismissed and we do so. However, we make it clear that the respondents are now to take further steps to examine the applicant for promotion with reference to 31.12.88 and subsequent dates in accordance with the procedure applicable in their organization.

14 With these observations, this application is dismissed.

There will be no order as to costs.


(AV Haridasan)
Judicial Member


(NV Krishnan)
Administrative Member