

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

Dated Wednesday the twenty eighth day of June, one thousand nine hundred eighty nine.

PRESENT

Hon'ble Shri S.P.Mukerji, Vice Chairman
&
Hon'ble Shri G.Sreedharan Nair, Judicial Member

ORIGINAL APPLICATION NO. A.239/87

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ORIGINAL APPLICATION NO. K.222/87

P. Sivadasan. X
B. Gomathi Amma X .. Applicants in OA. 239/87
V.K. Ramachandran Warrier .. Applicant in OAK. 222/87

Vs.

1. Union of India represented by
Secretary to Govt. of India,
Department of Space, Indian
Space Research Organisation,
F.Block, Cauvery Bhavan,
District Office Road,
Bangalore-560 009.
2. Addl. Secretary to the
Department of Space, Indian Space
Research Organisation, F-Block,
Cauvery Bhavan, District Office
Road, Bangalore-560 009.
3. The Director,
Vikram Sarabhai Space Centre,
Trivandrum-22. .. Respondents in OA. 239/87

1. Director, V.S.S.C. Trivandrum-22. X
2. Administrative Officer-II,
Establishment, V.S.S.C. X
Trivandrum-22. X
3. Union of India, represented by
the Secretary, Department of Space X
Indian Space Research Organisation,
Cauvery Bhavan, District Office Rd.,
Bangalore-9. X Respondents in
O.A.K. 222/87

Counsel for the applicants in
O.A. 239/87 .. Mr. B.Raghunathan.

Counsel for the applicant in
O.A.K. 222/87 .. Mr.G.P.Mohanachandran

Counsel for the respondents in
O.A. 239/87 .. Mr.PV Madhavan Nambiar
SCGSC

Counsel for the respondents in
O.A.K. 222/87 .. Mr. P-A. Mohammed
ACGSC

OR D E R

(Shri S.P.Mukerji, Vice Chairman)

Since common questions of fact and law are involved in these two applications filed under Section 19 of the Administrative Tribunals Act they are being disposed of by a common judgment as follows.

2. The applicants were recruited at the Vikram Sarabhai Space Centre, Trivandrum (hereinafter referred to as 'Centre') as Lab Assistant-B (in O.A.K.239/87) and as Lab Attendant (in O.A.K.222/87) before 30.4.1972. After a number of promotions in their own line they were promoted as Senior Lab Assistant during 1976-1977. In order to provide further avenues of promotion two grades of Scientific Assistant-B and Scientific Assistant-C were specially provided in their cadre. They were promoted to Scientific Assistant-B and later to Scientific Assistant-C grades during 1983 and 1984. While in service they acquired the Degree of B.Sc in Chemistry in 3rd Class and are claiming to be promoted to the next category in the grade of Scientist on the basis of their present status. The respondent's case is that appointment to the grade of Scientist which is in a different category altogether involving research, supervision etc., has been prescribed only for holders of 1st class Degree and Diploma with prescribed period of experience in case of

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Diploma holders and the applicants being only IIIrd Class Degree holders cannot be considered for such promotion like ^{the} _{like} 1st Class Degree holders except by a special procedure of ^{the} written and oral tests as prescribed under the category change merit promotion scheme. The applicants have argued that the stipulation regarding 1st Class ^{was} _{was} ^{they} _{are} to apply only to the personnel recruited after 1st recruited earlier and further on January, 1976 and since they had been promoted as ^{the} _{as} Scientific Assistant-B and then as Scientific Assistant-C for which ^{which} _{which} also the minimum qualification is 1st Class Degree or Diploma with experience they are eligible to be promoted to the next category of Scientist by treating them at par with 1st Class Degree or Diploma holders. In this connection they have referred to the judgment of the Hon'ble High Court of Kerala in O.P.No.9775/82 (Annexure A-4) in which it was held that once the employees are allowed to be equated with 1st Class holders of Diploma/Degree and promoted from lower grade to a higher grade by subjecting them to the process of normalisation which was invoked prior to the ^{9.1.1982} order _{in} which written and oral tests for those who were not holding the 1st Class Degree or Diploma was prescribed, they will be governed by the old procedure. The respondents have stated that the line of promotion for Lab Assistants extended only upto Senior Lab Assistant but as a special

dispensation the posts of Scientific Assistant-B & C were provided to them. For the posts of Scientific Assistant (C) which is a feeder category for the posts of Scientist, the 1st Class Degree or Diploma has been prescribed. As they were not having 1st Class Degree or Diploma and were not holding the post of Scientific Assistant-A at the material time when the order dated 12.12.1975 for automatic promotion of Scientific Assistant-A as Scientific Assistant-B was prescribed, they could not be promoted as Scientific Assistant-B in 1975. Further, since they had not entered service before 30.4.1972 they were not entitled to get the benefit of normalisation by which IIIrd Class Diploma holders like the applicants were brought at par with 1st Class Diploma holders by reckoning the minimum qualifying service for promotion as that two years more than prescribed for 1st Class Diploma holders. They have also indicated that at no point of time in their career the applicants were placed at par with 1st Class Diploma holders for any purpose. Accordingly the principle adopted by the Hon'ble High Court of Kerala in O.P.No.9775/82 (Annexure-A.4) is not applicable to and cannot be invoked in their cases.

3. We have heard the arguments of the learned counsel for both the parties and have gone through the documents carefully. Since at no point of time the applicants had been equated with the 1st Class Diploma holders and integrated in a cadre along with them which is a feeder cadre for the posts of Scientist, the applicants cannot claim parity with the 1st Class Diploma holders by invoking the judgment of the Hon'ble High Court of Kerala in O.P.No.9775/82. Even if for the sake of argument it is assumed that they were earlier eligible for such promotion it is the right of the employer respondents to introduce changed eligibility criteria in the interest of public service so long as vested interests are not effected. This is supported by the ruling of the Supreme Court in K.S.Vohra and others v. State of Gujarat and others, AIR 1978 SC 2348. In Kewal Krishan Sharma v. Union of India & others, ATR 1988(2) CAT 614 it has been held after relying on the aforesaid and other rulings that modality of selection can be changed for a post and written and oral tests can be prescribed without violating vested rights and more chances of promotion are not vested rights. A similar view was expressed by another Bench of the Tribunal in K. Jagadeesan v. Govt. of India and others, ATR 1988(2) CAT 186 in which it was held that the promotion rules can be changed by making eligible candidates ineligible by prescribing a Degree in Engineering even if chances of promotion are affected. Even otherwise we have in our

judgment in T.A.K. 202/87 and others delivered today
held that this finding of the Single Member Bench of
the High Court of Kerala in the aforesaid Writ Petition
No. OP 9775/82 cannot be accepted in toto in view of the
various rulings of the Supreme Court and the Principal Bench
of the Tribunal in P.N. Kohli Vs. Union of India, ATR 1987(2)

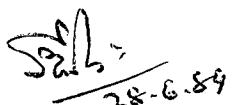
172. In the case of P.N. Kohli, the Principal Bench relying
on the rulings of Supreme Court held that any rule prescrib-
ing different qualifying service and different modes of
selection for two categories of officers with different educat-
ional qualifications even if they form the same integrated
cadre for promotion to the next higher level will be valid
and will not be violative of Articles 14 and 16 of the Constitu-
tion. The Vikram Sarabhai Space Centre is a unique body
dealing with space science and technology where anything
less than excellent may result in collapse of space projects
causing loss of millions of rupees. It is fully justifiable
that the respondents have thought it fit to prescribe 1st
Class Degree and Diploma for induction in the grade of
Scientist as distinguished from the grade of Technicians
to which the applicants belong. The respondents however have
in full fairness to the employees who acquired higher quali-
fications than those required for their own posts, provided
avenues of promotion to the higher grades including the
category of Scientists and Engineers. They have gone a step
further by providing that an employee, who fails to obtain 1st
Class Degree or Diploma or is otherwise not qualified could also

aspire for promotion to the higher categories provided he passes rigorous written, oral and practical tests after proper screening. This is what it should be instead of a blind exclusive obsession with 1st Class Degree or Diploma. The applicants who hold neither 1st Class Diploma nor are prepared to face the tests cannot claim promotion to the grade of Scientist without compromising public interest. The applicants were given as a matter of grace the promotional avenues in their technicals cadre the grades of Scientific Assistant-B and Scientific Assistant-C to which they were promoted in their turn as and when they made the grade. The stray cases of promotion to the grade of Scientist of those who were not holding the 1st Class Diploma are clearly distinguishable from the cases of the applicants. They were either normalised because of their entry in the service before 30.4.72 whereas the applicants entered service after this date or they became eligible for such consideration by virtue of the prescribed length of service put in after acquiring the necessary educational or professional qualifications. In more or less similar cases in Writ Petition No.1078/84 the Hon'ble High Court of Kerala refused to intervene and thought that the court should not linker with the professional qualifications dealing ^{with} space research prescribed in a sensitive organisation like the Centre /

4. In the facts and circumstances we see no merit in the applications and reject the same. There will be no order as to costs.

5. A copy of this order may be placed in both case files.


(G. Sreedharan Nair)
Judicial Member


(S.P. Mukerji)
Vice Chairman

28.06.89

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