

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 241 of 2012

Wednesday, this the 14th day of November, 2012

CORAM:

**HON'BLE MR. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. Padmam K.N,
SC No.24540, Technical Officer-C,
TVCSD/SC,
Liquid Propulsion Systems Centre,
Valliamala, Thiruvananthapuram : 695 547
2. Balan C,
SC No.60225, Technical Officer-C,
CMD/EAC/Electrical,
Liquid Propulsion Systems Centre,
Valliamala, Thiruvananthapuram : 695 547
3. Ramachandran K,
SC No.25623, Technical Officer-C,
LEID/SCIG/MVIT,
Vikram Sarabhai Space Centre (VSSC),
ISRO (PO), Thiruvananthapuram : 695 022
4. Balachandran C,
SC No.20757, Technical Officer-C,
EPD/APG/AVN,
Vikram Sarabhai Space Centre (VSSC),
ISRO (PO), Thiruvananthapuram : 695 022
5. Anthony M.P.,
SC No.20358, Technical Officer-C,
Vikram Sarabhai Space Centre (VSSC),
Ammonium Perchlorate Experimental Plant,
Erumathala P.O : 683 112, Aluva, Ernakulam
6. Jayaraman K.P.,
SC No.22592, Technical Officer-C,
QCD/QMPG/MVIT
Vikram Sarabhai Space Centre (VSSC),
ISRO (PO), Thiruvananthapuram : 695 022

... Applicants.

(By Advocate Mr. M/s. P.N. Santhosh & K.P. Geethamani)



v e r s u s

1. Union of India represented by
The Secretary, Department of Space,
Government of India, Anthareeksha Bhavan,
New B.E.L. Road, Bangalore : 560 094
2. The Chairman,
Indian Space Research Organisation,
Department of Space Administration,
Anthareeksha Bhavan, New B.E.L. Road,
Bangalore : 560 094
3. The Director,
Vikram Sarabhai Space Centre (VSSC),
ISRO (PO), Thiruvananthapuram : 695 022
4. The Director,
Liquid Propulsion Systems Centre,
Valliamala, Thiruvananthapuram : 695 547

... Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

This O.A having been heard on 31.10.2012, the Tribunal on 14.11.12 delivered the following:

O R D E R

Hon'ble Mr. K. George Joseph, Administrative Member -

All the applicants are Technical personnel who cleared the Category Change Merit Selection Scheme (CCMSS) at Annexure A-1 for promotion to Scientist/Engineer-SB, a gazetted post in the Indian Space Research Organisation (ISRO). When their turn came for promotion in 2006/2007, they were promoted as Senior Technical Assistant-A, a non-gazetted post in the technical officer stream under the modified CCMSS, which came into force by then. The CCMSS was further modified as per Annexure A-5 under which in a special interview, which was a one time measure, the applicants were promoted to the post of Technical Officer-C, a gazetted Group-A post, on



01.07.2010. For further promotion to the post of Technical Officer-D, they have to undergo 6 years residency period. Their requests for promotion to the post of Technical Officer-C with retrospective effect from 01.07.2006/01.07.2007, as the case may be, were turned down on the ground that promotions are effected only prospectively. Aggrieved, they have filed this O.A for the following reliefs:

- (i) Declare that the applicants are entitled to be promoted to the post of Technical Officer-C with effect from the date on which they were actually promoted under CCMSS with all consequential benefits including fixation of pay, arrears of salary and seniority;
- (ii) Call for the records leading to Annexures A-14 to A-19 and set aside the Annexures A-14 to A-19 declaring it as illegal.
- (iii) Direct the respondents 3 and 4 to promote the applicants 1 to 3 with effect from 01.07.2006 and applicants 4 to 6 with effect from 01.07.2007 to the post of Technical Officer-C with all consequential benefits including fixation of pay, arrears of salary and seniority; and
- (iv) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

2. The applicants contended that the impugned orders are silent as to the date of eligibility to come over to the Engineer Grade. Had the applicants been given promotion as per the existing scheme under the original CCMSS, they would have reached the post of Engineer SE in 29 years, whereas under the present system of promotion, it would take 35 years to reach the post of Technical Officer-E. When promotions were given in 2010, all the applicants were treated alike inspite of the fact that they have become qualified and eligible in 2006 onwards. Those who became qualified to be promoted to the post of Technical Officer-C (earlier to the post of Scientist/Engineer SB) in 2006, 2007 and 2008 are given that post only in 2010. Inspite of longer



service and seniority, all the applicants have to again undergo 6 years residency period to get promotion to the post of Technical Officer-D. The respondents could have given the applicants the corresponding year of their selection under CCMSS when promotions were given by a special review.

3. The respondents in their reply statement submitted that the CCMSS was introduced to provide opportunities for career growth to meritorious persons, who are otherwise not entitled to advancement to higher category for want of relevant qualification prescribed for the post. This scheme provided an opportunity for lateral entry to the post of Technical Officer-C in respect of Technicians/Draftsmen. After the introduction of the modified CCMSS vide O.Ms dated 03.02.2006 and 08.09.2006, the Technical/Scientific Assistants who were recruited with a first class Diploma/Degree in Science can progress only in the Technical Officer stream and they will be allowed to change over to the Scientist/Engineer stream only on acquisition of higher qualifications after successful review by the Review Committee. The normal career progression of the applicants is limited upto Assistant Engineer and in order to come over to Scientist/Engineer stream, they have to qualify under CCMSS. The intention of the department while introducing separate career progression paths for different categories of Scientist/Technical personnel was to bring on some logical segregation based on the rationale of qualification. The review under CCMSS being optional, the applicants had undergone the review held in the rationalised date of 31.03.2006 and subsequently for lateral movement to the post of Technical Assistant-C (redesignated as Sr. Technical Assistant-A) knowing the scheme fully and at their own volition. They were fully aware of the scheme including the career progression available in the revised path.

When CCMSS was further modified, the applicants were called directly for interview duly exempting from screening and written test for promotion to Technical Officer-C, purely as a one time measure. Normally promotion to a particular post in the ISRO is effected only prospectively and retrospective promotion is not allowed. The department has extended maximum possible help to the applicants to redress their grievance and no injustice has been meted out to them. The contention of the applicants that without examining the grievances raised by them, their representations were rejected, which is untenable and baseless. The applicants are not entitled to promotion as Technical Officer-C with effect from 01.07.2006 or 01.07.2007, as the case may be, in as much as retrospective promotion to a non-gazetted post or route of promotion is not permissible as per norms. Qualifying in the written examination alone does not confer any right on the applicants for promotion under CCMSS. The contention of the applicants that the CCMSS was the only way for career progression of Technicians and hence they should be given gazetted supervisory post of Scientist/Engineer-SB is unsustainable as the same is not the only way for their career progression. CCMSS is only an additional career progression available to them, which is optional. The creation of posts, prescription of qualification and eligibility criteria for the same depend on the administrative necessity and the functional needs of the Organization which are generally made on the basis of rational classification and the endeavour of every department is to place competent and right persons at the right places for effective functioning. The department had not taken any unilateral decision or acted arbitrarily on matters relating to the career progression of its employees. The norms regarding career opportunities of Scientist/Technical personnel in the ISRO have evolved over

A handwritten signature or mark, appearing to be a stylized 'V' or a checkmark, is located at the bottom center of the page.

a period of time based on the experience gained during the initial stages of implementation, changing Organizational requirement etc. based on the recommendations of various Committees constituted for the purpose and after discussion in various forums including the JCM. The applicants became qualified for promotion to the post of Technical Officer-C only with effect from 01.07.2010 and such a post was non-existent when they were initially recommended for promotion under CCMSS. As such they are not entitled to get promotion to the post of Technical Officer-C with retrospective date of their selection under CCMSS.

4. In the rejoinder statement, the applicants submitted that the eligibility for a Technician for promotion under CCMSS is 17 years service. To become Scientist/Engineer-SB, one should complete 20 years of service. After the issue of O.M. Dated 03.02.2006, a Technician should complete 22 years of service for promotion to Technical Officer-C. There are a large number of cases, wherein retrospective promotions were given in the ISRO with monetary benefits, as can be seen from Annexure A-22. For giving promotion to the cadre of Scientist/Engineer-SD, the residency period undergone in the cadre of Scientist/Engineer-SB is taken into account by the respondents, as can be seen from Annexure R-2. Hence the applicants are entitled to count the residency period undergone in the cadre of Senior Technical Assistant-A along with the residency period of Technical Officer-C for promotion to the cadre of Technical Officer-D.

5. We have heard M/s. P.N. Santhosh and K.P. Geethamani, learned counsel for the applicants and Mr. Sunil Jacob Jose, learned SCGSC



appearing for the respondents and perused the records.

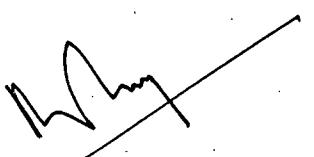
6. Promotion is not a matter of right. Acquisition of eligibility for promotion to the post of Scientist/Engineer-SB under CCMSS does not confer an entitlement for the applicants for promotion to that post. It was a matter of chance that by the time their turn came during 2006-10, they were promoted to a non-gazetted post of Technical Officer-C instead of the gazetted post of Scientist/Engineer-SB and they had to be satisfied with less pay and allowances too. In 2010, they were promoted as Technical Officer-C along with uniform date of seniority which meant that they have to wait for another 6 years for consideration for promotion to the post of Technical Officer-D. In the process, the service rendered by them during 2006-10 got obliterated for the purpose of reckoning the residency period for promotion. The respondents have been quite alive to the need of providing promotional avenues to the meritorious employees in addition to their normal line of promotion. The modifications to the CCMSS were to bring in logical segregation of different categories of Scientist/Technical personnel on the rationale of qualification. There was nothing arbitrary or discriminatory in bringing about the modification. They were implemented with the best of intentions, duly relaxing the required residency period, screening, written test etc. stipulated for promotion, purely as one time dispensation. The prescription of qualification and the eligibility criteria for promotion are based on the administrative necessity and functional needs of the Organization. However, the applicants who were promoted as Senior Technical Assistant-A during 2006-10 and later as Technical Officer-C in 2010 are at a comparatively disadvantageous position in regard to the loss of service in the matter of counting residency

period for promotion to the post of Technical Officer-D. In a similar situation, as can be seen from Annexure R-2, the respondents have taken into account the residency period undergone in the cadre of Scientist/Engineer-SB for giving promotion to the cadre of Scientist/Engineer-SD. It would be only fair and just if the period of service of the applicants in the post of Senior Technical Assistant-A is counted notionally for the purpose of reckoning residency period only for promotion to the post of Technical Officer-D along with the residency period of Technical Officer-C. Ordered accordingly.

7. The O.A is allowed to the extent indicated above. No order as to costs.

(Dated, the 14th November, 2012)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.