

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 290 of 199 2.

DATE OF DECISION 30.11.92

A. Abdul Samad Applicant (s)

Mr. G.P. Mohanachandran Advocate for the Applicant (s)

Versus

Administrative Office-I, LPSC, Respondent (s)  
Deptt. of Space, and others

Mr. George CP Tharakan, SCGSC Advocate for the Respondent (s)  
rep., through Mr. Ajith Prakash

CORAM :

The Hon'ble Mr. S.P. Mukerji, Vice Chairman

and

The Hon'ble Mr. A.V. 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

(Hon'ble Mr. S.P. Mukerji, Vice Chairman)

In this application dated 16.2.92 filed under Section 19 of the Administrative Tribunals Act, the applicant Shri Abdul Samad who has been working as Engineer 'SC' in the Liquid Propulsion System Centre (LPSC), Valiamala, Trivandrum under the Department of Space has challenged his not being recommended for promotion to the grade of Engineer 'SD' on the basis of the Review as on 1.1.92 as communicated to him vide Annexure.A.3 dated 21.1.92. His case is that in the specialisation of cryogenics he has accumulated experience which has not been and could not be properly assessed by the members of the DPC chaired by Respondent No.3. He has argued that he has got an excellent record and no adverse report has been communicated to him and the Screening Committee for all the three years of 1989,

1990 and 1992 screened him in for being considered for promotion to Engineer 'SD' by the Selection Committee. The Director of LPSC also on all the three occasions forwarded the recommendations of the Screening Committee to the Selection Committee. The applicant has alleged that it is because of Respondent No.3 who has been chairing the Departmental Promotion Committee during 1989, 1990 and 1992 that he was consistently being rejected for promotion. Though the applicant has not mentioned any specific instance of malevolence he has alleged malafides against R.3.

2. The respondents in the reply affidavit have rebutted all the allegations of the applicant. Having indicated that promotion to the post of Engineer 'SD' is by selection and in the Space Centre where quality of performance cannot be compromised <sup>they have urged that</sup> the selection has to be on a rigorous test on merits. That there was nothing adverse against the applicant cannot entitle him to promotion. Quoting from the Hon'ble Supreme Court's observations in Mir Gulam Hassan Vs. Union of India, AIR 1973 SC 1131 they have stated that "promotion is not made on the absence of complaint but on the basis of positive merit." They have also indicated that the members of the DPC consisting of Senior Scientists and others were unanimously of the view that the technical expertise and competence of the applicant were not of requisite standard expected of Engineer 'SD'. They have argued that neither the Chairman nor any single Member can by his own vested interest either fail or pass a candidate in the review.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The proceedings of the DPC of 1992 were shown to us. The fact that the second respondent ie., <sup>the</sup> Director, LPSC accepting the recommendations of the Screening Committee forwarded the case of the applicant to

the DPC during 1989, 1990 and 1992 shows that no prejudice can even remotely be alleged against him. There is nothing on record to show that Respondent No.3 who has been chairing the DPC during the aforesaid three years has any grudge against the applicant. The fact that the Deputy Director of Cryogenic Project is on the Committee and he had given no adverse remarks to the applicant shows that the applicant's case could not have been prejudiced by the ~~Chairman~~<sup>Chairman</sup>. There were as many as eleven members on the Committee and it cannot be held that all of them were against the applicant. Since the views expressed by the DPC was unanimous no single member even though he may be the Chairman can be presumed to have influenced all the other members.

4. It is established law that a judicial forum cannot be utilised for thrashing out the recommendations of the DPC on merits, much less so, in case of a scientific organisation like the ISRO. We have neither the expertise nor the knowledge of the person or his discipline to substitute or improve upon the assessment of the DPC by ourselves. At the worst the recommendations of the DPC can be rejected only if there is a prima-facie case of improper composition of the DPC, or arbitrariness or collateral reasons or irregularity manifest in the proceedings of the DPC. None of these elements are discernible in the case before us.

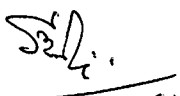
5. However, we cannot ignore the fact <sup>that</sup> ~~that~~ for <sup>three</sup> ~~three~~ successive reviews the applicant's case though recommended by the Screening Committee and the Director, has foundered at the level of the DPC. In all these three reviews the DPC was chaired by respondent No.3. The learned counsel for the applicant indicated that the applicant is strongly of the opinion that it is because of him that his case is not getting proper consideration by the DPC.

6. As we have stated earlier, we do not find any warrant for the strong apprehension and suspicion that the applicant has harboured in his mind against respondent No.3. It may perhaps be a matter of coincidence that during the last three consecutive reviews of 1989, 1990 and 1992 the DPC has been chaired by respondent No.3 and in all these three reviews the applicant's case was rejected. The learned counsel for the applicant indicated during the course of the arguments that the applicant will be psychologically satisfied if the Selection Committee which is to take up the next review of the applicant during January, 1993 is chaired by any Scientist or Engineer other than respondent 3 but of his or higher level. The learned counsel for the respondents fairly agreed that this can be made possible.

7. In the light of the circumstances indicated while disallowing the specific prayers made in the application, we dispose of the same by directing respondent no.2 to get the case of the applicant for promotion as Engineer 'SD' considered by the Screening Committee and the Selection Committee in the next review due in January, 1993 or a later date by <sup>ensuring</sup> that respondent-3 is in no way associated with either of these Committees. We make it clear that we are giving this direction not because we have accepted any of the allegations made by the applicant against him but because we want to make sure that there is no iota of suspicion in the mind of the applicant that his case is suffering because of respondent-3. There is no order as to costs.

  
(A.V. Haridasan)  
Judicial Member

30th November, 1992

  
30.11.92  
(S.P. Mukerji)  
Vice Chairman