

O.A. No. 45/2007

This, the 2nd day of June, 2008.

Hon'ble Shri Shankar Parsed, Member (A)  
Hon'ble Shri M. Kanthaiah, Member (J)

S.R. Tamta aged about 59 years son of late Shi R.R. Tamta, resident of House No. 26, Type V, Akansha Colony, Jankipuram, Lucknow (presently posted as Regional Director, Central Ground Water Board, Lucknow Region, Bhujal Bhawan, Sector B, Sitapur Road Yojana, Lucknow.

Applicant.

By Advocate: Shri R.C Singh

Versus

1. Union of India through the Secretary, Ministry of Water Resources, New Delhi-110001.
2. Central Ground Water Board, Govt. of India, Ministry of Water Resources, Bhujal Bhawan, NH-IV, Faridabad (Haryana) through its Chairman. Central Ground Water Board, Govt. of India, Ministry of Water Resources, Bhujal Bhawan, NH-IV, Faridabad (Haryana)
3. Union Public Service Commisison, Dholpur House, Shahjahan Road, New Delhi through its Secretary
4. Sri A.D. Joseph, Member, Central Ground Water Board, Govt. of India, Ministry of Water Resources, Bhujal Bhawan, NH-IV, Faridabad (Haryana).
5. Sri S.C. Dhiman, Regional Director, Central Ground Water Board, North East, Himalaya Region, Shastri Nagar, Jammu.
6. Sri A.R. Baisare, Regional Director, Central Ground Water Board, Western Central Region, Ahmedabad.

Respondents.

By Advocate: Shri S.P. Singh for Sri D.P. Singh

**ORDER (ORAL)**

**By Hon'ble Shri Shankar Parsed, Member (A)**

By this O.A., applicant sought for the relief of quashing of the office order dated 19.1.2007 issued by the respondents promoting Dr. S.C. Dhiman, Regional Director, as Member in the Central Ground Water Board.

2. The facts lie in a narrow campus. The applicant is a Regional Director in the Central Ground Water Board and had earlier preferred an O.A. No. 541/2006 before the Earnakulam Bench regarding his super session to the post of Member, Central Ground Water Board. The Earnakulam Bench had held as under:-

"30. In the result, we decide the case of the applicant for promotion to the post of Member, Central Ground Water Board has to be considered in the light of our observations "above and accordingly

direct the respondents to convene a review DPC to consider the claim of the applicant, ignoring the rating below the benchmark for promotion and the disagreement recorded as reason thereof by the Reviewing Authority in part II of the ACR of the applicant for the year 2000-2001 which had not been communicated to him. This exercise shall be completed within a period of three months from the date of receipt of this order."

3. The applicant had approached this Tribunal on the ground that without convening a meeting of the Review DPC as directed in the aforesaid decision, the respondents have issued the impugned promotion order. A perusal of the said promotion order (Annexure A-1) shows that the following conditions has been inserted in the promotion order:-

"4. The appointment ordered above shall be subject to the final outcome of O.A.NO. 541/2006 filed by Shri S.R. Tamta, Regional Director in Central Administrative Tribunal, Earnakular Bench and O.A. No. 433/06 filed by Shri Dinesh Prakash, Regional Directro, CGWB, CAT, Mumbai Bench at Nagpur."

4. While issuing notice, the Tribunal vide its order dated 29.1.2007 held as under:-

"In the facts and circumstances of the case and with a view to avoid any complication in the matter, we direct the respondents not to give effect to appointment order dated 19.1.2007 (Annexure A-1) until the out come of the review DPC earlier directed by Earnakulam Bench of this Tribunal in O.A. No. 541/06. The respondents may file their objections, if any and against the application for interim relief within a period of 10 days and the matter be posted on 13.2.2007 for considering the question as to whether interim stay granted today should be extended or not."

5. Pursuant thereto, the respondents have issued an office order dated 31.1.2007, indicating therein that the promotion order of Shri S.C. Dhiman has been kept in abeyance till further orders. The respondents have moved an application for vacating the interim relief. The interim relief has however, continued and is still continued as on date. The applicant appears to have also demitted the office.

6. We have heard learned counsel for both the parties.

7. Learned counsel for the applicant states that the writ petition filed by the respondents against the decision of Earnakulam Bench has been dismissed and that the Govt. have gone up in SLP. ~~is however, not available~~. He further states that the applicant has since retired from service, and does not want to

proceed further with the O.A. as the respondents are expected to comply with the order of Honourable Kerala High Court and the orders passed in SLP if any.

8. The decision of the Honourable High Court in WP© 9122/2007 (5) is as under.

"12. Going by the gradings of the applicant of the applicant, it is a case where he had three "very good" gradings and for one year, i.e. 2003-2004, his grading is good. The grading of the first part of the year 2000-2001 is 'very good' and the grading for the second part is 'very good' by the reporting authority but modified as 'good' by the reviewing authority. In fact there are no adverse or unsatisfactory entries in his ACRs for the five years in the various para meters against which he has been assessed by the Superior Officers. It is in view of the above that the Tribunal held that the case of the applicant has not been properly considered by the DPC.

12. In view of the fact that the Tribunal has only directed to convene a review DPC and to consider the claim of the applicant in the light of the observations made in the order, which are justifiable on facts and law, we do not find any reason to interfere with the said findings. At any rate, it cannot be said that the findings are so perverse warranting interference under Article 227 of the Constitution of India. Therefore, the writ petition is dismissed.

9. It is thus expected of respondents to convene the meeting of Review DPC and consider the case of the applicant before withdrawing the order dated 31.1.2007 keeping the promotion order in abeyance. The O.A. has to abide by the decisions of Apex Court in SLP filed if any.

In case the respondents decide to hold the meeting of review DPC and the decision is adverse to the applicant he can take recourse to such means as may be advised.

10. The O.A. is disposed off with these observations. No costs.

  
(M. KANTHAIAH)  
MEMBER (J)

02.06.2008

HLS/-

  
(SHANKAR PARSED)  
MEMBER (A)