

Central Administrative Tribunal, Lucknow Bench, Lucknow
 Original Application No. 484/2011

This the 21 day of November, 2013

Hon'ble Sri Navneet Kumar, Member (J)
Hon'ble Ms. Jayati Chandra, Member (A)

Dr. D.S. Pandey aged about 57 years son of late Dr. K.P. Pandey, resident of B-1/258, Priyadarshni Colony, Sitapur Road Yojana, Lucknow-226020 (presently posted as Scientist D, Central Ground Water Board, Northern Region, Bhujal Bhawan, Sector B, Sitapur Road Yojana, Aliganj, Lucknow.

Applicant

By Advocate: Sri Prashant Kumar Singh

Versus

1. Union of India through Secretary, Ministry of Water Resources, New Delhi-110001.
2. Central Ground Water Board, Govt. of India, Ministry of Water Resources, Bhujal Bhawan, NH-4, Faridabad-120001, through its Chairman.
3. Chairman, Central Ground Water Board, Govt. of India, Ministry of Water Resources, Bhujal Bhawan, NH-4, Faridabad-120001.
4. Director (Administration), Central Ground Water Board, Govt. of India, Ministry of Water Resources, Bhujal Bhawan, NH-4, Faridabad-120001.

Respondents

By Advocate: Sri S.P.Singh
 Sri A.Moin

(Reserved on 13.11.2013)

ORDER

BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)

The present Original Application is preferred by the applicant u/s 19 of the AT Act, with the following reliefs:-

(a) issuing/passing of an order or direction to the respondents to issue necessary orders for ante dating his promotion to the grade of Scientist 'B' (Group A) on regular basis with effect from 28.5.1986 and consequential promotion to grade of Scientist 'C' (Group A) with effect from 28.5.1991 and to the grade of Scientist 'D' (Group A) with effect from 28.5.1996 on the basis of parity of the judgment and order dated 19.4.1999, passed by Hyderabad Bench of the Hon'ble Tribunal in O.A. No. 1032 of 1996 (V.Sambasiva Rao and 9 others Vs. Union of India and others) as

modified by Hon'ble High Court of Andhra Pradesh vide its judgment and order dated 10.9.2008 passed in writ petition No. 22349 of 1999 (Secretary Govt. of India and another Vs. V. Sambasiva Rao and 9 others) which has attained finality.

(b) issuing/passing of any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.

(c) allowing this original application with cost.

2. The brief facts of the case are that the applicant was initially appointed as Senior Technical Assistant in the Central Ground Water Board (hereinafter referred to CGWB) and in pursuance of the said appointment, he joined on 10.11.1975. Thereafter, in 1982, he was promoted as Assistant Hydro geologist w.e.f. 22.8.1982 and thereafter, the applicant was promoted to Grade of Scientist B w.e.f. 24.8.1987. Thereafter, he was further promoted to the post of Scientist C and D w.e.f. 1.1.1998 and 1.1.2003 respectively. In the year 1986, a scheme known as Flexible Complementing Scheme was introduced and it has been decided that the benefit of said scheme would be given in the CGWB vide office memorandum dated 28.5.1986. The learned counsel for the applicant has also pointed out that some Assistant Hydro-Geologists posted in the CGWB at Hyderabad filed O.A. No. 1032 of 1996 before the Hyderabad Bench of this Tribunal seeking extension of the Flexible Complementing Scheme (in short FCS) to the Assistant Hydro-geologists and similar other scientific posts in Group 'B' which was decided on 19.4.1999. The order passed by the Tribunal was taken up to the High Court and the Hon'ble High Court has also decided the writ petition in 2008. Subsequently, the SLP was also preferred and the special Leave Petition was dismissed by the Hon'ble Apex Court on 31.8.2009. The learned counsel for the applicant has also pointed out that the benefit of said scheme was extended to

only those applicants who had filed O.A. before the Hyderabad Bench of this Tribunal and the applicant was not accorded the said benefit. As such, the applicant preferred the present O.A. for claiming promotion to the Grade of Scientist Grade 'B', 'C' and 'D' w.e.f. 28.5.1986, 28.5.1991 and 28.5.1996 respectively.

3. Learned counsel appearing on behalf of the respondents filed their counter reply as well as Supplementary Counter Reply and has also filed an affidavit wherein it is categorically mentioned in para 4 that a proposal for promotion to the Grade of Scientist 'C' and 'D' has already been sent to Ministry of Water Resources and the same is still pending for final adjudication. Not only this, the learned counsel for respondents has also pointed out that the applicant was given the promotion to the grade of Scientist Grade 'B' as is being prayed by him in his O.A. This fact is not disputed by the learned counsel for the applicant and he fairly submitted that this benefit of promotion to the post of Scientist Grade 'B' has already been given to the applicant.

4. Learned counsel for the applicant has filed the Rejoinder Reply and also filed reply to the Supple. Counter Reply. Through Rejoinder Reply, learned counsel for applicant has mostly reiterated the averments made in the O.A. and has also pointed out that since promotion to the post of Scientist 'B' has already been granted to the applicant w.e.f. 28.5.1986 and the request for promotion to the post of Scientist Grade C and D w.e.f. 28.5.1991 and 28.5.1996 respectively is pending, as such only a direction be issued to the respondents to decide the issue at the earliest.

5. Heard the learned counsel for the parties and perused the record.

6. The applicant who is working in the respondents organization was given promotion to the post of Scientist Grade B, C. and D w.e.f. 24.8.1987, 1.1.1998 and 1.1.2003 respectively

and subsequently, the scheme known as FCS was introduced which was also followed by the CGWB vide O.M. dated 28.5.1986, as such , the applicant has prayed for considering his case for promotion in terms of the aforesaid scheme. The coordinate bench of this Tribunal at Hyderabad has passed a detailed order and while deciding the O.A., the Tribunal provided as under:-

“19. It is further directed that consequent to such review of the Rules, the claims of the applicants for in situ promotion to Junior Chemist/Junior Hydrogeologists from the date of coming into effect of the recruitment rules of 1987 be considered on merits and in accordance with the prescribed procedures within two (2) months thereafter.

7. Subsequently, the matter was taken up to the Hon'ble High Court by the Union of India and the Hon'ble High Court has also considered each and every aspects of the matter and finally observed as under:-

“15. In the circumstances, the Tribunal ought not to have directed the petitioners to revise 1995 Rules so as to include the benefit of FCS for the Group B posts. However, having regard to the Presidential order, which has statutory force, pursuant to which the Department of Science and Technology issued O.M. dated 2.5.1986 and the consequent O.M. dated 9.11.1998 , we are of the considered view that the petitioner is under obligation to implement O.M. dated 2.5.1985, as modified by O.M. dated 9.11.1998 and take further action to implement the FCS in respect of respondents applicants.

8. The respondents further feeling aggrieved by the said order preferred the SLP before the Hon'ble Apex Court and the Hon'ble Apex Court dismissed the SLP filed by the respondents.

Subsequently, the benefit of FCS was extended to the applicants of O.A. who have filed O.A. before the Hyderabad Bench of the Tribunal. Now, since the benefit of promotion to Scientist Grade B has already been extended to the applicant w.e.f. 28.5.1986 as accepted by the applicant during the course of arguments, as such nothing survives to pass any direction in this regard. As regards further promotion to the post of Scientist Grade C and D is concerned, as per the averments made in the Supple. C.A. filed by the respondents, that the matter has already been referred to the Ministry for kind consideration which was also accepted by the learned counsel for the applicant, at this stage only a direction is required to be issued to the respondents to take an early decision in the matter, it is expected that respondents will take a decision in this regard within a period of 3 months in accordance with law and decision so taken will be communicated to the applicant as well.

9. With the above observations, O.A. stands disposed of. No order as to costs.

J. Chandra

(JAYATI CHANDRA)
MEMBER (A)

N.R. Chawla

(NAVNEET KUMAR)
MEMBER (J)

HLS/-