

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Original Application No. 583 of 1992

Dr M.A. Matin

Applicant

versus

C.S.I.R. New Delhi and others

Respondents.

Dr M.A. Matin

Applicant in person present

Shri A.K. Chaturvedi

For Respondents.

Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K. Jbayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant is a senior Scientist who is working in the Industrial Toxicology Research Institute (I.T.R.C. for short) and he is on the verge of retirement, after going upto the Supreme Court wherein the applicant was allowed to the extent that a direction to the effect that was given/Shri P.K. Ray who was Director, I.T.R.C., will not sit as a member of the committee for making assessment to the post of Scientist F which is said to be promotional post. The applicant has approached this Tribunal praying that he may be promoted to the post of Dy. Director with effect from 1.1.1986 in view of his contributions, achievements and also consequential reliefs of the judgment of Hon'ble Supreme Court after quashing the J.M. dated 26.10.92 as legally invalid and infructuous and he has further prayed that

he be considered for promotion to Scientist F A)
by another committee consisting of experts in the
field of applicant's research and contributions
without the participation or involvement of respondent
No. 1, Director General C.S.I.R and respondent No. 7
Dr. P.N. Tandon and in any case under supervision of
a nominee of the ~~Monk~~ Tribunal.

2. The dispute to the applicant and I.C.A.R.
started ever since the applicant's promotion for the
post of Scientist E-II became due as prior that there
was no difficulty in getting intervening promotion.
Feeling aggrieved against his non selection, the
applicant entered into litigation which was ultimately
decided by the Supreme Court which order was for
exclusion of Dr. P.K. Ray from acting as a member of
the committee for promotion of the applicant for the
post of Scientist E II with effect from 1.1.82 at
I.T.R.C. Lucknow. The applicant has ^{been} promoted as
Scientist E-II (Rs 1800-100-125/2-2250) and he became
due for promotion to the post of Scientist F (Rs 2000-
/2-2500) w.ef. 1.1.86 as a consequential relief and
according to the applicant he was not promoted but
Dr. P.N. Vishwanathan and respondent No. 6 Shri PK Seth
who are several years junior to the applicant, have
been promoted as Scientist F. The applicant filed another
O.A. No. 252 of 1992 before this Tribunal which directed
the respondents to complete process of assessment
promotion of applicant to the post of Scientist F within
two months and the same was not done within this period.

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18

Applicant moved application before this Tribunal in which observation was made that non compliance of the order of Tribunal would render for contempt proceedings. It was thereafter the applicant was informed by office memorandum dated 26.10.92 that his merit for promotion to Scientist F was considered by the committee which did not recommend him for promotion to Scientist F.

3. According to the respondents the applicant was considered for promotion as Scientist E-II w.e.f. 1.1.92 under the Normal Recruitment and Assessment Scheme by a committee duly constituted and was promoted vide O.M. dated 3.4.92 and thereafter, the process of assessment of merit of the applicant for promotion to the next grade of Scientist F w.e.f. 1.1.86 under the N.R.A. Scheme had been started in July, 1992. He was considered for promotion as Scientist F w.e.f. 1.1.86 under the N.R.A. Scheme by the committee duly constituted, but was not recommended for promotion, which considered the relative merits of scientists taking into consideration the performance during the interview, Annual Confidential Reports and the Report of work done by the Scientist during the period for which he is being assessed. The applicant has to be considered under the N.R.A. Scheme as Scientist F w.e.f. 1.1.87 as he has been already rejected by the duly constituted Assessment committee as Scientist F w.e.f. 1.1.86 and the other two Scientists S/Shri P.N. Vishwanathan and P.K. Seth were assessed by

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A9

the committee under the Merit and Normal Assessment (MANA) scheme w.e.f. 1.1.1990 and 1.1.1991. This scheme has come into effect on 1.4.88 and all the promotions which are to be made prior to that date shall be made under the N.R.A. Scheme w.e.f. 1.1.88. Under the MANA scheme, his assessment took place before the passing of the Tribunal's order dated 20.10.92. The committee was constituted as provided in the Byelaw 59(A) of the C.S.I.R. Bye laws which is to include the Chairman, six experts (including one member of the Governing body representing the concerned Co-ordinating Council) and members to be nominated by Vice President, C.S.I.R. The committee which was constituted included 8 members and was in accordance with the Bye laws and the experts were highly qualified. Dr. (Mrs.) G.V. Satyavati is holding the post of Senior Deputy Director General of the I.C.M.R., New Delhi in the scale of Rs 5900-7300 which is at least two levels above the Grade of Scientist F for which the applicant had been assessed on 6th October, 1992, and the six experts were nominated by the Vice President of the C.S.I.R. and were related to the subject of specialisation of the applicant i.e. Pharmacology and Toxicology. The applicant was assessed in a very objective and fair manner by the duly constituted committee. The applicant's suitability for promotion to the grade of Scientist E-II w.e.f. 1.1.1982 does not automatically entitle him for promotion to Scientist ~~E-III~~ F w.e.f. 1.1.86, as the

the record considered for promotion to Scientist E-II was of prior to 1.1.1982 whereas for consideration to the post of Scientist F, the records during the period from 1.1.1982 to 1.1.1986 were to be considered.

4. The applicant's plea is that the assessment committee which was constituted was not constituted according to the rules and it was not competent to consider the case of the applicant, and it was bound to fail in as much as the committee was constituted by the C.S.R.I. which included no experts in the subject in which the applicant was to be evaluated.

5. The respondents, in their counter, have given the specialisation of all the members of the committee specifically, from which it is clear that Dr. M.J. Mulky has specialisation in Pharmacology and Toxicology and Dr. (Mrs.) G.V. Satyavati, in Pharmacology and thus there were at least two experts in the subject. The committee was constituted in accordance with the byelaw 59(A) and as stated above, it cannot be said that the committee was illegally constituted. The plea of the applicant that Dr. (Mrs.) Satyavati, one of the members of the committee was holding equivalent post, is also not correct. She was holding the post which was two grades higher than the post of the applicant. It was then strenuously urged by the applicant that un-communicated adverse remarks of Dr. P.K.

A 11

Ray was considered by the committee which was not to be considered, without giving the opportunity to the applicant to represent against the same. The penalty order was passed on 7.11.90 by the said Dr. P.K. Ray and the copy was sent to the personal file of Dr. M.A. Matin which is evident from the endorsement made in the bottom of the order. It makes clear that the Confidential report of the applicant contained this penalty order. According to the applicant, no adverse remarks were communicated to him, but he understood that the confidential papers of 1986-87 of Dr. P.K. Ray who was excluded from the committee, were considered by the committee. In the counter reply, nowhere it was stated that there was adverse remarks against the applicant. It has also not been denied that the punishment order was not on record or that when committee met, the same was not taken into consideration by it nor was it influenced by it and it ignored it. In case any noting against the applicant and the punishment order was ^{not to} ~~be~~ considered the same could not have not been so taken into consideration unless the applicant was given opportunity in respect of same. Even otherwise the relevant date being 1.1.86 the punishment order having been passed subsequently it under no circumstances was to be taken into account at all. No record has been produced before us. May it be that it was taken off the record at the relevant point of time and this was noted. In all probability the punishment order ~~being incapable of must have been~~ ^{has} was taken into consideration and the same/influenced

44

A 12

the members of the committee. If the punishment order was considered, applicant's work etc could not have been considered in the right perspective and thus the committee could not have considered the adverse remarks which were not communicated to him.

6. Accordingly, the respondents are directed to re-consider the case of the applicant within a period of 2 months and the punishment order shall not be taken into account and adverse remarks, if any, will also not be taken into account, unless opportunity of hearing is given to the applicant. and the applicant's works and his performance will be taken into account. We make no observation in this behalf.

7. Application stands disposed of as above with no order as to costs.

Adm. Member.

Vice Chairman.

Shakeel/-

Lucknow: Dated 12th March 1993.

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

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Misc. Petition No. 524 of 1992

IN

Original Application No. 583 of 1992

Dr. M.A. Matin

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Applicant

Versus

Union of India & others

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Respondents

Hon'ble Mr. S.N. Prasad, Judicial Member
Hon'ble Mr. B.K. Singh, Admn. Member

(By Hon. Mr. S.N. Prasad, Judicial Member)

This application has been moved by the applicant with the prayer that in the interest of justice, a direction be given to the respondent (respondent No. 4) to ^{re-}constitute a fresh assessment promotion committee without including the earlier members, Chairman and respondent No. 1 ^{who} to record verdict against the applicant and ^{to} finalise the matter of promotion of the applicant to the post of Scientist (F) ^{other order} Dy. Director) within 2 weeks and to pass such as deemed fit.

2. We have heard the applicant in detail as well as counsel for the respondents. The applicant while adverting to the contents of this application and the order passed by this Tribunal dated 12.3.93 in O.A. No. 583 of 1992 has argued that there has been great injustice done to him, because the members who constituted the previous assessment promotion committee on 26.10.92 and who gave their verdict against the applicant ^{be} were included in the assessment promotion committee held on 7.5.93 in compliance of this Tribunal ⁱⁿ above judgment and order dated 12.3.93 as referred to above and as such the should be given fresh opportunity and as such

the above application should be allowed. A14

3. The learned counsel for the respondents while drawing our attention to the contents of the application of the applicant and to the aforesaid judgment and order dated 12.3.93 and other papers on record has argued that on 7.5.93 or prior to that applicant did not file any objection ^{~and~} or has appeared before that committee and when he was not considered fit by the aforesaid committee, he has moved ^{~this~} another application. The learned counsel for the respondents has further argued that judgment and order passed by this Tribunal has already been implemented by the respondents and there is nothing left for the applicant to agitate about the non-compliance of the aforesaid order, and he has further drawn our attention to the order passed on 7.5.93 which is ^{~file~} ~~previous~~ memorandum (Annexure ^{~2~} of the above application.)

4. ^{~A perusal of the said Annexure 2 makes mention~} ~~Briefly, stated facts of the case~~ interalia, are that Dr. Matin ^{~is~} ~~was~~ also requested ^{~to submit~} for his self ^{~his~} assessment report for assessment for the IInd chance falling due on 1.1.1987 under N.R. & A.S., and as such the application of the applicant being devoid of merit has no force.

5. Having considered all the view points and all aspects of the matter and keeping in view the fact that DPC met on 7.5.93, in compliance of the judgment and order passed by this Tribunal dated 12.5.93 and keeping in view the facts that Dr. Matin was also requested to submit his self assessment report for assessment for the IInd chance falling due on 1.1.1987 under N.R. & A.S as specified above, we find no merit in it and the application is not maintainable being devoid of merit as well.

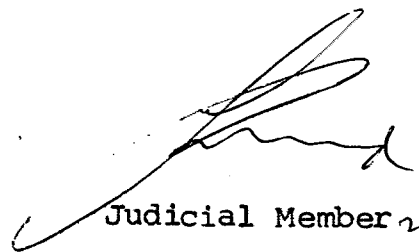
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A15

6. The application of the applicant is disposed of as above. No order as to costs.



Admin. Member



Judicial Member 23.6.93

Lucknow.

Dated 23.6.93
(g.s.)