

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 160/87

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DATE OF DECISION 8.1.1991

Shri S.K.Chaturvedi Petitioner

Applicant in person Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr.A.R.Bhatkar for Mr.M.I.Sethna Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.Y.Priolkar, Member (A)

The Hon'ble Mr. J.P.Sharma, Member (J)

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. Whether it needs to be circulated to other Benches of the Tribunal ?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

(17)

O.A.No. 160/87

Shri S.K.Chaturvedi ... Applicant

v/s.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Member (A) Shri M.Y.Priolkar
Hon'ble Member (J) Shri J.P.Sharma

Appearance

Applicant in person

Mr.A.R.Bhatkar
(for Mr.M.I.Sethna)
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 8.1.1991

(PER: J.P.Sharma, Member (J))

The applicant is a Scientist 'C' serving in DRDO has filed this application under Section 19 of the Administrative Tribunals Act 1985 aggrieved by the order dated 20.6.1986 passed by respondents DGR&D by which the promotion of the applicant to Scientist 'D' from Scientist 'C' was withheld by illegally passing him over while promoting juniors named in the impugned order.

2. The applicant claimed the following reliefs:-
- (a) to declare the order dated 20.6.1986 as illegal, violative of Articles 14 & 16 of the constitution inoperative and not binding upon the applicant.
 - (b) a direction to the respondents to restore the name of the applicant at Sr.No.45 in the said order for the post of Scientist 'D' and,
 - (c) direction for disclosing the reasons for non-promotion of the applicant with usual prayers and costs for the application.

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3. The respondents contested this application by filing reply justifying their part on the authority of the impugned order. The applicant summoned certain documents which were ordered by the Tribunal to be produced at the time of hearing by its order dated 6.6.1988. The said documents are before the Tribunal today.

4. However, during the pendency of the proceedings before the Tribunal, it appears that the applicant had been granted promotion with ^{re} prospective effect from the date his juniors were granted in the impugned order dated 20.6.1986.

5. It is also given as a statement across the bar by the learned counsel for the respondents Shri A.R.Bhatkar that the applicant has been restored to his original serial No. at Sr.No. 45 in the said order of 1986. Thus, these two reliefs which were prayed for by the applicant have been granted to him as desired by him and there is no controversy or dispute about the same.

6. The further relief claimed by the applicant to disclose the reasons for non-promotion to him now become meaningless as he stands promoted as Scientist 'D' from the due date.

7. The applicant who appears in person has moved an application for amending the reliefs and that has been registered as M.P.No. 20/91. In this application the applicant with great emphasis ~~have~~ brought to the notice of the Bench the hardship caused to him by wrongful act of the respondents in deferring or delaying the promotion which would not ^{have} seen ~~in~~ the light of ^{the} day had he not brought ^{to the} this Tribunal through this application and as such he has further prayed for the following reliefs to be added by way of amendment as reliefs (F) to (J) in the original application:-

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191

(F) Consequential benefits as under w.e.f. 1.7.85, due to belated promotion order of 5.10.88.

- (i) Interest on arrears till date of payment.
 - (ii) Allotment of entitled Government Quarter.
 - (iii) Compensation for non-allotment of entitled quarters from the date applicant's junior was allotted.
 - (iv) Any other benefit given to juniors.
- (G) Quashing of the charge-sheet (issued after filing OA)
- (H) Suitable action for responsibility of withholding promotion and harassment.
- (J) Compensation/damages for loss of professional prestige and mental harassment, due to non-promotion/delayed promotion.

8. We have heard the applicant in person at length as well as learned counsel of the respondents named above and we do not find any basis to allow this amendment application because of the following reasons :- (a) the payment of interest on arrears till date of payment is not a vested right in as much as the applicant has not impleaded any of the respondents by name to show that any malafide was done by the Assessment Board or by the respondents as a malice in fact or malice in law. So no question arises of payment of any interest on deferred payment on arrears of pay falling due on grant of retrospective promotion from the date the juniors of the applicant were promoted. The applicant has referred ^{to} certain authority but that relates to a decision ^{under Vehicle} Motor/Act, 1939 as amended up to date. Basically, this amendment related to the vicarious liability of the Government. Here the question was of promotion of the applicant from Scientist 'C' to Scientist 'D' and that has already been allowed to him without any formal direction from this Tribunal. Thus, the amendment sought in M.P. in (F) (i) cannot be allowed.

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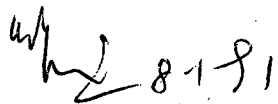
9. As regards the allotment of entitled Government quarter and compensation for non-allotment of entitled quarters from the date his junior was allotted and any other benefit given to juniors as (F) (ii), (iii) and (iv) are totally not connected in any way collaterally or consequentially and thus, therefore, also cannot be allowed by way of amendment.

10. Regarding the sub-para (G) of Para 2, the applicant desire, to add a prayer of quashing of the charge-sheet issued after the filing of the OA and this aspect is totally foreign of the earlier grounds taken in the OA and the applicant cannot therefore take this as one of the prayer when the grounds in that have not been taken. Moreover, this is different cause of action after filing the OA and leads to multiplicity of the causes of action. This cannot be allowed in specific rules under CAT (Procedure) Rules, 1987.

11. As regards sub-para (H) & (J) of Para 2 of amended application, these are figment of imagination, of course, out of the alleged harassment, He alleges, because he wants a penal action against the authority as well as compensation which were beyond the scope of the Tribunal and, we may say so, beyond the jurisdiction of the Tribunal. In view of this we are of the view that this amendment Misc. Petition No. 20/91, after going through the reply filed by the respondents, cannot be allowed and is, therefore, rejected.

12. As a consequence as the applicant has been granted reliefs prayed for this application is disposed of accordingly as having become infructuous with no order as to costs.


(J.P.SHARMA) 8.1.91
MEMBER (J)


(M.Y.PRIOLKAR)
MEMBER (A)