

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

O.A.No. -  
T.A.No. 80

198 -  
198 6

DATE OF DECISION 24.10.1986

Shri K.C.Ramachandran

Applicant/s.

-

Advocate for the Applicant/s.

Versus

Union of India & Others

Respondent/s.

Shri Subodh Joshi

Advocate for the Respondent(s).

CORAM:

The Hon'ble Vice-chairman Shri B.C.Gadgil

The Hon'ble Member (A) Shri J.G.Rajadhyaksha

1. Whether Reporters of local newspapers may be allowed to see the Judgment? - 43
2. To be referred to the Reporter or not ? - 43
3. Whether to be circulated to all Benches? - 43

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

Transferred Application No.80/86.

Shri K.C.Ramachandran  
Scientist 'C',  
Naval College of Engineering,  
'INS SHIVAJI'  
Lonavala - 410 402

... Applicant  
(Original Petitioner)

V/s.

1. Union of India,  
Central Secretariat,  
New Delhi - 110 001.
2. Director General,  
R & D Research and Development  
Organisation, DHR(P.O.)  
New Delhi - 110 011.
3. Chief of Naval Staff,  
Indian Navy,  
Naval Headquarters,  
New Delhi.

... Respondents.

Coram: Vice-Chairman, B.C.Gadgil,  
Member(A), J.G.Rajadhyaksha.

Appearances:

The applicant in person.

Shri Subodh Joshi for the Respondents.

Oral Judgment:

(Per Vice-Chairman, B.C.Gadgil) Dated: 24-10-1986.

The Writ Petition No.387/83 filed in the High Court of Bombay has been transferred to this Tribunal and it has been re-numbered as Transferred Application No.80/1986. The dispute between the parties at the stage of the decision is very little. To understand it, we will need the following few facts.

In 1973, the applicant was appointed as Scientist 'C' with an organisation which is known as "Defence Research and Development Organisation." The next promotional post is of Scientist 'D'. In 1982, the selection for this promotional post

was made. The selection was to be made effective from 1-7-81. All these promoted persons except the applicant took charge of the promotional posts. However, the applicant was working in the Naval Engineering College and hence, a formal order was required to be passed. On 30-6-82, an order promoting the applicant was passed. It was to be effective from 1-7-81. However, on 15-7-82 the Naval Headquarters issued an order excluding the applicant from the said promotional appointment. It appears that this was done as a departmental action was contemplated against the applicant. Such enquiry was held and on 21-3-85, the applicant was exonerated. On 24-6-1985, an order promoting the applicant to the post of Scientist 'D' effective from that date was issued. However, the applicant was not satisfied with it as the promotion was not made w.e.f. 1-7-81. The authorities issued another order on 11-9-85 making the promotion effective from 1-7-1981. However, it was further directed that the applicant should not get arrears of pay etc. prior to the date 24-6-85 (i.e. the date of the earlier promotion order). The applicant challenges this direction.


In the first place, he contends that he is entitled to get all the arrears of pay etc. of the promoted post w.e.f. 1-7-81. Secondly, he also contends that his further promotional avenues should be considered on the basis that he had been promoted to the post of Scientist 'D' on 1-7-81. This matter was partly heard yesterday and kept for the remaining further arguments to-day. The Respondents have today filed an affidavit-in-reply challenging the claims

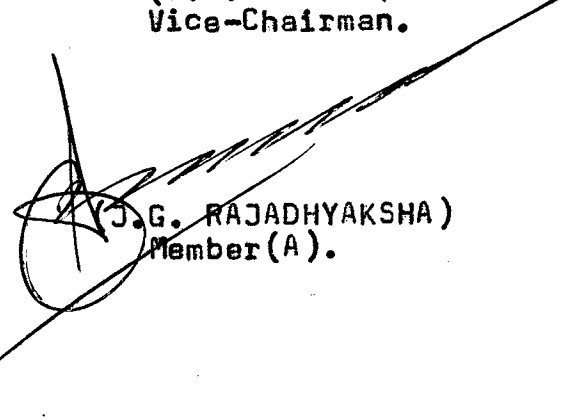
made by the applicant. As far as the claim of arrears in the promotional post w.e.f. 1-7-81 is concerned, the Respondents contended that the applicant had not rendered any duty in the promotional post till 1985, and consequently, he cannot claim the arrears of pay from 1981 to 1985. Mr. Subodh Joshi, Counsel for Respondents contended that an employee can claim pay in the higher post, if he has actually worked in the post. In our opinion, this cannot be the universal rule and will depend upon the facts of each case.

As far as the present controversy is concerned it is important to note that the Government had passed orders permitting the promotion from 1-7-81. The payment of salary and other emoluments in the promotional post would be incidental from 1-7-1981. It would not be open to contend that the promotion was notional with effect from 1-7-81 and the Government would not pay ~~in~~ the promotional salary from that date. This is more so when other similar <sup>promotees</sup> ~~promotees~~ have been paid promotional salary with effect from 1-7-81 though their promotion orders were issued subsequently. Refusal by the Government to ~~pay~~ <sup>pay</sup> similar salary to the applicant would be unjust and the applicant would be entitled to his salary and other emoluments as Scientist 'D' with effect from 1-7-1981. The next contention of the applicant is that he should be considered for higher promotion on the basis that he has been in the grade of Scientist 'D' since the year 1981. This consequential relief is to follow as the promotion of the applicant in the grade of Scientist 'D' is from 1-7-81. Thus, the application succeeds partly. The applicant ~~is~~ <sup>claim</sup> that he may be

paid the costs. However, we feel it proper and equitable if the parties are asked to bear their own costs.

The application is allowed. The respondents have been directed to pay applicant's salary and emoluments from 1-7-81 in the grade of Scientist 'D'. It is also directed that for further promotional avenues, the applicant shall be treated as Scientist 'D' as on and from 1-7-81. The parties to bear their own costs.

  
(B.C. GADGIL)  
Vice-Chairman.

  
(J.G. RAJADHYAKSHA)  
Member (A).