

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:571/2001
DATED THE 9TH DAY OF JANUARY, 2002

CORAM:HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT, VICE CHAIRMAN
HON'BLE SHRI B.N.BAHADUR, MEMBER(A)

Shri N.E.Dole,
Scientist 'C',
Electronics Faculty,
IAT, Girinagar,
Pune - 411 025. Applicant

In person

v/s.

1. Union of India,
Ministry of Defence,
New Delhi - 110 011.
2. The Scientific Advisor to the
Ministry of Defence And
Director General of Research
and Development, B-Wing,
Sena Bhavan, South Block,
New Delhi-110 011.
3. Director Recruitment and Assessment
Centre Timarpur,
Lucknow Road,
Delhi - 110 054.
4. Director & Dean,
Institute of Armament Technology,
Girinagar, South K'Wasla,
Pune - 411 025. Respondents

By Advocate Shri R.K.Shetty

(ORAL)(ORDER)

Per Shri B.N.Bahadur, Member(A)

The Applicant in this case Shri N.E.Dole comes up to the
Tribunal seeking relief as follows:-

The applicant submits that the honorable
tribunal ask the respondents to issue the call

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for assessment to the applicant well before the termination of the assessment board 2001 for which the applicant requests the tribunal to take the appropriate action deemed fit.

2. He has in brief recapitulated the facts of the case which are in a short compass. Infact, the applicant who was due for promotion from Scientist C to Scientist D has been found by Respondents to have not met the criteria laid down by the Internal Screening Committee (ISC) 2001, and hence not called for the (assessment) interview.

3. We have heard the Applicant in person at considerable length and have also heard the learned counsel for Respondents, Shri R.R.Shetty. The Applicant recounted the facts of the case in detail. The main plank of his argument was that in the assessment process (which was explained to us with reference to the rules at page-35 and 50,) the assessment made by ISC can be said to be unfair on the ground that the applicant has received letters of appreciation both in the year 1997 and letter in 2001. Copies of these are annexed at Appendix C in which also is annexed a note where the work of the applicant has been appreciated on record. In fact it was on this main plank, that the applicant rested his case citing a number of examples and reasons why the decision of Internal Screening committee came in as a disjointed decision when viewed against the fact of aforesaid appreciation letters. The applicant stated that the appreciation letters where issued to him against the work on

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overall consideration of his work. He emphasised the fact that Scientists are eligible to such appreciation letters only once in a period of three years and not only has he received certificate in 1997, but soon after the expiry of three years, in 2001 again. He pointed out that those who were far junior to him and had not received any commendation certificate had also bypassed him in the selection and therefore the selection was alleged to be malafide.

The applicant then agitated on the rules and the system of promotion in the scheme of Reflex Complementing Scheme as succinctly recapitulated in the table at page-50 filed by the respondents. He also sought to interpret the rules which he stated were not followed as in the instructions for writing of CPARs (Confidential Performance Appraisal Reports) which also had been violated according to Shri Dole.

5. Arguing the case on behalf of Respondents, Shri R.R.Shetty sought to depend on the written reply of the respondents. He also placed heavy reliance on the original record submitted by him viz. papers relating to Assessment Board 2001, (Minutes of Internal Screening Committee 2001). He also placed before us, in original, the Confidential Dossier in respect of applicant for the years 1996 to 2000 (Calender years).

6. On the main plank of arguments taken by the applicant in regard to the diversity in the fact of issue of any commendation certificate and assessment as incompatible, Learned counsel Shri Shetty referred us to para-3 of the CPAR stating that considerable weight was given to the items constituted to the issue of commendation certificate, but this did not constitute

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total weight and the CPAR which formed the assessment for eligibility on overall consideration including commendation certificate.

7.....The first thing that we rely upon substantially is the record and the Confidential Report dossier referred to above. We have gone through the record with reference to the issue of determination of eligibility as contained in the record and find that since the applicant has come up for consideration after 5 years service in the grade, the requirement of mark for him to get through at statement at page-51. He has not been able to make the grade inspite of our noticing that in the later years of the five year period as seen from CR gradation, his performance has gone beyond the 82% marks. Since the rule requires taking of average marks and since the applicant had not got the marks required, we are not in a position to determine in this OA what marks should have been given to him or to take a different view.

This is clear in terms of the settled law. We remind ourselves that in matters of assessment where DPCs have taken a decision, our scrutiny as per law settled by Supreme Court is to see whether any rules are flouted or whether there is any perversity in the decision or any malafides. We have gone through all the records produced before us and the decision given by DPC cannot be faulted on any such grounds. We do find that some of the CRs of the applicant show him to be a very good worker specially in later years but we have to go by the principles of average. Also the settled law that even if there are two views possible on an

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assessment of CR and if our decision is different to that taken by the Committee, we will not be able to impose our decision in the matter.

8. The point was also raised on behalf of applicant about the very justification of the assessment and marking system as laid out in the rules. We went into Rule 8(2) of Defence Research Development Service (DRDS) Rules 1979, a copy of ruling available at Annexure, R-1. Since the rules are not per se challenged here in this OA, but only the selection in regard to the applicant in the year 2000, We are therefore not going into the validity or otherwise of rules.

9. In view of the above discussion, we are not able to provide the relief sought by applicant. The OA is therefore dismissed. No orders as to costs.

B.N.Bahadur

(B.N.BAHADUR),
MEMBER(A)

B.Dikshit

(BIRENDRA DIKSHIT)
VICE CHAIRMAN

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