

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE SIXTEENTH DAY OF SEPTEMBER
1986

Present : Hon'ble Shri Justice K.S. Puttaswamy .. Vice-Chairman

Hon'ble Shri P. Srinivasan .. Member (A)

Application No. 32^a/86(T)

Shri D.P. Joshi,
S/o Shri Bishnu Datt Joshi,
Senior Scientific Officer,
Electronics & Radar
Development Establishment,
Bangalore

. . . Applicant

Vs.

Union of India by its
Secretary,
Ministry of Defence,
Raksha Bhavan,
New Delhi.

Director General of
Research and Development,
Ministry of Defence,
Research & Development Organisation
DHQ PO New Delhi - 11.

Union Public Service Commission
by its Secretary,
Dhalpur House,
Shahjahan, Road,
New Delhi.

The Director,
L.R.D.E., High Grounds,
Bangalore.

T.N. Oberoi,
L.R.D.E., High Grounds,
Bangalore-1.

. . . Respondents

(Shri M.S. Padmarajaiah .. Advocate)

The application has come up for hearing before Court today.

Vice-Chairman made the following:

ORDER

In this transferred application from the High Court of
Karnataka, the applicant has sought for a direction to respondents
1 to 4 to consider his case for promotion from Scientist 'B' to
Scientist 'C' in accordance with the Defence Research and Development
Rules, 1978, (Rules).



2. The applicant admits that he was only an Intermediate in Science and does not possess the qualifications of a 'Master's Degree' in Science Subjects, Mathematics or Psychology or Class II degree in engineering from a recognised university or equivalent.

3. In their statement of objections filed before the High Court of Karnataka, which has to be treated as their reply before this Tribunal, respondents 1 to 4 have asserted that the applicant, who did not possess the essential educational qualifications prescribed in Schedule 3 to the Rules of eligibility had not been considered for promotion.

4. Shri D.P. Joshi, the applicant who personally appeared and argued his case, contends that respondents 1 to 4 exercising the power conferred on them by Note 1 to Schedule 3 to the Rules should have exercised the power of relaxation and considered his case for promotion.

5. When the applicant does not admittedly possess the essential qualifications prescribed by the Rules, he was not eligible for promotion and that is on that ground the promoting authority, had refused to consider his case for promotion. We are of the view that the refusal of the promoting authority to consider the case of the applicant for promotion is in accordance with the Rules and legal.

6. The power of relaxation under the Rules can be exercised in cases of non-availability of eligible candidates and those who do not have the essential qualifications possess exceptional abilities to hold the post which is not also the case of the applicant. On this short ground itself the claim of the applicant is without any merit. Even otherwise, whether there should be relaxation or not and whether the power should at all be exercised with due regard to all the relevant circumstances, was primarily



and essentially for Government to decide. If Government had not exercised that power on the ground eligible candidates under the Rules, were available we cannot compel it to exercise that power to benefit the applicant. From this also it follows that the claim of the applicant is unmerited.

7. In the light of our above discussion we hold that this application is liable to be dismissed. We, therefore, dismiss the application. But in the circumstances of the case we direct the parties to bear their own costs.



[Signature]
Vice-Chairman

[Signature]
Member (A)