

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 4 APR 1988

APPLICATION NO

1015

/ 87(F)

W.P. NO.

Applicant

Shri C.R. Ganapathy

To

1. Shri C.R. Ganapathy
Junior Scientific Officer
O.C.R.I. (Helicopter Division)
DTD&P(Air)
Ministry of Defence
Bangalore - 560 017

2. Shri M.R. Shailendra
Advocate
844 (Upstairs), V Block
Rajajinagar
Bangalore - 560 010

3. The Secretary
Ministry of Defence
Department of Defence Production
South Block
New Delhi - 110 011

Respondent

V/s The Secy, M/o Defence, Dept of Defence
Production, New Delhi & 2 Ores

4. The Additional Director in-charge
Directorate of Technical Development
and Production (Air)
Ministry of Defence
H.A.L.
Bangalore - 560 017

5. The Director
Technical Development & Production(Air)
Department of Defence Production
'H' Block
DHQ P.O.
New Delhi - 110 011

6. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

22-3-88
Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/INTERIM ORDER
passed by this Tribunal in the above said application on 22-3-88.

R. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

9c

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 22ND DAY OF MARCH, 1988

Present:

Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NO. 1015/1987

Shri C.R. Ganapathy,
Major, Jr. Scientific Officer,
O.C.R.I. (Helicopter Division),
DTD&P (AIR), Bangalore.

.... Applicant.

(Shri M.R. Shylendra, Advocate)

v.

1. The Secretary to Government
of India, Department of Defence
Production, M/o Defence,
South Block,
New Delhi.

2. The Addl. Director in-charge
Directorate of Technical Development
and Production (AIR), M/o Defence,
H.A.L. Bangalore.

3. The Director of Technical Development
and Production (AIR)
M/o Defence, D.H.Q. P.O.
New Delhi.

.... Respondents.

(Shri M. Vasudeva Rao, C.G.A.S.C.)

This application having come up for hearing to-day Vice-Chairman made the following :

ORDER

This is an application made by the applicant under Section 19
of the Administrative Tribunals Act, 1985 ('the Act').

2. The applicant initially joined service on 5.8.1971 as a Senior Scientific Assistant ('SSA') in the Department of Directorate of Technical Development and Production (A) of Government of India. On 6.2.1979, he was promoted as Junior Scientific Officer Grade-I ('JSO') and was posted to the office of the Chief Resident



Inspector, Nasik. For reasons that are not very necessary to notice, the applicant reported for duty at the Nasik on 28.2.1979 and was working there till about March 1987. He has however been transferred to DTOR, Bangalore in April 1987, where he is now working.

3. On 10.7.1986, a Departmental Promotion Committee ('DPC') constituted for the purpose, considered the cases of eligible officers for promotion to the posts of Senior Scientific Officers Grade.II ('SSO.II') which did not consider his case for the same, on the ground that he was not eligible. On that day the DPC considered the eligible officers and had recommended for promotion of certain officers, who have been later promoted. With this the applicant has not been promoted on 10.7.1986 or thereafter. Hence this application under the Act for appropriate reliefs.

4. In their reply, the respondents have resisted this application on more than one ground. The applicant who had not reported for duty as JSO on or before 24.2.1979 had not become a member of the Defence Aeronautical Quality Assurance Service ('Service'), which stood constituted that day under the Defence Aeronautical Quality Assurance Rules, 1978 ('the Rules'), and was not physically holding the post of JSO as on 24.2.1979, was not entitled for relaxation of educational qualifications provided under the Rules, and was, therefore, ineligible for promotion as on 10.7.1986.

5. Shri M.R. Shylendra, learned Counsel for the applicant, contends that his client who had been promoted as JSO on 6.2.1979 was legally holding that post from that day and at any rate as on 24.2.1979 and was, therefore, entitled for relaxation of educational qualifications for promotion to the post of SSO.II as on 10.7.1986 under the Defence Aeronautical Quality Assurance Rules of 1978 ('the Rules') and a direction ~~should~~ should therefore be issued to

the respondents to consider his case for promotion to that post as on 10.7.1986.

6. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for the respondents, refuting the contention of Shri Shyamendra, contends that this application really seeks to adjudicate matters which had become final before 1.11.1982 and on the ratio of the rulings of this Tribunal in V.K. MEHRA v. THE SECRETARY, MINISTRY OF INFORMATION & BROADCASTING NEW DELHI (ATR 1986 (1) CAT 203) and KSHAMA KAPUR v. UNION OF INDIA (1987 (4) ATC 329), was beyond the jurisdiction of this Tribunal. In the very nature of things, it is first necessary to examine this preliminary objection of Shri Rao first.

7. Under the Rules, the Service came to be constituted on the date the Rules were published in the Official Gazette, namely 24.2.1979. On the day the Rules came into force, viz., 24.2.1979, the applicant for reasons with which we are not now concerned, was not physically holding the post of JSO either at Bangalore or at Nasik.

8. Rule 7 of the Rules which provides for relaxation of educational qualifications only to those who were actually holding the post of JSO or the other posts as on 24.2.1979. On this view the authorities treated the case of the applicant from 24.2.1979 as being ineligible for that relaxation and did not extend him that benefit at all ever since then. In otherwords, the decision to treat the applicant as ineligible for promotion as SSO.II had been decided well before 1.11.1982. If that is so then on the ratio of the rulings of this Tribunal in MEHRA's case, reiterated



in KSHAMA KAPUR's case, the claim of the applicant is really beyond the jurisdiction of this Tribunal and cannot be examined at this stage. When once we so hold, the question of our examining the merits does not arise. We, therefore, decline to examine the merits.

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

Sd/-
VICE CHAIRMAN

Sd/-
MEMBER(A)

dms/mrv.

TRUE COPY

R. Venkatesh
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE