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CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
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Original Application No: 377/91

Transfer Application No: ---

DATE OF DECISION: 9.6.1996

Manohar Raghavendra Kulkarni Petitioner

Mr.V.R.Rairkar Advocate for the Petitioners

Versus  
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DG,CSIR, New Delhi and one anr.

-----Respondent


Mr.R.K.Shetty Advocate for the Respondent(s)

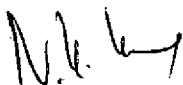
CORAM :  
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The Hon'ble Shri B.S.Hegde, Member(J)

The Hon'ble Shri N.K.Verma, Member(A)

1. To be referred to the Reporter or not? NO
2. Whether it needs to be circulated to other Benches of the Tribunal? NO

  
(B.S.HEGDE)  
M(J)



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J

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.377/91

Manohar Raghavendra Kulkarni .. Applicant

-versus-

The Director General,  
CSIR New Delhi and  
one another. .. Respondents

Coram: Hon'ble Shri B.S.Hegde, Member(J)

Hon'ble Shri N.K.Verma, Member(A)

Appearances:

1. Shri V.R.Rairkar  
Counsel for the  
Applicant.
2. Shri R.K.Shetty  
Counsel for the  
Respondents.

JUDGMENT:  
(Per B.S.Hegde, Member(J))

Date: 9-6-94

The applicant has filed this application u/s.19 of the Administrative Tribunals Act, 1985 praying for a declaration that he be considered for promotion under Group IV of NRAS with regard to clause 4.8.1 and also direct the respondents to step up his pay under the provisions of F.R. 22(C) w.e.f. 1-6-1975 till the date of retirement. He has questioned the impugned order dt. 10-12-90(Annexure-IV) and also order dt. 28-2-1991(Annexure IX). The facts which are relevant for consideration are as under :

2. The applicant was appointed as SSA in the scale of pay of Rs.325-575 on 8-9-1961 and reached the scale of pay of Rs.1100-1600 in the revised scale of Rs.3000-4500 at the time of his retirement.

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He has retired on 31-5-1989. His main thrust of argument is that he has been denied promotional opportunity under Group IV of N.R.A.S. introduced in 1981 and M.A.N.A.S. introduced in 1990 and also asked for stepping up of pay w.e.f. 1975. Against his non promotion he made representation to the competent authority on 4-5-90 but the same was replied on 15-5-90 rejecting his appeal. Though he was working as Scientist 'C' since 1978 he did not get an opportunity to be promoted to higher post. In that circumstance he had requested the authorities to invoke the provision of N.R.A.S Clause 4.8.1 which reads as follows:

"4.8.1 Staff members holding scientific and technical designations and possessing scientific and technical qualifications in INSDOC, PID, PTC, Planning, Technology Transfer, Manpower, Extra Mural Research Divisions in CSIR Headquarters and similar such units, if any, in the Laboratories will also be governed by the new scheme. However, cases of those persons who do not possess such qualifications may be referred to DG-SIR through the Executive Committee of the Laboratory along with their recommendations/directly to DG-SIR in respect of Headquarters staff."

He also relies upon clause 4.8 wherein it provides that "However, occasions may arise where it will be necessary to have persons with non-scientific/non-technical qualifications in the scientific/technical divisions of the

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Laboratories/Institutes/CSIR. When such persons are required, with qualifications such as ICWA, MBA they may be recruited after ensuring that they have at least a Bachelor's degree in Science. Having done so these persons will be brought under the uniform promotional scheme and they will be assessed with all other persons belonging to the same salary grade by appropriate assessment committee. Similarly, persons with qualifications such as MBBS/M.S. but are not necessarily engaged in research, would belong to Group IV grades and they will be assessed with other staff belonging to the same salary grade by appropriate assessment committees." The aforesaid request has been rejected by the competent authority on the ground that the applicant is not duly qualified for the post of Group IV which prescribes minimum qualification First Class M.Sc. or First Class B.E. with 12 years experience etc. Since the applicant is admittedly a B.Sc. graduate though he possessed ~~xxx~~ Diploma in Business Management, which is not equated with an M.Sc. qualification. Therefore, the competent authority DG~~CSIR~~ has taken a positive decision that since the applicant did not possess by the required ~~of~~ the qualification, he is not eligible to claim promotion. New recruitment rules came into force in February, 1981 and therefore the qualification possessed by the applicant under any circumstance cannot be equated with the post graduate degree meant for

Scientist Group-IV. Since his juniors have been promoted by selection as they have possessed requisite qualification and experience on that basis he cannot ask <sup>for</sup> stepping up of pay with reference to his juniors. Admittedly, the applicant is a Diploma holder and not a Degree holder. The recommendation of Varadarajan Committee for RAS and Technical staff relied upon by the applicant does not have any bearing on the issue which does not apply to the facts of this case. As stated earlier since he has not qualified to the higher post the question of his consideration does not arise and the diploma which he has held cannot be equated with the qualification prescribed in Clause 4 of the circular. The respondents in their letter dt. 28-2-1991 though asked for an option to be considered for assessment under MANAS he did not avail of the same nor furnished any papers to the respondents to consider for the said post.

3. Though the applicant has stated that the discrimination between him and similar <sup>by itself</sup> other employees, since he does not come within the purview of the NRAS for the purpose of promotion, he has not fulfilled the requisite procedure for claiming the same whereby he does not have the locus ~~standi~~ to question the impugned order so far as he is concerned. Further, the respondents in their reply had taken a stand that since the cause of action arose in 85 the applicant filed this O.A. in 1991, after a lapse of six years and this Tribunal does not have any jurisdiction to entertain a cause of action

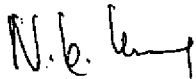
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which arose prior to 1-11-82 and since the stepping up of pay asked is prior to 82 the same is not sustainable in law. Further, the decision taken by the DG-SIR not to relax the qualification for consideration of the applicant for promotion from the post of Scientist C to the post of Scientist E1 (Group IV) is a reasonable decision and as the applicant did not possess the prescribed qualification of M.Sc. or B.E. Degree or its equivalent, the decision of the DG-SIR cannot be questioned by the Tribunal.

4. We have heard the learned counsel for the parties and perused the record and pleadings. On perusal of the records, it is found that the contentions put forth by the respondents cannot be dismissed in limine. The qualifications possessed by the applicant cannot be equated with post graduate degree meant for ~~Gx~~ Scientist in Group IV. The pay also cannot be stepped up with reference to his juniors. Admittedly, the cause of action arose in 1985 and applicant filed the application after lapse of six years. The second relief of stepping up of pay which is admittedly prior to 1982. Therefore, on both the counts this O.A. cannot be sustainable. Apart from the fact, there is no merit in his contentions that he should be considered for the post of Group IV as he is not duly qualified for the same.

5. In the light of the above, we are

of the view, that the O.A. is liable to be dismissed since it does not involve any merit. Accordingly, we dismiss the O.A. In the circumstances there shall be no order as to costs.

  
(N.K.VERMA)  
Member(A)

  
(B.S.HEGDE)  
Member(J)

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BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

R.P. NO. 147/94

in

O.A. NO. 377/91

M.R. Kulkarni

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Applicant

v/s

Director, General, CSIR  
& Anr.

...

Respondents

CORAM

1) Hon'ble Shri B.S. Hegde, Member (J)

2) Hon'ble Shri N.K. Verma, Member (A)

Tribunal's orders on Review Petition by circulation

(Per: Hon'ble Shri B.S. Hegde, M(J))

Dated: 5.12.94

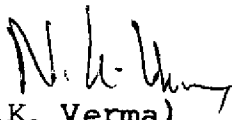
1. The Review Application has been filed by the Applicant seeking review of the judgement dated 9-6-1994 in O.A. No. 377/91. The O.A. was disposed of both on merits as well as on the point of limitation and jurisdiction because the relief sought was prior to 9-2-1982 and he has filed his O.A. after a lapse of 9 years. Though the judgement was delivered on 9-6-1994, the R.A. is filed on 14-11-1994 i.e. after a lapse of five months. According to the rules, a review application is required to be filed within 30 days from the date of receipt of the orders; that is not the scenario in this case. No plausible explanation is furnished by the Applicant as to why the R.A. is filed at such a belated stage.




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From pre-page:

2. On perusal of the review application, we find that neither an error on the face of the record has been pointed out nor any new facts have been brought to our notice calling for the review of the judgement. Further, keeping in view the provisions of the O.47 Rule 1 read with section 115 of the Civil Procedure Code, the grounds raised in the review application are more germane for an appeal against the judgement referred to above, and not for review of the judgement. The review application is, therefore, dismissed.

  
(N.K. Verma)  
Member (A)

  
(B.S. Hegde)  
Member (J)

ssp.