

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:- 15 APR 1994

APPLICATION NUMBER: 900 of 1993.

APPLICANTS:

Sri.R.Sekar
T..

RESPONDENTS:

v/s. Project Manager, BARC, Mysore and Other.

1. Sri.T.N.Raghupathy
Advocate, Second Floor,
Swastik Complex,
Opp:Seshadripuram Police Station,
S.C.Road, Seshadripuram, Bangalore-20.
2. The Project Manager,
Rare Materials Plant,
Post Box No.1, Yelwal Post,
Bhabha Atomic Research Centre,
Rattahally Complex, Mysore-571130.
3. Sri.M.Vasudeva Rao, Addl.CGSC,
High Court Bldg, Bangalore-1.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 28th March, 1994.

Issued on
15/4/94
R.

of c

for *S. Shanmugam*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL : BANGALORE BENCH

APPLICATION NO. 900/1993

MONDAY, THE TWENTYEIGHTH DAY OF MARCH, 1994

Present: Mr. Justice P.K. Shyamsunder, Vice Chairman

Mr. T.V. Ramanan, Member (A)

Shri R. Sekar
Aged about 27 years
S/o. R. Ramaswamy
Scientific Assistant 'C'
Bhabha Atomic Research Centre
No.650, 'M' Block, Kuvempunagar
Mysore.

.... Applicant

(By Shri T.N. Raghupathy, Advocate)

Vs.

1. Bhabha Atomic Research Centre
Mysore, represented by its Project
Manager, Ratnahally Complex
Post Bag No.1, Hunsur Road, Yelwal P.O.
Mysore - 571 130.

2. Union of India represented by
its Secretary, Department of
Atomic Energy, New Delhi.

.... Respondents

(By Shri M. V. Rao, A.C.G.S.C.)

O R D E R

(Mr. T.V. Ramnan, Member (A))

Admitted.

Rejoinder to the reply filed by the respondents

filed in Court placed on record.

2. We have heard the learned counsel for the applicant and the learned Standing Counsel for the respondents. Learned counsel for the applicant challenged the contention, as in the reply of the respondents, that there is a requirement regarding fulfillment of certain norms as regards Confidential

Report grading before the cases of those acquiring AMIE or other degrees, which make them eligible for promotion to a higher grade, could be considered for promotion to such a grade and argued that the non-promotion of the applicant should be treated as based on adverse entries in the Confidential Report of the applicant. The learned Standing Counsel made available ^a the confidential booklet, duly certified to be true, issued by the Bhabha Atomic Research Centre. Careful ^{in the matter} perusal of the same reveals that/ of personnel acquiring AMIE or other degrees which make them eligible for promotion to a higher grade, the concerned may be interviewed for promotion to such a grade only once provided they have maintained a particular Confidential Report grading or above that grading during the previous 3 years. Learned Standing Counsel has produced before us the previous 3 years' ACRs of the applicant which we have perused. After perusal of the same, we are quite satisfied that the particular grading which is specified to be the minimum grading necessary for the applicant to be called for interview for being considered for promotion is not there for one year and as such the respondents could not possibly have considered the case of the applicant for being interviewed for promotion. In view of this, the ruling in Amarkanth Choudhury Vs. State of Bihar and others (AIR 1984 SC 531) cited by learned counsel for the applicant, is not quite relevant to this case. In that case there were adverse entries in the ACRs of the Appellant and the same had not been communicated to the employee and later expunged by the State Government. Because of the presence of the adverse remarks, the selection committee which met did not consider the Appellant in that case for promotion. In view of this it was decided in that case that the decision of the selection committee

stood vitiated. This case is not similar to that. In this case there are no adverse entries in the ACRs for the previous 3 years of the applicant. It is only because the applicant could not fulfill by his performance the norms laid down for consideration of his case for promotion that he was not considered fit for promotion despite he having acquired an Engineering Degree. The other case Gurudial Singh Fijji Vs. State of Punjab & Others (AIR 1979 SC 1622) cited by the counsel for the applicant is also not relevant to the case on hand because there are no adverse remarks in the 3 ACRs of the applicant. It was because he could not fulfill the CR norms that he was not called for interview for being considered for promotion. Apparently, the norms which are confidential and contained in a confidential document appear to have been applied uniformly in all such cases of promotion. Since the respondents contend that such uniform application has taken place, we do not find any reason as to why we should doubt the bonafides of the respondents in not promoting the applicant. As such, a view cannot be taken that it was only in the case of the applicant that the prescribed norms were applied in order to deprive him of his promotion.

3. In view of the foregoing, we do not find any substance in this application and dismiss the same. No order as to costs.

sd/-
(T.V. RAMANAN)
MEMBER (A)

sd/-
(P.K. SHYAMSUNDER)
VICE CHAIRMAN

TRUE COPY

E. Shanmugam
SECTION OFFICER
GENERAL ADMINISTRATIVE
ADDITIONAL DEPT.
BANGALORE

mr.