

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.
ORIGINAL APPLICATION NO.741/995

Friday, this the 7th day of July, 2000.

Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri Govindan S.Tampi, Member (A).

M.G.Nagarkar,
Type - B-22/2,
TAPS Colony, Post
T.A.P.P. Taluka Palghar,
Dist. Thane
Pin - 401 504.
(No appearance)

... Applicant.

Vs.

1. Managing Director,
Nuclear Power Corporation Ltd.,
16th Floor, WTC,
Bombay - 400 005.
2. The Union of India
through Secretary,
Department of Atomic Energy, --
Anushakti Bhavan,
Chhatrapati Shivaji Maharaj Marg,
Government of India,
Bombay - 400 039.
3. Director;
(Station),
Tarapore Atomic Power Station,
Tarapore,
Thane.
4. Senior Maintenance Engineer (E),
Nuclear Power Corporation Ltd.,
TAPS,
Thane - 401 504.
(By Advocate Mr.V.D.Vadhavkar for
Mr.M.I.Sethna, counsel).

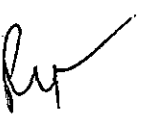
... Respondents.

: O R D E R (ORAL) :

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application filed under section 19 of the
Administrative Tribunals Act, 1985. Respondents have filed their
reply. Today, the case is taken out for further final hearing.

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Applicant is not present. However, the applicant has sent a letter stating that the OA may be disposed of on the basis of his pleadings and available documents. We have heard Mr.V.D.Vadhavkar on behalf of Mr.M.I.Sethna, counsel for the respondents.

2. The applicant, on the date of the application was working as Tradesman 'F'. His grievance is that he is not given promotion to different grades of Tradesman, though he is senior to many officials who have been promoted. His further grievance in the OA is that he being a SC candidate is not given promotion by applying 40 point roster and by applying the reservation policy. He has also stated that Confidential Reports of the applicant has been written by an officer who was prejudicial to him. He has given the names of some of his juniors who have been promoted to higher grades by denying the same to the applicant.

3. The respondents in their reply have taken the stand that reservation policy will not apply to the merit promotion scheme. They have further stated that applicant was given promotion on the basis of merit which is based on the service record. Applicant has also been given promotion whenever they were due. In particular, it is mentioned that applicant got promotion from Grade 'C' to Grade 'D' in 1978, Grade 'D' to Grade 'E' in 1983 and Grade 'E' to Grade 'F' in 1989. It is now stated at the bar that applicant has since been promoted in 1996 to Grade 'G'. It is also stated that the question of seniority is not relevant in merit promotion scheme and if some juniors are promoted, it is because of their merit.

4. In our view, the applicant's grievance about 40 point roster and following the reservation policy is not correct. In a

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merit promotion scheme, there is no question of promoting an official from one post to another post. It is more like an incentive scheme. The officer is promoted to higher grade and not to the higher post as such. If there are no posts or vacancies, then the question of following 40 point roster or applying the reservation policy does not arise in the merit promotion scheme. If an official is promoted to higher grade, the lower grade vanishes and he would continue in higher grade till retirement or till further promotion and in the event of further promotion or retirement, the post is abolished. Therefore, there is no question of a promotion being made to a vacant post to attract 40 point roster or reservation policy. The applicant has not placed on record any Government Orders to show that even in merit promotion scheme reservation policy has to be followed.

5. According to the respondents, merit promotion is given not on the basis of seniority, but purely on the basis of merit depending upon the service record of an officer. The learned counsel for the respondents has placed before us the Confidential Records of the applicant and the relevant material which shows the gradation of the applicant. An official can get promotion if he gets a grading of 'A' in the CRs in three years itself. Whereas, if an official has a lower grade he gets promotion in four years, still lower grade after five years etc. Therefore, the promotion is given purely on merit which is depending on service records. If juniors are promoted to higher grades, it is only because of their grading and not because of any other reason. Therefore, in such a case, the question of applying normal rules will not arise. The applicant could not get



promotion earlier due to the grading in the CRs and therefore, he cannot complain that he has been overlooked arbitrarily or unjustifiably. Hence, in the circumstances, we do not find any merit in the application.

6. In the result, the application fails and is hereby dismissed. No order as to costs.


(GOVINDAN S. TAMPL)
MEMBER (A)


(R.G. VAIDYANATHA)
VICE-CHAIRMAN

B.

