

42

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD  
BENCH : AT HYDERABAD

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O.A.No.613 of 1989

Date of Decision: 23.8.1990.

Between:-

- 1. V.Venkateswara Rao
- 2. A.V.Nagendra Rao
- 3. P.Sidda Reddy
- 4. B.Ramamohana Rao
- 5. T.N.C.Ranganatham
- 6. K.Vasudevan
- 7. S.Umadevi
- 8. P.Balakotaiah
- 9. S.A.Mohamed Faruk
- 10.S.Anandhi
- 11.S.Raghukumar .. Applicants

and

- 1. The Union of India represented by the Chairman, ISRO, DOS, Authariksha Bhavan, New BEL Road, Bangalore.
- 2. The Director, PP & PM, ISRO, Bangalore-560054.
- 3. The Director, SHAR Centre, ISRO, Sriharikota-524124, A.P. .. RESPONDENTS

Appearance:

For the Applicants : Shri KSR Anjaneyulu, Advocate.  
 For the Respondents : Shri E.Madan Mohan Rao, Addl CGSC.

CORAM:

THE HONOURABLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.  
 THE HONOURABLE SHRI D.SURYA RAO, MEMBER (JUDICIAL).

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(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI B.N. JAYASIMHA, VICE-CHAIRMAN.)

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1. The Applicants, who are 11 in number, are working as Scientists/Engineers SB in the SHAR Centre, ISRO, Sriharikota. They have filed this application challenging the

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OM No.HQ-ADMN-4.20(3)-1, dated 29-3-1989, under which revised norms have been prescribed in regard to induction and career progression of Engineering Graduates/M.Sc.s in ISRO/DOS.

2. The Applicants state that they are all working as Scientists/Engineers (SB). They are Science Graduates/Engineering Diploma Holders and are eligible for further promotion to the grade of Scientist/Engineer (SC), (SD) and also higher grades as per OM No.HQ-ADMN:4.20(3), dated 12-12-1975.

3. The Applicants were initially recruited as Scientific Assistants/Technical Assistants-B and on completion of 3 years in that grade, they were promoted to the grade of Scientific Assistants/Technical Assistants 'C'. On completion of further 3 years of service in that grade, they were promoted to the grade of Scientist/Engineer SB as per the OM dated 12-12-75. They have now completed more than 7 years of service in the department and one year in SB grade itself. In the normal course, the Applicants, on completion of 3 years of service in SB grade are eligible for consideration for promotion to SC grade. Engineering Graduates were recruited directly to the grade of Scientist/Engineer SB grade and they are <sup>placed</sup> ~~put~~ on the same footing as that of Science Graduates/Engineering Diploma Holders with 6 years service for further promotion to SC grade. Thus, both the Engineering Graduates/Science Graduates/Engineering Diploma Holders have to necessarily complete 3 years of service in SB grade for promotion to SC grade. They are equalised in all respects in SB grade and they perform the same duties shouldering the same responsibilities. This being so, by the impugned Memo,

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the Respondents have introduced discriminatory treatment for the Science Graduates/Engineering Diploma Holders as compared to the Engineering Graduates for promotion to the post of SC grade. While it was uniformly 3 years for Engineering Graduates and Science Graduates/Engineering Diploma Holders in SB grade for promotion to SC grade, in the new order Engineering Graduates are required to complete only one year to become eligible for promotion. They contend that giving separate treatment to Engineering Graduates by fixing only one year in that grade and not making it applicable to the Science Graduates/Engineering Diploma Holders without any valid reasons is arbitrary and discriminatory. No reasons for a separate treatment have been disclosed. There is no reason why the Science Graduates and Engineering Diploma Holders should also not be considered for promotion after one year of service. Hence they have filed this application.

4. We have heard Shri K.S.R. Anjaneyulu, learned Counsel for the Applicant, and Shri E. Madan Mohan Rao, learned Additional Central Government Standing Counsel for the Department.

5. Before we consider the grounds urged by the Applicants, we may notice the relevant part of the impugned Memo.

" The question of improving the career progression of the Engineering Graduates/M.Sc.(First Class) in ISRO/DOS and their induction level has been under active consideration for quite sometime now. A number of R&D organisations and government departments of late induct such personnel at 'SC' level straight away. They are also placed in 'SC' grade after a year's training. In ISRO/DOS, their induction since January 1976 has been in 'SB'/SA'C' grades respectively and on completion of three years, they are considered for review to 'SC' grade. After careful consideration of all aspects, it has been decided

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to modify the induction level and review period for Engineering Graduates/M.Sc. (First Class) as follows with effect from April 1, 1989.

Qualification	Induction Level	Scale of pay	Review period for 'SC' Grade (Subject to completion of probation).
1. BEs/B.Techs/B.Sc. (Engg)/Equivalent Engg qualification (First Class)	SB	Rs.2000-3500	One year
2. M.Sc. (First Class)	SB	Rs.2000-3500	One year

Consequently, all Engineering Graduates/M.Sc. (First Class) appointed hereafter to the grade of 'SB' will, on successful completion of the probation period of one year (extended period, wherever applicable), be reviewed for appointment to 'SC' grade on the rationalised date immediately after the successful completion of probation, after undergoing the due procedures prescribed from time to time and reiterated in O.M.No.HQ:ADMN:4.20(3), dated February 22, 1986. For easy reference, a statement showing the career progression of the Engineering degree/Post-graduates and higher qualifications under the periodical merit review scheme as proposed now is enclosed as Annexure-A to this OM".

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" The procedure laid down in this O.M. regarding fitment/placement and consideration for review to the grades of 'SC'/'SD' of existing persons will not apply to such of those scientists/engineers who are presently in the grades of SA'C'/'SB'/'SC' who do not possess the qualification of B.E/B.Tech. M.Sc. or equivalent academic qualifications recognised by the Department (all in First Class) and who have progressed in their career based on alternate qualification like B.Sc/Diploma, etc.. They will continue to progress as per existing norms/orders on the subject." (emphasis added)

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6. At the outset it was pointed out that similarly situated persons had filed O.A.278 of 1989 before the Ernakulam Bench of this Tribunal, and the Ernakulam Bench, after a detailed consideration, rejected the contentions of the Applicants and dismissed that application. In that O.A., the Respondents contended that:

" The periodical reviews for promotions to the posts in the grade 'SB' (Rs.2000--3500) are conducted as of 1st April and 1st October and to 'SC' grade (Rs.2200--4000) and above as of 1st January and 1st July every year. During the periodical review, as of the above crucial dates, the cases of all eligible officials, whether they are Engineering degree holders or not, but meeting the norms for promotion, would be taken up for review. It is, however, not true that the applicants are equated to Engineering degree holders, just because they were being reviewed alongwith the Engineering degree holders in the process on the basis of different norms. Also, the normalisation in the past, if any, as claimed by the applicants, was only to make them eligible to be considered for the appropriate higher grades as in the case of 1st class Diploma holders ".

7. Shri E.Madan Mohan Rao states that the respondents had justified the discriminatory treatment stating:

" It is admitted that the Office Memorandum No.HQ: ADMN: 4.20(3)-1 of 29th March, 1989 (Annexure R4) was issued revising the induction and career progression of Engineering Graduates/M.Sc.s.(I Class) in Indian Space Research Organisation (ISRO)

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Department of Space (DOS). The compelling need to attract and retain the best talents among the Engineering Graduates/M.Sc.s. to take up the more complex and challenging jobs for achieving the objectives of the National Space Programme, had been receiving the attention of ISRO/DOS for a long time (Briefly explained in the introduction). When compared to similar other establishments, ISRO/DOS was offering a lower grade to the Engineering Graduates."

8. The Ernakulam Bench relied on the decision of the Supreme Court in Roopchand Adlakha & others vs. Delhi Development Authority & others (AIR 1989 SC 309), where the Supreme Court held:

" The idea of equality in the matter of promotion can be predicated only when the candidates for promotion are drawn from the same source. If the differences in the qualification has a reasonable relation to the nature of duties and responsibilities, that go with and are attendant upon the promotional-post, the more advantageous treatment of those who possess higher technical qualifications can be legitimised on the doctrine of classification. There may, conceivably, be cases where the differences in the educational qualifications may not be sufficient to give any preferential treatment to one class of candidates as against another. Whether the classification is reasonable or not must, therefore, necessarily depend upon facts of each case and the circumstances obtaining at the relevant time".

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" In Triloki Nath's case diploma-holders were not considered eligible for promotion to the higher post. Hence, in the present case, the possession of a diploma, by itself and without more, does not confer eligibility. Diploma, for purposes of promotion, is not considered equivalent to the degree. This is the point of distinction in the situations in the two cases. If Diploma-Holders -

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of course on the justification of the job requirements and in the interest of maintaining a certain quality of technical expertise in the cadre - could validly be excluded from the eligibility for promotion to the higher cadre, it does not necessarily follow as an inevitable corollary that the choice of the recruitment policy is limited only two choices, namely, either to consider them "eligible" or "not eligible". State, consistent with the requirements of the promotional-posts and in the interest of the efficiency of the service, is not precluded from conferring eligibility on Diploma-holders conditioning it by other requirements which may, as here, include certain quantum of service-experience."

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" This does not prevent the State from formulating a policy which prescribes as an essential part of the conditions for the very eligibility that the candidate must have a particular qualification plus a stipulated quantum of service-experience. It is stated that on the basis of the "Vaish Committee" report, the authorities considered the infusion of higher academic and technical quality in the personnel requirements in the relevant cadres of Engineering Services necessary. These are essentially matters of policy. Unless the provision is shown to be arbitrary, capricious, or to bring about grossly unfair results, judicial policy should be one of judicial-restraint. The prescriptions may be somewhat cumbersome or produce some hardship in their application in some individual cases; but they cannot be struck down as unreasonable, capricious or arbitrary. The High Court, in our opinion, was not justified in striking down the Rules as violative of Articles 14 and 16<sup>a</sup>."

Ernakulam

9. In these circumstances, the <sup>Ernakulam</sup> Bench held that when the employer on the basis of the requirements after considering the recommendations of the expert committee makes a change

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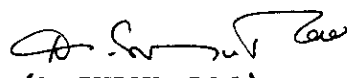
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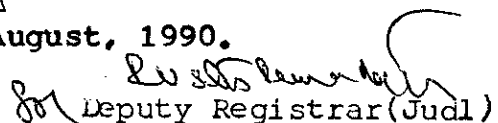
Engineers, the detailed study undertaken by an expert committee, etc., observed : "The respondents have studied the matter in depth by constituting an expert committee and after discussing the issue at various levels including 'Centre Directors' of ISRO that they had decided to issue Annexure A.2. Thus it was only after a consensus was arrived at the highest level about the fixation of qualification for selection and promotion that they had issued the impugned O.M. Whether this is conducive to the better administrative efficiency of the organisation or whether this would produce the desired effect or not are all matters for the respondents to decide. However, we are of the view that we cannot sit in judgment over the decisions rendered by the respondents on the basis of the recommendations of the expert body constituted in this behalf." we are in full agreement with these views.

12. In the result, the application is dismissed. No costs.

  
(B.N. JAYASIMHA)  
VICE-CHAIRMAN

  
(D. SURYA RAO)  
MEMBER (JUDICIAL)

Dated: 23<sup>rd</sup> August, 1990.

  
Deputy Registrar (Judl)

- To
1. The Chairman, Union of India, ISRO, DOS,  
nsr  
Authariksna Bhavan, New BEL Road, Bangalore.
  2. The Director, PP & PM, ISRO, Bangalore-54
  3. The Director, SHAR Centre, ISRO, Srinarikota 524124.A.P.,
  4. One copy to Mr. K.S.R. Anjaneyulu, Advocate  
1-1-365/A Jawaharnagar, Bakaram, Hyderabad.
  5. One copy to Mr. E. Madanmohan Rao, Addl. CGSC. CAT. Hyd. Bench.
  6. One spare copy.