

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD.

O.A. No. 706/89.

Date of Judgment, 23rd March 1992

1. E.P.Sastry  
2. R.Sankarnarayana  
3. C.K.Sukumaran

.. Applicants

Vs.

1. Union of India,  
Rep. by the Secretary,  
Min. of Defence,  
South Block,  
New Delhi-110011.
2. Director-General,  
Research & Development Orgn.,  
Min. of Defence,  
New Delhi-110011.
3. Director, DLRL,  
Hyderabad-500005.
4. Chairman,  
Recruitment Assessment Centre,  
Lucknow Road, Timarpur,  
Delhi-110007.
5. Secretary, DP & AR,  
Min. of Home Affairs,  
New Delhi-110011.
6. S.G.Sastry
7. G.Nagendra Rao
8. B.Balaram
9. D.D.Singh

.. Respondents

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*Neherchand*  
Counsel for the Applicants : Shri K. Noori for  
Shri Y. Suryanarayana

Counsel for the Respondents : Shri N. Bhaskara Rao,  
Addl. CGSC

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CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

I Judgment as per Hon'ble Shri R.Balasubramanian, Member(A) ]

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This application has been filed by Shri E.P.Sastry &  
2 others under section 19 of the Administrative Tribunals Act,  
1985 against the Union of India, Rep. by the Secretary, Min. of  
Defence, South Block, New Delhi-110011 & 8 others. Respondents  
6 to 9 are private respondents. The relief sought for, is a  
direction to the respondents to quash the order of promotion

issued vide No.12445/RD/PERS-5 dated 29.2.88 in which Respondents 6 to 9 have been promoted from Scientist 'D' to Scientist 'E'. It is also prayed that the respondents are directed to consider <sup>afresh</sup> the case of the applicants <sup>for promotion</sup> ~~afresh~~ by <sup>applying</sup> ~~application of~~ correct norms and <sup>for</sup> with all consequential benefits.

2. The applicants were, at the relevant time, working in the cadre of Scientist 'D' in the Defence Research & Development service. Their next promotion is to the cadre of Scientist 'E'. W.e.f. 1.6.85 the selection is to be made by the Recruitment Assessment Board (R.A.B. for short). It is alleged that the Chairman at that time was once a Member of the Union Public Service Commission (U.P.S.C. for short) and after he had relinquished office he had opted to take up the job of the Chairman of the R.A.B. under the Government. The applicants apprehend that he might not be impartial and unbiassed as his continuation in office depends on the pleasure of the Director-General, R&D. They are also assailing the promotion policy as an arbitrary one which is varied from time to time. It is alleged that excessive importance is given to interview by the Selection Board relegating to the background other factors like qualification, merit and seniority. It is also stated that the promotion rules ~~are~~ unrealistic and fail to do justice to the right persons. It is for these reasons that they consider the promotion of the respondents and the non-promotion of the applicants as unjustified. Their representations having failed they have approached this Tribunal with this O.A.

3. The respondents have filed a counter affidavit and opposed the application. The promotions are regulated according to Statutory Rules (The Defence Research & Development Service Rules, 1979). It is contended that <sup>due</sup> the weightage is given to all important aspects like qualification, performance, seniority and interview. According to <sup>them,</sup> the scheme is a well designed one. It is their case that the promotion policy

is a sound one required to meet the needs of the unit and they have all been framed in exercise of the powers vested in the competent authority.

4. The applicants have filed a rejoinder more or less reiterating the same contentions in the O.A. It is stated that the recruitment rules are not in line with the guidelines laid down by the Department of Personnel.

5. We have examined the case and hear the learned counsel for the rival sides. At the time of the hearing, Shri Noori appearing for the applicants produced a copy of the judgment dated 17.9.91 of the Principal Bench of this Tribunal in their O.A.No.2738/90 (U.D.Dwivedi Vs. Union of India & another). The Bench had clearly held that in the circumstances in which Professor S.Sampath was placed as the Chairman of the Assessment Board, he held an office under the Govt. of India and, therefore, his appointment would be unconstitutional and invalid. The Bench, therefore, ordered that, as a consequence, the assessment held under the chairmanship of Professor S.Sampath would also be null and void. On this point, the learned counsel for the respondents did not refute that the selection of the applicants was also done by the Board presided over by Professor S.Sampath. Shri N.Bhaskara Rao appearing for the respondents, however, drew our attention to a judgment dated 31.3.91 of the Madras Bench in their O.A.Nos.414/88 etc. In the O.As before them, the promotion rules were questioned by the applicants therein in the same manner as the applicants before us. The Madras Bench did not find anything wrong with the recruitment rules and did not want to interfere with the recruitment rules. The O.As were dismissed.

6. The validity of the R.A.B. had been challenged and eventually struck down by the Principal Bench. Following that decision, we hold that the consideration for promotion of the applicants as well as the private respondents from

Scientist 'D' to Scientist 'E' by a Board headed by Professor S.Sampath is to be treated as invalid. In view of this situation, therefore, we set aside the selection made and the orders issued vide their letter No.12445/RD/PERS-5 dated 29.2.88 of the respondents. We direct the respondents to constitute a valid Board and consider the cases of the applicants alongwith other eligible persons for promotion from Scientist 'D' to Scientist 'E'. Again, following the decision of the Madras Bench, we do not wish to interfere with the promotion rules. Therefore, the Recruitment Rules, 1979 may be followed by the respondents. The revised promotion should be effected within six months of receipt of this order. The application is disposed of accordingly with no order as to costs.

R.Balasubramanian  
( R.Balasubramanian )  
Member(A).

*asdy*  
( C.J.Roy )  
Member(J).

Dated: 23<sup>rd</sup> March, 1992.

*824/92*  
Deputy Registrar(J)

Re

To

1. The Secretary, Union of India,  
Ministry of Defence, South Block,  
New Delhi-11.
2. The Director General, Research & Development Organisation,  
Ministry of Defence, New Delhi-11.
3. The Director, DLRL, Hyderabad-5.
4. The Chairman, Recruitment Assessment Centre,  
Lucknow Road, Timarpur, Delhi-11.
5. The Secretary, DP, AR, Min. of Home Affairs, New Delhi-11.
6. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.Bench.
7. One copy to Mr.N.Bhaskara Rao, Addl.CGSC.CAT.Hyd.Bench.
8. One spare copy.

pvm

*recd 10*

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A) ✓

AND

THE HON'BLE MR. T. C. ANDRASEKAR REDDY :  
MEMBER (JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL) ✓

Dated: 23-3-1992. ✓

ORDER / JUDGMENT ✓

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R.A. / C.A. / M.A. No.

in  
O.A. No. 706/89 ✓

T.A. No.

(W.P. No. )

Admitted and interim directions  
issued

Disposed of with directions ✓

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs. ✓

pvm.

