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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: AT HYDERABAD:

O.A.No. 1038 of 1993.

Between:-

Valupadasu Rajan Babu, S/o. Sri V. Veera Swamy, aged about 31 years, Occ: Scientific Assistant-B, Manuguru Heavy Water Plant, Khammam District.

... Applicant.

And

1. The Union of India, rep. by its Secretary, Department of Atomic Energy, New Delhi.

2. The Chief Executive, Heavy Water Board, 5th Floor, V.S. Bhavan, Anushakti Nagar, Bombay.

3. The Chairman, Interview Committee, Baba Automic Research Centre, Anushakti Nagar, Bombay.

... Respondents.

DETAILS OF THE APPLICATION:

1. Particulars of the Applicant:- The address of the applicant for the purpose of service of all notices etc., is as given in the cause title and that of his counsels M/s. K. Ananth Rao, & K. Seetha Devi, Advocates, New Malakpet, Hyderabad.

2. Particulars of the Respondents:- The Addresses of the respondents for the purpose of service of all notices etc., is as given in the cause title.

3. Particulars of the order against which the application is made:

i) Order No. : HWPM/ADMO/18/1993/400.

ii) Date of order : 8.6.1993.

iii) Passed by : The Respondents herein.

iv) Subject in brief: This application is filed aggrieved by the action of the respondents in rejecting to promote the applicant herein as Scientific Officer/SC or Scientific Officer/SB.

4. Jurisdiction:- The subject matter of this application comes within the jurisdiction of this Hon'ble Tribunal, under sec- 14 of the Admin. Tribunal Act, 1985.

5. Limitation:- This application is filed aggrieved by the

order of the respondents dated 8.6,1993 and hence the same is within limitation under Section 21 of the Administrative Tribunal's Act, 1985.

6. Facts of the case:-

The applicant begs to submit as follows:-

- a) The applicant herein was appointed as a Scientific Assistant-B in the year 1986-87. The applicant herein had discharged his duties to the best of his service and had earned excellent remarks from his superiors. He has not punishments what-so-ever in his service.
- b) The applicant herein had with the permission of his Superior Officer had acquired the higher qualification of B.Tech., from the J.N.T.University, Hyderabad. The applicant herein had acquired the said qualification in the academic year 1990-1991. Immediately on acquiring the said qualification the applicant herein had submitted the certificate to the department and had made known the fact to the department.
- c) The applicant submits that persons who acquire higher qualification are given promotions after putting them through an interview conducted by the departmental promotion committee under the Director of Baba Automic Research Centre, Bombay, Accordingly every~~y~~ year persons who have acquired higher qualification are screened by this committee and on being selected by the same are given promotion to the post of Scientific Officer/SB, or Scientific Officer/SC. The said interviews was to be conducted in October, 1991 and though the applicant herein had acquired the higher qualification and was fully eligible to be considered for promotion was not sent for the said interview. This was due to the fact that some adverse remarks were made against the applicant in June, 19~~90~~. On communication of the said adverse remarks the applicant herein had preferred an appeal against the same which had been rejected

in May, 1991.

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d) Due to the said adverse remarks the concerned authorities did not sent the name of the applicant for consideration for promotion to the second respondent's Committee. Aggrieved by which the applicant herein had filed O.A.No. 900/91 before this Hon'ble Court. As an interim order this Hon'ble Court in the said O.A. had directed the second respondent to allow the applicant herein for the interview held in October, 1991. Consequent to the said interim orders the applicant was interviewed by the Interview Board of the 2nd respondent on 8.10.1991. The result of the Interview conducted ~~xxx~~ was with-held as per the orders of this Hon'ble Court. The applicant herein had attended the interview and had done well in the said interview. While his juniors were promoted his result was with-held due to the pendency of O.A. No. 900/91 before this Hon'ble Court.

e) Simultaneously the applicant herein had filed O.A.No.724/91 before this Hon'ble Court questioning the action of the concerned authorities in making adverse remarks against the applicant. The said case after notice was allowed by this Hon'ble Court and the adverse entries made were found to be without any basis and the same were directed to be deleted from the record of the applicant.

f) The applicant submits that un-fortunately for the applicant while his case on adverse remarks had been pending before this Hon'ble Court the interview for promotion was conducted. The results of the said interview were kept in ~~ebeyance~~ on the orders of this Hon'ble Court. The only defence for not sending the applicant for the interview taken by the Department was that of the adverse entries in the record of the applicant. When O.A. 724/91 had been allowed and the adverse entries directed to be deleted, this Hon'ble Court had allowed O.A.No. 900/91 directing the respondents therein to release the interview results of the applicant. Consequently ~~at~~ the order under attack has been

now given rejecting the case of the applicant for promotion aggrieved by which the applicant is constrained to invoke the jurisdiction of this Hon'ble Court.

g) The applicant submits that though he had done exceedingly well in the interview the 2nd respondent board seems to have rejected his case only due to the adverse remarks entered in the confidential ~~x~~ records as on the date of the interview. This unfortunate situation of adverse remarks in the service records on the date of the interview is the main cause for the issuance of the impugned order. Now due to the verdict of this Hon'ble Court the adverse remarks were found to be totally baseless without any support what-so-ever and hence were directed to be deleted from the confidential rules of the applicant. Thus the action of the 2nd respondent in rejecting the case on the adverse remarks is wholly irregular and illegal. Now that the same have been held to be baseless by this Hon'ble Court. In promotion policy it is clearly laid down that confidential records containing adverse remarks will have a bearing on ~~examination~~ promotion of the employee which clearly show that only due to the adverse remarks the applicant has been refused promotion while his juniors had got the same. This action of the respondents is illegal and un-tenable in law.

h) The applicant submits that the adverse remarks which have been found to be baseless cannot be made a ground for deciding the fundamental right of the person envisaged under articles 16 of the constitution and hence the action of the respondents in rejecting the case of the applicant for promotion is illegal and untenable in law.

i) The applicant submits that the applicant is entitled for re-consideration of his case by the 2nd respondent board de-horse the adverse remarks for promotion to the post of Scientific Officer SC/SB as otherwise the action of the respondents in rejecting the case of the applicant would be violative of article 14 & 16 of the

Constitution of India.

7. Details of the remedies exhausted:- The applicant submits that he do not have any other statutory remedy to prevent the gross miscarriage of justice and hence he is constrained to invoke the jurisdiction of this Hon'ble Tribunal.

Matter not pending with any court:-

8. The applicant declares that he has not filed writ or any case before any Court of Law with regard to the subject matter of this application.

9. Relief Sought:- In view of the facts and circumstances stated above the applicant herein prays that this Hon'ble Tribunal be pleased to declare the action of the respondents in rejecting the case of the applicant for promotion by order dated 8.6.1993 as illegal and consequently direct the respondents to consider and promote the applicant herein as Scientific Officer SC/SB from the date when his juniors were promoted in the year 1991 with all consequential benefits thereon, and pass such other order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.

10. Interim Relief:- Pending disposal of the main application the applicant herein prays that this Hon'ble Court may be pleased to direct the respondents to consider the case of the applicant in the Interviews to be held in September/October'1993 for promotion to the post of Scientific Officer SC/SB as otherwise the applicant would be put to irreparable loss and grave suffering.

11. Particulars of the Postal order in respect of the Application Fee:-

i. No. of the Postal order: 908525

ii. Date of the Postal order: 16.8.93

iii. Postal order at which payable: GPO, H.D.
J.F.S.O./A
I.P.O./B.C./D.D./Removed

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12. List of Enclosures:-

1. Material Paper(s):

2. Vakalat:

3. Postal order(s):

Verification:

I, Valupadasu Rajan Babu, S/o. Sri V. Veera Swamy, aged about 31 years, Occ: Scientific Assistant-B, Manuguru Heavy Water Plant, KHAMMAM DISTRICT, do hereby verify that the contents of above are true to my personal knowledge and that I have not suppressed any material fact.

HYDERABAD:

DATE: 16.08.1993.

V.R.Babu 16/8/93
SIGNATURE OF THE APPLICANT.

KW
SIGNATURE OF THE ADVOCATE.