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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD.

C.A. NO. 6/93.

DATE OF JUDGMENT: 21-07-95.

BETWEEN:

V.G. Raghunathan

.. Applicant.

AND

1. Government of India,
rep. by Secretary,
Dept. of Atomic Energy,
Bombay.

2. The Chief Executive,
Nuclear Fuel Complex,
Hyderabad-500 762.

.. Respondents.

COUNSEL FOR THE APPLICANT: SHRI K.K. Chakravarthy

COUNSEL FOR THE RESPONDENTS: SHRI N.V. Ramana,
S/o Addl. CGSC.

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R. RANGARAJAN, MEMBER (ADMN.)

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O.A.NO.6/93.

JUDGMENT

Dt: 21.7.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri K.K.Chakravarthy, learned counsel for the applicant and Shri N.V.Ramana, learned standing counsel for the respondents.

2. The applicant got diploma in Chemical Technology in Ist Class in 1967. He had 3½ years experience in process control in Petro Chemical Complex in Tamil Nadu before he joined as Scientific Assistant (SA'B') in Nuclear Fuel Complex, Hyderabad on 25.3.71. He was promoted as SA'C' on 1.2.1975. The merit promotion scheme for Scientific Officers (SOs) in the Department of Atomic Energy of which NFC is a constituent unit, was introduced in 1981. Then SA'C's were also considered for promotion to the post of Scientific Officer/SB (SO/SB). The applicant was promoted as SO/SB on 1.2.1981 and as SO/SC on 1.2.1987.

3. SA'C's are held as supervisors. A decision was taken during February 1981 to consider cases of SA'C's with a service of 6 to 9 years for promotion to the post of SO/SB. As such some of the supervisors who had become SO/SCs and who had put in 16 years of total ¹⁹⁹¹ ~~service~~ experience were considered by NFC Advisory Committee (NAC)

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for promotion to the post of SO/SD as a special case.

Accordingly the case of the applicant and four others who had come from category A supervisors, who are in the cadre of SO/SC were considered for promotion to the post of SO/SD in 1991 (vide the minutes of the 42nd meeting of NAC held on 20.2.1991).

4. When the applicant was not promoted as SO/SD with effect from 1.2.1992, he filed OA 323/92 praying for declaration that the action of the respondents in not promoting him to the said post even though NAC recommended, is illegal and for consequential direction for promotion to the said post. But as by then, the applicant submitted a representation on 27.3.1992 in regard to the same relief, the OA 323/92 was disposed of by the order dated 28.4.1992 directing the respondents to dispose of the said representation within two months from the date of communication of the said order. By the letter dated 12.5.1992, the applicant was informed that the request made by him vide his representation dated 27.3.1992 is not acceded to. Then the applicant filed this OA praying for declaration that the action of the respondents in not promoting the applicant as SO/SD with effect from 1.2.1992 as admittedly recommended by the NAC in its meeting held on 20.2.1991 is wholly illegal, arbitrary, and malafide and for consequential direction to the respondents to promote the applicant as SO/SD with effect from 1.2.92 with all consequential benefits.

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5. As per the merit promotion scheme, NAC screens candidates for promotion to the higher grade in the scientific cadre. The merit of the eligible SOs is considered on the basis of the aptitude, achievements, education qualifications, length of service, work output, involvement and conduct etc., which are usually reflected in the ACRs. The self appraisal report and the ACRs of each eligible candidate were considered by two experts.

6. It is the case of the respondents that the experts had not recommended the case of the applicant for promotion with effect from 1.2.1992 and hence NAC merely endorsed as under:-

"to be considered for promotion to SO/SD in February 1992".

When the experts had not recommended the case of the applicant for promotion to the post of SO/SD with effect from 1.2.1992 also, similar endorsement was made by stating that his case will be considered with effect from 1.2.1993.

7. The contentions for the applicant are as under:-

(i) There was no justification for denying promotion to the applicant when he is having various achievements some of which are as under:-

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(a) He was responsible for fabricating a vacuum-sintering furnace at SMP and the same was tested for vacuum to the order of 2×10^{-6} Torr and found to be excellent. The applicant has contributed his technical efforts and knowledge to make the project ~~as~~ a success.

(b) The applicant was responsible for streamlining the production process in ZFP, Arc Melting unit. He invented, developed and commissioned a tubular furnace (80 Kgs capacity, 5KW, 440AC 1 Kgs/hr tin granules). Due to this complicated invention, the productivity of the unit increased manifold and the department had saved substantial amount of revenue for more than a decade.

(c) The applicant salvaged a scrap and discarded imported band saw machine (Peehaka make), by replacing work out components/spares with due alterations. This is yet another invention saving man-power. By commissioning this machine with indigenous spares, the applicant had saved not only man-power for cutting SS rods (160 mm dia) but also avoidable expenditure on this account.

(ii) The production Review Committee (PRC) in its meeting during November 1991 appreciated the achievement of the applicant in salvaging a scrap and discarding imported band saw machine (Peehaka make).

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But for the said achievement, the entire imported machinery worth millions of rupees would have gone waste.

Before that, the department was required to interact ~~with~~ other agencies in NFC which has cutting facility and due to enormous work load schedules by the respective sections, their request for FRDC facility was being turned down;

(iii) Though the NAC recommended the case of the applicant for promotion to the post of SO/SD, R-2, the Chief Executive, NFC, denied promotion to the applicant to accommodate others.

8. We will take up the last contention first. Even in the OA, the applicant prayed for direction to the respondents to produce the minutes of the 42nd meeting of the NAC which met on 20.2.1991. The minutes of the 42nd meeting of the NAC and also the minutes of the 45th meeting of the NAC held on 26.2.1992 with ~~respective~~ screening of promotion cases are produced (copies). The relevant extracts of the minutes disclose that the case of each eligible candidate was considered by two experts and the names of the experts in regard to those who are recommended for promotion are referred to in the minutes. But when the promotion is not recommended, it is merely endorsed as under:-

"to be considered for promotion to SO/SD
in February".

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There is no need to consider for disposal of this OA as to why the names of the experts are not disclosed when the promotion is not recommended. Any how, it is clear from the extracts of the above minutes that the endorsement, "to be considered for promotion to in February" is not a case of recommendation for promotion and it merely states that the case of that officer will be considered for promotion in the ^{order} ~~order~~ which is referred to. Hence, the contention contra for the applicant has to be negated.

9. It is for the experts to consider as to whether an officer has to be promoted or not. No motive is alleged either against the experts to whom the case of the applicant was referred to in 1991/1992. It is merely alleged against R-2 that in order to accommodate some others, the applicant was not promoted. In fact, even NAC had not recommended promotion of the applicant to the post of SO/SD either in 1991 or 1992. The further promotions are given on merit basis, and not ^{availability} on the basis of ~~vacancies~~. All those who are considered meritorious are promoted. There is no sanction of posts in regard to each category. Hence, the question of denying promotion to some, for favouring others does not arise.

10. All the achievements ~~of the~~ applicant are referred to in his self appraisal report. It is not the case of the applicant that the report of the PRC

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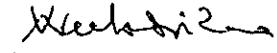
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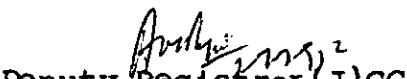
in regard to the applicant was not placed before the NAC. But when after consideration of the entire material by dispassionate experts, the applicant was not recommended for promotion and when there is no infirmity in the procedure adopted and when there is also no basis for the alleged motive, this OA does not merit consideration.

to the post of SO/SD with effect from 1.2.1995. The OA is dismissed. No costs.//


(R. RANGARAJAN)
MEMBER (ADMN)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 21st July, 1995.
Open court dictation.


Deputy Registrar (J) CC

To

vsn

1. The Secretary, Dept. of Atomic Energy,
Govt. of India, Bombay.
2. The Chief Executive, Nuclear Fuel Complex,
Hyderabad-762.
3. One copy to Mr. K. K. Chakravarthy, Advocate, CAT. Hyd.
4. One copy to Mr. N. V. Ramana, Addl. CGSC. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

A N D

THE HON'BLE

DATED - 21/7/1995.

ORDER/JUDGMENT:

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

in
OA.No. 6/93.

TA.No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

