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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..

O.A.No.493/95.

Date of decision: 8th January, 1998.

Between:

1. S. Jayaraman.
2. P.A.Deshpande.
3. Ms. Uma Ramachandran.
4. G.Poshetti.
5. T.K.Jagan Mohan.
6. K.Prahalad Rao.
7. K.Siva Krishna Reddy.
8. M.M.Ahamad.
9. U.K.Acharyulu.

.. Applicants.

And

1. Union of India represented by the Secretary, Ministry of Defence, South Block, New Delhi. 110 011.
2. Scientific Adviser to Raksha Mantri and Director General Research and Development, Room No.137, South Block, New Delhi 110 011.
3. Director of Personnel, Room No.221, D.Wing, Sena Bhavan, Defence Research and Development Organisation, New Delhi - 110 001.
4. Director, Defence Electronic Research Labs, Chandrayanagutta, Hyderabad - 500 005.
5. Chairman, Recruitment Board and Assessment Committee, RAC Buildings, Lucknow Road, Timarpur, New Delhi - 110 007.

.. Respondents.

Counsel for the applicants: Sri P.Naveen Rao.

Counsel for the respondents: Sri M.Rajeswara Rao.

CORAM:

Hon'ble Sri R. Ranga Rajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

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O R D E R.

(per Hon'ble Sri B.S. JAI PARAMESHWAR, Member(J)

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Heard Sri Phani Raj for Sri P.Naveen Rao,
the learned counsel for the applicants and Sri V.
Rajeswara Rao the learned counsel for the res-
pondents.

There are 9 applicants in this O.A. They
are working as Scientists "C" in the Respondent No.4
Laboratory. They submit that they were holding
the post of Scientist "C" with effect from 1-7-1986.
They are governed by the Defence Research and
Development Service Rules, 1979. They submit that
there are various categories of posts of Scientists
i.e., from "B" to "G". They want their promotion
from Category "C" to Category "D". They submit
that they had appeared for the interview held
in the year, 1991 and that therefore, they are not
required to appear for interview for promotion

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to Category "C" Scientist posts once again. They relied on Rule 8(2)(d) of DRDS Rules. They had earlier filed O.A.328/91 for considering their case for promotion to Scientist "D" post from 1-7-1990. That O.A. was disposed of by an order dated 20-9-1994 (para 13 page 30 of the O.A.) which is reproduced hereunder:

"The respondents are directed to consider the case of the applicants for promotion to the posts of Scientists-D which promotions had to be given from 1-7-1990 in case the applicants are promoted, in accordance with DRDS Rules, 1979 prior to 1990 amendment. Sri K. Swaminathan, Director of DLRL, who filed reply affidavit in this O.A., should not be in the Assessment Board. The applicants will be entitled to the monetary benefits from 1-7-1990 and also the seniority from 1-7-1990 in case they are promoted."

The applicants were promoted to category "D" in the subsequent year. The applicants were called for interview before the Review Assessment Board for Promotion

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with effect from 1-7-1990. The applicants did not appear for the interview before the review DPC., on the plea that they had already been promoted in 1991 for which they underwent ^{test.} interview. Hence, they need not appear for interview before the Review DPC for promotion with effect from 1-7-1990.

This O.A., is filed to set aside the decision of the respondents in declaring the applicants as not fit for promotion by the impugned letter No. DLRL/ADM/413652-EST-I dated 14th March, 1995 (Page 42 ~~of~~ the O.A.) and for a consequential direction to the respondents to promote the applicants to Category "D" Scientist Post with effect from 1-7-1990 on the basis of the A.C.Rs., for the year 1986--1990 and their performance before the Review Assessment Board ~~of~~ for the year, 1990.

The main point for consideration in this O.A., is whether the applicants can be promoted with effect from 1-7-1990 without subjecting them to interview even though they ^{were} interviewed for ~~the next~~ promotion before the Review Assessment Board, for the year, 1991. The point for consideration can be resolved by the rules only.

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We have asked the learned counsel for the respondents to produce ^{the} 1979 DRDS Rules to see whether Rule 8(2) ~~(a)~~ provides for interview or not. Today, the learned counsel for the respondents submitted the Rule position. In sub-para (c) of Rule 8 of the said Rules, it is clearly stated that "the ~~selection~~ shall be on the basis of Confidential Report and interview." When the rule so clearly indicates "Interview", the applicants cannot demand promotion without subjecting themselves to the interview procedure. The Confidential ^{Reports} ~~Rules~~ for the year 1990 and 1991 are different. Hence, it cannot be said what is stated in 1991 by Review Assessment Board will hold good for 1990 when Review Assessment Board also. More over, the Rule is very clear ~~and that rule~~ ^{it} cannot be ~~set aside~~ ^{ignored}. Hence the contention of the applicants ~~is~~ has to be rejected and the applicants should necessarily undergo interview if they desire to be considered for promotion with effect from 1-7-1990.

In para 5(c) of Page 12 of the O.A., the applicants state that some of the employees of DRDS were given promotion without subjecting them to interview. It is not clear why such a procedure was not followed in the case of the applicants

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in the instant case. However, when the Rule is so clear, it has to be followed. If some exemption has been given in a case to some ^{other} employees, it will not be a precedent for the applicants to demand such a concession to them also. It may be by mistake. The Hon'ble Supreme Court in CHANDIGARH ADMINISTRATION V. JAGIT SINGH ^J = A.I.R. 1995S.C. 705 (J.T.1995(1)SC 445) had held that "One wrong cannot be a precedent for another wrong". Hence, we do not see any reason to accept the contention of the applicants that some of the ~~many~~ employees were given promotion without subjecting them for interview ^{that} cannot be a precedent in some other case and that should invariably be followed in this case also. Hence this contention is also rejected.

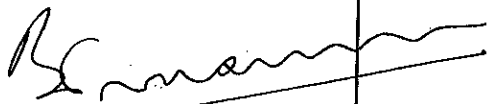
Though the respondents submit that the case of the applicants for promotion with effect from 1-7-1990 was rejected as they have failed to attend ~~to~~ the interview, a second notification shall be made for interviewing the applicants. ^{in case} ~~If~~ the applicants submit a detailed representation for calling them for interview for promotion with effect from 1-7-1990. The respondents shall consider the representation of the applicants, if they ~~have~~ submitted their representation within fifteen days from the date of

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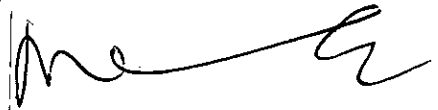
receipt of a copy of this Order.

With the above observations, the O.A.,
is disposed of. No costs.



B.S. JAI PARAMESHWAR,
MEMBER (J)

8.1.98



R. RANGARAJAN,
MEMBER (A)

Date: 8th January, 1997.

Dictated in open Court.


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Copy to:

1. The Secretary, Min.of Defence, South Block, New Delhi.
2. Scientific Adviser to Raksha Mantri and Director General Research and Development, Room No.137, South Block, New Delhi.
3. Director of Personnel, Room No.221, D.Wing, Sena Bhavan, Defence Research & Development Organisation, New Delhi.
4. Director, Defence Electronic Research Labs, Chandrayanagutta, Hyderabad.
5. Chairman, Recruitment Board and Assessment Committee, RAC Buildings, Lucknow Road, Timarpur, New Delhi.
6. One copy to Mr.P.Naveen Rao, Advocate, CAT, Hyderabad.
7. One copy to Mr.V.Rajeswara Rao, Addl.CGSC, CAT, Hyderabad.
8. One copy to HBSJP, Member (J), CAT, Hyderabad.
9. One copy to D.R(A), CAT, Hyderabad.
10. One duplicate copy.

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CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

THE HON'BLE MR. B. S. JAI PARAMESHWAR :
M(J)

DATED: 8/1/98

ORDER/JUDGMENT

M.A./R.A/C.A.NO.

in

B.A.NO. 493/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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