

22

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No. 944/96.
O.A.Sr.No.1323/96.

Date of order : 6.8.1996.

Between

Rajanna Yellanna

.. Applicant

And

1. The Chief Executive,
Nuclear Fuel Complex,
Dept. of Atomic Energy,
Govt. of India, ECIL P.O.,
Hyderabad.

2. The Personnel Officer,
Nuclear Fuel Complex,
Hyderabad. .. Respondents

Counsel for the Applicant ... ~~Mrs.~~ G.Syamala

Counsel for the Respondents .. Shri V.Rajeswara Rao
Addl. CGSC

C O R A M

Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman

Hon'ble Shri H.Rajendra Prasad : Member (A)

Order

(Per Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman)

The applicant has been serving as Mali 'D' at the Nuclear Fuel Complex, Dept. of Atomic Energy. By order dated 22.12.95 issued by the respondents it has been declared that the applicant will retire on superannuation on completion of 60 years of age on 31.3.98 in supersession of order dated 26.8.95 purporting to retire him at the age of 58 years. ~~This order has been cancelled.~~ The applicant now wants in the extended tenure of 2 years to be promoted to the post of Scientific Assistant 'A'. By representation dated 15.7.95 he made a request for promotion on the grounds stated therein amongst which he also raised the ground that one Shri J.B.Swamy who joined as Mali 'D' was promoted as

Scientific Assistant 'A' in the year 1980 and another person Shri Md. Zaheeruddin was appointed as Scientific Assistant in Horticulture Section. He therefore contended that he also may be considered for the promotion.

2. The respondents through the Asst. Personnel Officer informed the applicant by letter dated 21.7.95 in reply to the representation that the post of Scientific Assistant (Horticulture) has to be filled by direct recruitment against open advertisement and that there is no promotion scheme for the category of Mali to Scientific Assistant. He has therefore been advised to apply for the post of Scientific Assistant commensurate with his qualification and experience as and when it is notified. The learned counsel for the applicant states that so far the post has not been notified and therefore the applicant has no opportunity to apply for the same.

3. The only ground that has been strenuously urged is that since Shri J.B.Swamy was promoted, ^{therefore} on the same analogy the applicant should also be promoted. This ground has become stale in-as-much as Shri Swamy was promoted in the year 1980 and there was long span of nearly 15 years for the applicant to make a claim on that basis. In view of the reply of the respondents in which it is stated that there is no scheme for promotion even if it is to be assumed for the sake of argument only that Shri Swamy was wrongly promoted that does not confer any right upon the applicant to be so promoted. No recruitment rules have been produced nor any guidelines have been produced to show that the applicant is entitled to the promotion without going through direct recruitment. The learned counsel submitted that the recruitment to the post of Scientific Assistant is not vacancy oriented but qualification oriented. We find it difficult to agree in the absence of any *prima facie*

24

- 3 -

material being shown to support that submission particularly in view of the reply of the respondents dated 21.7.95 which clearly states that the recruitment is only by direct recruitment against open advertisement. We therefore find no basis to entertain the O.A.

4. Before parting with the case we may however state that it will always be open for the applicant to apply as and when advertisement is given as also ^{to} for the respondents to consider the candidature of the applicant for promotion in whichever way if any promotions are contemplated in future till the applicant reaches the age of superannuation.

5. The O.A. is accordingly disposed of. No order as to costs.

H.R.Prasad
(H.Rajendra Prasad)
Member (A).

M.G.Chaudhari
(M.G.Chaudhari)
Vice-Chairman.

Dated: 6.8.1996.
Dictated in Open Court.

br.

Amritpal
1996.
O.N.O.

O.A.944/96.

To

1. The Chief Executive,
Nuclear Fuel Complex,
Dept. of Atomic Energy, Govt. of India,
ECIL P.O., Hyderabad.
2. The Personnel Officer,
Nuclear Fuel Complex, Hyderabad.
3. One copy to Ms. G. Syamala, Advocate, B.1105, PCL Building,
R.R. Towers, Hyderabad.
4. One copy to Mr. V. Rajeswar Rao, Addl. CGSC CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

pvm.

Ans
I COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 6 - 8 - 1996

~~ORDER~~ JUDGMENT

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

in

O.A.No. 944/96

T.A.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.

pvm

