

FORM . NO. 21. (See. Rule.114.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD.

O.A. No. 1259 1997

B.P. Mandali

Applicant(s)

Versus

in Chief Executive Nfc, KCL Post,

And 30th

Respondent

INDEX SHEET

Sl.No.	Description of Documents & Date.	Pages.
1.	Docket Orders.	1 & 2
2.	Interim Orders.	
3.	Orders in M.A (s)	
4.	Reply Statement. 17-3-78	26 to 36.
5.	Rejoinder.	
6.	Orders in (Final orders) 29-1-79.	37 to 43.
-	<u>19/2/79</u>	1 to 73

OA 125962

Date	Office Note	ORDER
------	-------------	-------

29-1-99.

OA is ordered.
Order vide separate sheets.
No costs.

J
HRSJP
M(J)

D
HRRV
M(H)

Central Administrative Tribunal Hyderabad Bench: Hyderabad.

D.A.No. 1259 of 1997.

B. P. Mandali Applicants(s).

VERSUS.

the chief executive, N.F.C,

E. C. I. L. Port, And 384-

(Respondents).

Date	Office Note	ORDER
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25.9.97:

Heard Sri K. Venkateswara Rao
for the applicant. None for
the Respondents. Admit.

17/3/98 Before Dy. Regn.

None present. All
Respondents are
served notice. Call
on 21/4/98 for
memo X reply.

Jai
HBSP
M(S)

HRRN
M(A)

8/11/99:

None on either sides.
List it for dismissal on 22/11/99.

21-4-98

None Present.
Reply is filed.
Call on 5.5.98
for rejoinder.

Jai
HBSP
M(S)

HRRN
M(A)

22/1/99

List it on 27.1.99. No
further adjournment will be

16/6/98

None Present. NO Re-
joinder is filed. Includ
it in the Ready list of
1997.

Jai
HBSP
M(S)

HRRN
M(A)

Admit
11/10/97

Issued
8/10/97

Dismissed

one

Dy. Regn.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: BENCH HYDERABAD.

ORIGINAL APPLICATION NO. 1259 OF 1997.

B P mamduru

(Applicants(s))

VERSUS

Union of India, Repd., By

The chief Executive, Nuclear Fuel Complex,

ECIL Post, Hyderabad 500 030

Respondent(s)

The Application has been Submitted to the Tribunal by Shri

Shri V. Venkateswara Rao

Advocate/Party

in person Under Section 19 of the Administrative Tribunal Act. 1985 and the same has been scrutinised with reference to the points mentioned in the check list in the light of the provisions in the administrative Tribunal(procedure) Rules 1987.

The application is in order and may be listed for Admission

No. _____

Q
Scrutiny Asst.

Asst. Reg.
DEPUTY REGISTRAR(JUDL).

10. Is the application accompanied IPO/DD, for Rs.50/-. *Yy*
11. Have Legible copies of the annexure duly attested been filed. *Yy*
12. Has the applicant exhausted all available remedies. *Yy*
13. Has the Index of documents been filed and pagination done properly. *Yy*
14. Has the declaration as a required by item No. 7 of form, I been made. *Yy*
15. Have required number of envelopes (file six) bearing full addresses of the respondents been filed. *Yy*
16. (a) Whether the relief sought form arise out of single cause of action. *Yy*
(b) Whether any interim relief is prayed for. *Yy*
17. In case an Ma for connonation of delay in filed, it supported b an affidavit of the applicant. *—*
18. Whether t is cause ben hearded by a single bench. *—w—*
19. Any other points. *—*
20. Result of the scrutiny with initial of the scrutiny clerk. *may be numbered 21*

Scrutiny Assistant.

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

Deiry No. 2996/97

Report in the Scrutiny of Application.

Presented by Sh. V. Venkateswara Rao Adv. Date of presentation.

16.9.97.

Applicant(s) B.P. Mandala

Respondent(s) The Chief Executive, Nuclear Fuel Complex, Hyderabad

Nature of grievance Promotion

No. of Applicants 1 No. of Respondents 4

CLASSIFICATION.

Subject Promotion No. (15) Department D/O Atomic Energy (41)

1. Is the application in the proper form, (three complete sets in paper books form in the two completions). yy
2. Whether name description and address of all the parties been furnished in the cause title. yy
3. (a) Has the application been fully signed and verified. yy
(b) Has the copies been duly signed. yy
(c) Have sufficient number of copies of the application been filed. yy
4. Whether all the necessary parties are impleaded. yy
5. Whether English translation of documents in a Language, other than English or Hindi been filed. yy
6. Is the application on time, (see section 21) yy
7. Has the Vakalatnama/Memo of appearance/Autorisation been filed. yy
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 3 Etc.,) yy
9. Is the application accompanied, duly attested legitable copy been filed. yy

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD

I N D E X

OR. NO. 1259 of 1997.

CAUSE TITLE B. P. Mandale

V E R S U S

the Chief Executive, N. F. C,
E. C. I. L. Port, And & Or

SL. NO.	Description of Documents	Page No.
1.	Original Application	1-6
2.	Material Papers	7-21
3.	Vakalat	1
4.	Objection Sheet	1
5.	Spere Copies	4
6.	Covers	4

T. Re Dy Statement filed by Mr.
V. Vinod Kumar on 17/3/98

To set aside the impugned order dt 9.5.97 as illegal, void and declare that the applicant is entitled to promotion w.e.f. 1.2.86, 1.2.91, 12.97 with all consequential benefits etc 3.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

G.A.NO.

1259

OF 1997

Bench

Between:

B.P. Mandel

.. Applicant

Promotion (15)
(12)

And

The Chief Executive and others

.. Respondents

~~GENERAL~~
Atomic Energy
(41)

CHRONOLOGY OF EVENTS

S.No.	Date	Description of events	Page No.
1.	16.08.72	Initial appointment of the applicant as Tradesman-B	2
2.	01.02.78	Applicant promoted as Tradesman-C	2
3.	20.06.84	Applicant removed from service	2
4.	23.08.89	Judgment of this Hon'ble Tribunal in Transfer Application No.21/88	2
5.	22.08.90	Applicant reinstated into service	2
6.	28.08.90	Applicant joined duty	2
7.	19.10.95	S.L.P preferred by the administration dismissed by the Hon'ble Supreme Court	2
8.	06.04.96	Asst. Personnel Officer issued memo informing the applicant that the competent authority appointed the applicant to officiate as Tradesman-D w.e.f. 1-2-1982	3
9.	06.03.97	Memo issued by Asst. Personnel Officer	3
10.	30.04.97	Representation submitted by the applicant	3
11.	09.05.97	Impugned letter issued by the Administrative Officer of NFC	3

Recd
Dt: 11/9/97
P. N. R. Deval

Hyderabad.

Dt: 12-08-97

Counsel for the Applicant



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

G.A.NO. 1259 OF 1997

Between:

B.P.Mamdelu

.. Applicant

And

The Chief Executive and others


.. Respondents

MATERIAL PAPERS INDEX

S.No.	Date	Description	Page No.	Ann.No.
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2.	23.08.89	Judgment in T.A.No.21/88	07 to 12	I
3.	15.11.95	Order of S.L.P	13 to 14	II
4.	28.11.95	Legal notice got issued by the applicant through his advocate	15 to 16	III
5.	06.04.96	Office Memorandum issued by the Asst.Personnel Officer	17	IV
6.	06.03.97	Memorandum issued by the Asst.Personnel Officer	18	V
7.	30.04.97	Representation submitted by the the applicant	19 to 20	VI
8.	09.05.97	Impugned letter issued by the 4th respondent	21	VII

Hyderabad,

Dt: 12-08-97


Counsel for the Applicant

Application filed under Section 19 of the Administrative
Tribunals Act, 1985

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A.NO. 1259 OF 1997

Between:

B.P.Mandelu, S/o.Paramanand, aged
about 52 years, Occupation: Tradesman-E,
(EC No.1498), Estate Maintenance,
Nuclear Fuel Complex, Hyderabad, R/o.
Hyderabad .. Applicant

And

1. The Chief Executive,
Nuclear Fuel Complex,
E.C.I.L.Post, Hyderabad
2. The Dy.Chief Executive (Admn),
Nuclear Fuel Complex, ECIL Post,
Hyderabad
3. The Manager (Personnel & Admn),
Nuclear Fuel Complex,
ECIL Post, Hyderabad
4. The Administrative Officer,
Nuclear Fuel Complex, ECIL Post,
Hyderabad .. Respondents

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE APPLICANT: The particulars
of the applicant is the same as shown in the cause title.
The address of the applicant for the purpose of service
of notices etc., is that of his counsel M/s.V.Venkateswar
Rao & K.Phani Raju, Advocates, H.No.1-8-430, 1st Floor,
Uma Gardens, Chikkadapally, Hyderabad - 20.

2. PARTICULARS OF THE RESPONDENTS: The particulars
of the respondents for the purpose of service of notices
etc., are the same as shown in the cause title.

3. ORDERS AGAINST WHICH THE O.A IS FILED: The
applicant herein files the present O.A aggrieved by
the letter under reference No.NFC/PAR/2-96/552 dated

9th May, 1997 issued by the 4th Respondent informing that the applicant's request for promotion to the higher grades of Tradesman on par with his juniors has not been acceded to by the Competent Authority.

4. JURISDICTION: The O.A is filed by the applicant is well within the jurisdiction of this Hon'ble Tribunal under Section 14 (1) of the Administrative Tribunals Act, 1985 in as much as the applicant is working as Tradesman-E in N.F.C.

5. LIMITATION: The applicant submits that the O.A is filed well within the period of limitation as prescribed under Section 21 (1) of the Administrative Tribunals Act, 1985 in as much as the impugned letter issued by the 4th Respondent is dated 9.5.1997.

6. FACTS OF THE CASE: The applicant herein respectfully submits that he was initially appointed as Tradesman-B with effect from 16.8.1972 and was promoted as Tradesman-C with effect from 1-2-1978. He was placed under suspension in February, 1982 and subsequently he was removed from the service vide orders dated 20.6.84. The said removal order was set aside by the Hon'ble Tribunal vide its judgment dated 23.8.89 in T.A.No.21/88 (.W.P.No.15916/84) with a direction to reinstate the applicant with all consequential benefits including back wages. Consequently, the applicant was reinstated vide orders dated 22.8.90 and he joined duty with effect from 28.8.90. The S.L.P preferred by the administration against the judgment of the Hon'ble Tribunal was dismissed on 19.10.1995 and the judgment dated 23.8.89

of this Hon^{ble} Tribunal became final. Consequently the applicant was paid the back wages.

II) The Assistant Personnel Officer vide his Memo dated 6.4.1996 informed that the competent authority appointed the applicant to officiate as Tradesman-D in an industrial temporary capacity with effect from 1-2-1982. In other words the applicant was granted promotion to the Tradesman-D grade with effect from 1-2-1982. Thereafter, he has issued another memo dated 6.3.1997 in supersession of his earlier memo dated 6.4.1996 stating that the 1st respondent promoted the applicant to the grades of Tradesman-D with effect from 1.2.1982 and Tradesman-E on 1.2.1995. In this connection, it is respectfully submitted that the applicant is entitled for promotion to the grade of Tradesman-E with effect from 1.2.1986 and to the grade of Tradesman-F with effect from 1-2-1991 and to the grade of Tradesman-G with effect from 1-2-1997 in as much as his juniors were already promoted to the said grades and are functioning the said grades. The applicant is entitled for promotion to the said grades with effect from the dates mentioned above as per the merit promotion scheme applicable to the technical staff of Nuclear Fuel Complex which is in operation. Therefore, he submitted a representation on 30.4.1997 indicating therein the particulars of his claim for promotion to the grades of Tradesman-E, F & G with effect from the respective dates as mentioned above. The said representation submitted by the applicant was rejected by the competent authority as communicated by the Administrative Officer of the N.F.C vide his letter dated 9.5.1997. It is stated in the impugned letter that promotion to Tradesman has to be considered on merit but not on

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the basis of seniority. The applicant herein requested the authorities to consider his case for promotion to the higher grades in accordance with the merit promotion scheme applicable to the technical staff. The impugned letter indicates that the the applicant's case was not considered at all merely on the ground promotion is on the basis of merit, which does not mean that the applicant's case can be ignored. He is entitled to be considered for promotion to the said grades on the basis of the records available with the administration and his merit has to be decided on the basis of the record only. That apart the promotion to the grades of Tradesman-E, F & G is not against any post and is only on the basis of the merit promotion scheme and assessment of each individual case. Under the said merit promotion scheme the higher grades are granted to the Tradesman on time bound promotion basis. Therefore it is not open for the respondents to deny the applicant of his promotion to the grades of E, F & G on the ground that the same are ordered on the basis of merit. The applicant herein respectfully submits that he has put in most unblemished record of service prior to his removal and after his reinstatement. He has got clean record which enables him to claim time bound promotion under merit promotion scheme to E, F & G grades. In these circumstances denial of promotion to the applicant to the grades of E, F & G with effect from the dates mentioned above is highly illegal, arbitrary and ~~can~~ unconstitutional and violative of Article 14 & 16 of the Constitution of India.

7. MAIN RELIEF:

Therefore in the interest of justice it is prayed that this Hon'ble Tribunal may be pleased to declare that the applicant herein is entitled for promotion to the grades of Tradesman -E, F & G with effect from 1-2-1986, 1-2-1991 and 1-2-1997 respectively with all consequential benefits such as arrears of pay and allowances, seniority and etc by holding that the Letter No. NFC/PAR/2-96/552 dated 9th May, 1997 issued by the 4th respondent as illegal, arbitrary and unconstitutional and set aside the same and pass any other order or orders as is deemed fit, proper, necessary and expedient in the circumstances of the case.

8. INTERIM RELIEF:

The applicant herein further prays that this Hon'ble Tribunal may be pleased to direct the respondents herein to consider the case of the applicant for promotion to the grade of Gradesman-G with immediate effect pending disposal of the above O.A and pass any other order or orders as is deemed fit, proper, necessary and expedient in the circumstances of the case.

9. REMEDIES EXHAUSTED:

The applicant herein submit that he has submitted his representation dt. 30.4.97 in connection with the relief claimed herein

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and the same was rejected by the 4th respondent vide his letter dated 9.5.1997. Hence, he availed the alternative remedy available to him in compliance with the provisions of Section 20 of the Administrative Tribunals Act, 1985.

10. MATTERS NOT PENDING WITH ANY OTHER FORUM ETC:

The applicant herein submit that he has not filed any other O.A or any case before any other Forum on the same subject matter nor any writ petition filed in this regard.

11. POSTAL ORDERS ETC: An Indian Postal Order No. 217268 dt. 16/9/97 for Rs.50/- (Rupees Fifty only) drawn in favour of the Registrar, Central Administrative Tribunal, Hyderabad Bench, Hyderabad is enclosed herewith.

Rs. 50/-
19.08.97 D.D. Removed

12. DETAILS OF INDEX: An Index showing the details of the Material Papers to be relied in the case, is enclosed herewith.

13. ENCLOSURES:

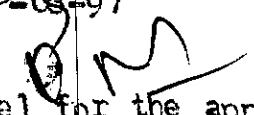
1. Vakalatnama
2. Postal Order for Rs.50/-
3. Chronology of Events and Material Papers Index
4. Material Papers

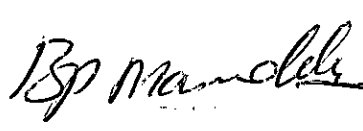
V E R I F I C A T I O N

I, B.P.Mandelu, S/o.Paramanand, the applicant herein, do hereby verify that the paragraph Nos.1 to 13 are true and correct to the best of my knowledge and belief and hence verified on this the 12th day of August, 1997.

Hyderabad,

Dt: 12-08-97


Counsel for the applicant


Applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

WEDNESDAY THE TWENTY THIRD DAY OF AUGUST,
ONE THOUSAND NINE HUNDRED AND EIGHTY NINE

: PRESENT :

THE HONOURABLE MR.D.SURYA RAO : MEMBER (J)
AND

THE HONOURABLE MR.D.K.CHAKRAVORTY:MEMBER(A)

TRANSFERRED APPLICATION NO.21/88
(W.P.NO.15916/84)

Between:-

B.P.Mandela

And

...Applicant

- 1.The Chief Executive, Nuclear Fuel Complex,
Dept. of Atomic Energy, Govt. of India,
Hyderabad.
- 2.The Deputy Executive, Nuclear Fuel Complex,
Dept. of Atomic Energy, Govt. of India,
Hyderabad.

...Respondents

Application under section 29(1) of the Administrative Tribunals Act, 1985 transferred from the High Court of Andhra Pradesh praying that in the circumstances stated therein the Tribunal will be pleased to call for the records of respondent No.2 under Ref. NFC/PA.V/2606/1498/865 dt. 20.6.84 as confirmed by the respondent No.1 under Ref. NFC/PA.V/2606/1498/1313 dt.12/16-10-84 and set aside the order of respondent No.2 under Ref.NFC/PA.V/2606/1498/865 dt.20.6.84 removing the petitioner from service as confirmed by the respondent No.1 under Ref.No.NFC/PA.V/2606/1498/1313 dt. 12/16-10-84.

For the Applicant :- Mr.V.Venkateswar Rao for Mr.A.K.Jaya Prakash,
Advocate

For the Respondents :- Mr.N.Bhaskara Rao, Addl.CGSC.,

The Tribunal delivered the following Judgment:-

(JUDGMENT PREPARED BY HON'BLE SRI D.SURYA RAO : MEMBER (J)

This application arises consequent on the transfer of U.P.No 15916/84 preferred in the High Court of Andhra Pradesh, to this Tribunal u/s 29 of the Administrative Tribunals Act, 1985.

2. The applicant was removed from service by an order No.NFC/PA.V/2606/1498/865 dt 20.6.84 issued by the second respondent. This order was confirmed by the first respondent by his order No.NFC/PA.V/2606/1498/1313 dt.12/16-10-84. These are the orders sought to be impugned.

contd...

Rw

2. We heard the learned counsel for the applicant Sri V. Venkateswara Rao and Sri N. Bhaskara Rao, Addl. SC., for Central Govt., for the respondents.

4. The applicant in his original Writ Petition had sought to question the punishment order on the ground that the provisions of Article 311(2) of the Constitution of India had not been complied with, in that he was not given reasonable opportunity against the punishment proposed to be taken against him before the Disciplinary Authority had imposed the penalty. Consequent on the amendment of Article 311 of the Constitution, the right for second show-cause notice having been done away with, this contention was not available to the applicant. However, by an additional affidavit, the applicant has raised another contention that originally the applicant was proceeded against for theft of materials belonging to N.F.C., a police complaint was lodged and the competent criminal court has tried and acquitted him of the charge under section 248(1) of the Cr.P.C. on merits. He contended that despite his clean and ^{honorable acquittal, the respondent on the} identical charge of theft, proceeded against the applicant departmentally under C.C. & A) Rules and came to a contrary finding to that of the criminal court. He contended that it is not open to the respondents to initiate departmental action against him after his acquittal by the criminal court. He further contended that the Enquiry Officer's report was not furnished to him before the punishment was imposed upon him by the disciplinary authority. It is contended by Sri N. Bhaskara Rao the learned counsel for the respondents that it is open to the Department to proceed against by way of departmental action even if the applicant has been honorably acquitted by a criminal court and on this ground there is no impediment to the disciplinary proceedings.

5. We will take up the first contention, namely, whether the acquittal in the criminal court will be a bar for proceeding against the applicant departmentally. The Charge-I in the departmental enquiry was to the effect that applicant has on 7.11.1981 removed 19 copper pieces from the shop floor, concealed them in his hand bag and attempted to take them out of NFC stealthily. In annexure-II to the charge-sheet namely statement of imputations, it is mentioned that the applicant had admitted that the copper pieces were found in his hand bag and that he pleaded that he would not repeat such acts.

contd...

The list of witnesses by whom the articles of charges were proposed to be proved include Sri Ravishanker, ASD, NFC, Sri P. Domodara Rao, SO/SB, ZFP, Sri N. Narasimha, Watchman NFC and Sri I. Nathan, Watchman NFC. In C.L. 255/83, an identical charge was made against the applicant namely that on 7.11.81 he was checked at the gate of NFC by PUs 2 and 3, Sri Narasimha and Sri Nathan, watchman and 19 copper pieces and 4 tins were recovered from him. After considering the evidence of the prosecution, the Addl. Judicial First Class Magistrate, Hyderabad East and North held that the prosecution has not established the case under section 381 IPC. He gave a finding that there was substance in the argument of the accused, that the security personnel have conspired and succeeded in foisting a false case against the applicant. He finally held that the prosecution has not established the case against the applicant beyond reasonable doubt and that the applicant is entitled for acquittal. Thus, it is clear that the criminal court had not merely acquitted the applicant on a technical ground but on the ground that security personnel had foisted the case against him. Now the question is whether merely because the applicant has been acquitted, is it beyond the power of the respondent to again start a disciplinary enquiry. On behalf of the applicant, a number of decisions have been cited namely;

1973 (2) SLR 238 (Allahabad High Court) and 1976(1) SLR 133 (Delhi High Court), in support of the proposition that when an employee acquitted honourably, the departmental proceedings could not be initiated. However, the matter is concluded by a later decision of the Supreme Court in AIR 1984 SC 626 wherein it was held as follows;

"6. The other question that remains is if the respondents are acquitted in the criminal case whether or not the departmental inquiry pending against the respondents would have to continue. This is a matter which is to be decided by the department after considering the nature of the findings given by the criminal court. Normally where the accused is acquitted honourably and completely exonerated of the charges it would not be expedient to continue a departmental inquiry on the very same charges or grounds or evidence, but the fact remains, however, that merely because the accused is acquitted, the power of the authority concerned to continue the departmental inquiry is not taken away not is its direction (discretion) in any way fettered.

contd...

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However, as quite some time has elapsed since the departmental inquiry had started the authority concerned will take into consideration this factor, in coming to the conclusion if it is really worthwhile to continue the acquittal of the respondents. If, however, the authority feels that there is no sufficient evidence and good grounds to proceed with the inquiry, it can certainly do so."

6. Thus, the law as laid down by the Supreme Court is that despite honourable acquittal by the criminal court discretion remains with the disciplinary authority to continue with the departmental enquiry. But the Supreme Court has nowhere held that the discretion can be exercised arbitrarily. The court has stressed that the department must consider the nature of the findings given by the criminal court. Thus the discretion must be exercised judicially and some valid reasons must be given for differing with the conclusions of the criminal court. While such reasons may not necessarily be communicated to the employee, the file at least must disclose that the department/disciplinary authority has properly exercised the discretion and given plausible reasons for ignoring the criminal court's findings. Such a decision would always be subject to judicial review. Let us take a case wherein the highest court in the country, the Supreme Court acquits an accused employee on merits reversing a conviction by the High Court, could a departmental authority ignore such findings and without any reason or on extraneous grounds initiate departmental proceedings framing an identical charge. The decision of the Supreme Court referred to supra does not confer such discretion on the department. It is necessary, therefore, to look into the record to verify whether there was any application of mind and whether the Department considered the nature of the findings of the criminal court. As already stated supra the criminal court had acquitted the applicant after finding that the security officials have falsely implicated the applicant on the charge of theft. These observations were not set aside in appeal or expunged. The record pertaining to the decision of the competent authority to initiate departmental action despite the applicant having been acquitted by the criminal court on merits, has not been produced. However, the notes put up to the appellate authority for considering his appeal, state that the applicant was acquitted on benefit of doubts and not on merits. This clearly shows that the respondent authorities have proceeded on the basis that the acquittal by the

contd...

RB

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... court was not on merits. Such a conclusion is obviously a wrong conclusion since the judgment of the criminal court has acquitted him holding that the case has been foisted against him. The appellate authority also, in his order, stated that the acquittal was by giving the benefit of doubt and therefore this does not preclude taking of departmental action against him. In the absence of the original record relating to the decision of the competent authority as to why departmental action should be resorted to in the instant case, we can infer from the orders of the appellate authority that a decision was taken to proceed departmentally on the assumption that the acquittal was due to benefit of doubt. Since this is a wrong assumption, it follows that there is no proper application of mind as required by the decision of the Supreme Court in AIR 1934 SC 625. It would follow that the discretion, if any, exercised by the competent authority, is irregular and has to be set aside. The application is accordingly allowed and the applicant is directed to be reinstated into duty with all consequential benefits. In the circumstances of the case there will be no order as to costs.

Sd/-x x x
(G. VENKAT RAO)
DEPUTY REGISTRAR (J)

// true copy //

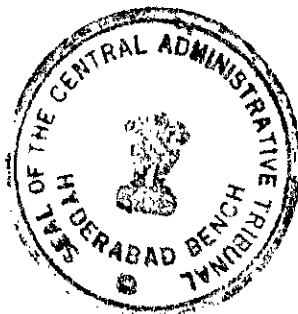
[Signature]
COURT OFFICER

To

1. The Chief Executive, Nuclear Fuel Complex,
Dept. of Atomic Energy, Govt. of India,
Hyderabad.
2. The Chief Executive, Nuclear Fuel Complex,
Dept. of Atomic Energy, Govt. of India,
Hyderabad. *Mr. V. Venkateswara Rao for*
3. One copy to Mr. A.K. Jaya Prakash, Advocate, Hyderabad.
4. One copy to Mr. N. Bhaskara Rao, Addl. C. SC.,
C.A.T., Hyderabad.
5. One copy to Hon'ble Mr. D.K. Chakravorty, Member, (A),
C.A.T., Hyderabad.

Read By

[Signature]



Compared By

contd...

[Signature]

The Dy. Registrar, Central Admn. Tribunal,
Madras Bench, Tamilnadu Text Book Society Building,
D.I. Compound, Nungambakam, Madras-600 005.

The Dy. Registrar, Central Admn., Tribunal, Calcutta Bench,
CGO Complex, 234/4-AOC Esse Road, Nizom Palace,
Calcutta - 700 020.

The Dy. Registrar, Central Admn., Tribunal, Bombay Bench,
CGO Complex, (220), 1st Floor, New Bombay - 400 614.

The Dy. Registrar, Central Admn., Tribunal, Chandigarh Bench,
SCO. No. 102-105, Sector-34, Chandigarh.

The Dy. Registrar, Central Admn., Tribunal, Aligarh Bench,
23-A, Ghanshi Road, Aligarh - 201 001.

The Dy. Registrar, Central Admn., Tribunal, Gauhati Bench,
Rajgarh Road, 100 Shillong Road, Gauhati - 781 005.

The Dy. Registrar, Central Admn., Tribunal, Bangalore Bench,
Commercial Complex (BDA), Indira Nagar, Bangalore-560030.

The Dy. Registrar, Central Admn., Tribunal, Ernakulam Bench,
Kandamkulathil Towers, 5th & 6th Floors, Opp. Maharaja College,
M.S. Road, Ernakulam, Cochin - 682 001.

The Dy. Registrar, Central Admn., Tribunal, Jabalpur Bench,
CARVS Complex, 15-Civil Lines, Jabalpur, M.P.

The Dy. Registrar, Central Admn., Tribunal, Patna Bench,
32-A, S.M. Enterprises, Shri Krishna Nagar, Patna - 1.

The Dy. Registrar, Central Admn., Tribunal, Jodhpur Bench,
C/o Rajasthan High Court, Jodhpur, Rajasthan.

The Dy. Registrar, Central Admn., Tribunal, Ahmadabad Bench,
Navrang Pura, Near Border Hotel Colony, Asmanpura, Ahmadabad.

The Dy. Registrar, Central Admn., Tribunal, Cuttack Bench,
Dolmandi, Cuttack - 753 001.

The Dy. Registrar, Central Admn., Tribunal, Principal Bench,
Faridkot House, Copernicus Marg, New Delhi-1100 001.

Sri Sanjeev Malhotra, All India Services, Law Journal 89,
Hakikatnagar, Mal Road, New Delhi-9.

M/s Eastern Book Com., 34, Lal Bagh, Lucknow.

M/s Delhi Law Times, 5355, Jawahar Nagar, Kolhapur Road, Delhi-7.

Sri Hasin Ahmad, Spl. Representative Reporter, A.I.R. Ltd.,
No. 21-1-1964 & 65, Gandhi Bazar, Opp. High Court Bar Association,
Hyderabad.

The Administrative Tribunal Reporter, Bhagat Singh Market 90,
New Delhi - 110001.

Sri BBS Sarma, General Secretary, All India equal rights
Association, E-58, HUDA, Residential Complex, Vanastalipuram
Hyderabad - 661.

The Dy. Registrar (J), Central Admn., Tribunal, Hyderabad
Bench, Hyderabad.

One copy to Library, CAT, Hyderabad Bench, Hyderabad.

Spare copies.

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AND THIS COURT DOETH FURTHER ORDER THAT this ORDER be punctually observed and carried into execution by all concerned;

WITNESS the Hon'ble Shri Aziz Mushabber Ahmadi, Chief Justice of India at the Supreme Court, New Delhi, dated this, the 19th day of October, 1995.

(C.L.CHAULA)
DEPUTY REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH:HYDERABAD

Enclt.No.CAT/Hyd/Jud1/SC/51/90

Date: 15-11-95

The Order of the Supreme Court of India in SLP.Nos.12721 & 12722 of 1990, dt.19-10-95, is communicated to the concerned herein.



Sd/-
Registrar

//True copy//

S.O.(J)

1. The Chief Executive,
Nuclear Fuel Complex,
Department of Atomic Energy,
Govt. of India,
Hyderabad.
2. The Dy.Chief Executive,
Nuclear Fuel Complex,
Dept. of Atomic Energy,
Hyderabad.
2. Mr.B.P.Mandelu,
r/o H.No.22-412/3, Sultanpura,
Chaderghat,
Hyderabad.
4. Mr.V.Venkateshwar Rao, Advocate, CAT, Hyd.
5. Mr.N.R.Devareaj, Sr. CGSC, CAT, Hyd.
6. One spare copy.

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

PETITIONS FOR SPECIAL LEAVE TO APPEAL (CIVIL) NOS. 12721 AND 12722 OF 1990

(Petitions under Article 136 of the Constitution of India for Special Leave to Appeal from the Judgment and Order dated the 23rd August, 1989 and 9th March, 1990 of the Central Administrative Tribunal (Hyderabad Bench) at Hyderabad in Transferred Application No. 21 of 1988 (Writ Petition No. 15916 of 1984) and Review Application No. 53 of 1989 in Transferred Application No. 21 of 1988 respectively).

WITH

INTERLOCUTORY APPLICATION NOS. 3 AND 4
(Applications for Stay after Notice)

1. Union of India through
the Chief Executive
Nuclear Fuel Complex,
Deptt. of Atomic Energy,
Government of India,
Hyderabad.
2. The Deputy Chief Executive,
Nuclear Fuel Complex,
Department of Atomic Energy,
Govt. of India,
Hyderabad.

...Petitioners

Versus

B. P. Mandelu
r/o H. No. 22-1-412/3,
Sultanpura Chaderghat,
Hyderabad.

...Respondent

19th October, 1995

CORAM :

HON'BLE MR. JUSTICE M. R. PUNCHHI
HON'BLE MRS. JUSTICE SUJATA V. MANOHAR

For the Petitioners : Mr. A. D. N. Rao, Advocate.

For the Respondent : M/s. B. Rajeshwar Rao and
L. Nageshwar Rao, Advocates.

THE PETITIONS FOR SPECIAL LEAVE TO APPEAL AND Applications for Stay above-mentioned being called on for hearing before this Court on the 19th day of October, 1995, UPON hearing counsel for the parties herein THIS COURT DOOTH ORDER THAT Petitions for Special Leave to Appeals above-mentioned be and are hereby dismissed AND consequently this Court's Order dated 13th September, 1990 made in Interlocutory Application Nos. 3 and 4 above-mentioned be and is hereby vacated;

...contd...2

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V. Venkateswar Rao

ADVOCATE

REGD. POST ACK. DUE.

665481

No 1-3-472/1,
Sri Venkateswara Temple Lane,
Chikkadpally,
HYDERABAD-500 020.

To

DATE 28-11-1995

1. The Chief Executive
Nuclear Fuel Complex,
E.C.I.L. Post,
Hyderabad.
2. The Dy. Chief Executive (Admn)
Nuclear Fuel Complex,
E.C.I.L. Post,
Hyderabad.
3. The Manager (Personnel & Admn)
Nuclear Fuel Complex,
E.C.I.L. Post,
Hyderabad.

Sirs,

Under the instructions of my client Sri B.P. Memdelu, Tradesman C (EC No.1498), an employee in Estate Maintenance, N.F.C., Hyderabad I am addressing you as follows:-

1. That my client was initially appointed as Tradesman B w.e.f. 16-8-72 and was promoted as Tradesman C w.e.f. 1-2-78. He was placed under suspension in Feb.'82 and subsequently he was removed from service vide orders dt 20-5-84. The said removal order was set aside by the Honourable Central Administrative Tribunal, Hyderabad vide its judgment dated 23-8-89 in I.A. 21/88 (W.P. 15916 of 84) and directed his reinstatement into service with all consequential benefits including back wages. Consequently he was reinstated vide orders dt 22-8-90 and he joined duty w.e.f. 28-8-90. But, no consequential benefits viz., back wages, promotion, arrears of salary and allowances etc. were not granted even till today, on the ground that S.L.P.No.12721-22 of 90 preferred by the administration in the Honourable Supreme Court of India is pending. Now it is to inform you that the said S.L.P. was dismissed by the Hon'ble Supreme Court vide its order dt 19-10-95. A copy of the same is enclosed herewith. Thus the C.A.T. judgment dt 23-8-89 became final and the same has to be implemented in to-to.

contd ... 2

16
Venkateswar Rao

ADVOCATE

665481

No. 8-472/1.
Sri Venkateswara Temple Lane,
Chikkadpally,
HYDERABAD 500 020.

1121:

DATE

2. By virtue of the CAT Judgment dt 23-8-89, my client is entitled for continuity of service with all consequential benefits w.e.f. 20-6-84 such as:-

- (1) Payment of difference of pay and allowances for the period of suspension i.e. from Feb.'82 to 20.6.84;
- (2) Grant of annual increments and promotion to next higher grades as are due to him. His senior Sri D. Krishna Rao (EC2171) is presently in the grade of Tradesman C drawing the basic pay of Rs. 2130/-;
- (3) Fixation of his pay by giving the benefit continuity of service and promotions as per the Rules and his entitlement; and
- (4) Payment of back-wages for the entire period till the date of his reinstatement and difference of pay and allowances thereafter.

3. You are hereby requested by my client to grant and pay the above benefits in implementation of the CAT Judgment dt 23-8-89 within a period of fifteen days from the date of receipt of this notice, otherwise my client would be constrained to proceed against you in the court of law holding you liable for costs and consequences thereof.

Yours truly,

(V. Venkateswar Rao)

Enc: Copy of the SC
order dt 19-10-95
& CAT order dt 23-8-89.

RG

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Government of India
Department of Atomic Energy
NUCLEAR FUEL COMPLEX

ECIL(PO),
Hyderabad-500 062.


Ref : NFC/PAR/2-96/451

April 26, 1996

OFFICE MEMORANDUM

Chief Admn. Officer, NFC appoints Shri B P Mamdelu, Tradesman/C, EC.No. 1498, EM to officiate as Tradesman/D in an industrial temporary capacity in NFC w.e.f. 01.02.1992.

While so officiating, Shri Mamdelu will be paid an initial pay of Rs. 1680/- in the scale of pay of Rs. 1320-30-1560-EB-40-2040 plus usual allowances admissible under Central Govt. Rules. There will be no change in other terms and conditions of his appointment as communicated at the time of his initial appointment.


(K S Sankara Rao)
Asst. Personnel Officer

✓
Shri B P Mamdelu, Tradesman/D,
EC.No. 1498, EM Section.

Thro' CE, CED

CC : CE, CED

APO, Admn-VI

Office Order file.

5/6/96
EE (EM) 5/7/96
9/11/96

KM



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To

The Chief Administrative Officer,
Nuclear Fuel Complex,
Department of Atomic Energy,
E.C.I.L. Post,
HYDERABAD - 500 062.

Sir,

Ref: Memorandum No. NEC/PAF/2-96/271, dt. 26.3.1997.

In the above referred Memorandum I have been granted promotions to the Grades of Tradesman D & E with effect from 1-2-1982 & 1-2-1995 respectively, whereas many of my juniors have already been granted promotions to the Grades of Tradesman F & G long back and their particulars are furnished hereunder:

S.No.	Name	E.C.No.	Promotion as T.B	Promotion as T.F&G
1.	D.Krishna Rao	2179	1974	1994
2.	Sunder Babu	1915	1973	1993
3.	A.Rajaiah	2539	11/76	1994
4.	R.Harsing Rao	2542	11/76	1994
5.	C.Madhushdhan	2540	11/76	1996

I am senior to the above employees in as much as I was appointed in the Grade of Tradesman-E in August, 1972. The punishment of removal inflicted upon me was set aside by the Hon'ble Central Administrative Tribunal, Hyderabad Bench with all consequential benefits such as seniority, promotion, arrears of pay and allowances etc. The said judgment was upheld by the Hon'ble Supreme Court of India. I am reinstated into service with continuity of service and back wages. But the promotions due to me to the higher grades of E.F.&G to which I am entitled as per the promotion policy

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of the N.F.C have not been granted to me. I am entitled to promotion as Tradesman-E, F & G with effect from 1-2-1986, 1-2-1991 and 1-2-1997 respectively and I am entitled to be paid the arrears of pay and allowances with reference to promotion to the said grades.

Therefore, I request you to kindly look into the matter and promote me to the grades of Tradesman-E, F & G with effect from the dates on which I am entitled and pay the arrears of pay and allowances in terms of the judgment of the Hon'ble Central Administrative Tribunal, Hyderabad Bench.

Thanking you Sir,

Hyderabad,

Dt: 30-04-1997

Yours faithfully,

E.P. Mandelu
(E.P. MANDELU)
E.C.No.1498

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NUCLEAR FUEL COMPLEX
Administration-I

Ref: NFC/PAR/2-96/891

Dt. March 06, 1997

M E M O R A N D U M

In pursuance of this office O.U.No.NFC/PAR/2-96/451 dated 6-4-1996, approval of Chief Administrative Officer, N.F.C. is hereby conveyed to the promotion of Sri B.P.Mandelu, E.C.No. 1498, E.H., to the grades of Tradesman(D) w.e.f. 01.02.82 and Tradesman (E) w.e.f. 01.02.95.

Consequently, the pay of Sri Mandelu from time to time is regulated as detailed below:

Month & Year	Grade	Pay Fixed	Remarks
01.02.82	T/D	Rs.428/-	Pre-revised scale
01.02.83	"	Rs.440/-	
01.02.84	"	Rs.452/-	
01.02.85	"	Rs.464/-	
01.01.86 - E	"	Rs.1470/-	
			Rs.1320-30-1560-EB-40-2040 (Revised scale of Pay)
01.02.86 - E	"	Rs.1500/-	Scale of Pay Rs.1400-40-1800-EB-50-2300
01.02.87	"	Rs.1530/-	
01.02.88	"	Rs.1560/-	
01.02.89	"	Rs.1600/-	
01.02.90 -	"	Rs.1640/-	
01.02.91 - F	"	Rs.1680/-	
01.02.92	"	Rs.1720/-	
01.02.93	"	Rs.1760/-	
01.02.94	"	Rs.1800/-	
01.02.95	T/E	Rs.1900/-	
01.02.96	"	Rs.1950/-	
01.02.97 - G	"	Rs.2000/-	

There will be no change in other terms and conditions of his appointment as communicated at the time of his initial appointment.

Sri B.P.Mandelu, T/E
EC No.1498, E.H.

(K.S.Sankara Rao)
Asst. Personnel Officer

-/- C.E., CED

- cc : 1. C.E., CED
2. J.C.(F & A), NFC
3. AIO, Admn. VIII
4. Office Order file
- Rg

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JVM

Government of India
Department of Atomic Energy
Nuclear Fuel Complex

ECIL (PO),
Hyderabad - 500 062.

Ref: NFC/PAR/2-96/ 52

May 09, 1997

With reference to his representation dated 30.4.1997, Shri B.P. Mamdelu, T/E, EC No. 1498, EM is hereby informed that under Merit Promotion Scheme, promotion of Tradesman has to be considered on merit but not on the basis of seniority. As such his request for promotion to the higher grades on par with his juniors is not acceded to by the Competent Authority.

T.Y. Prahalad Rao 85/97
(T.Y. Prahalad Rao)
Administrative Officer

Shri B.P. Mamdelu,
T/E, EC No. 1498, EM

Through: CE, CED

Tho
EE (EM)
5/6/97
4/5
10/5
21/5

Ph

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

O.A. REGD. NO 2996/97

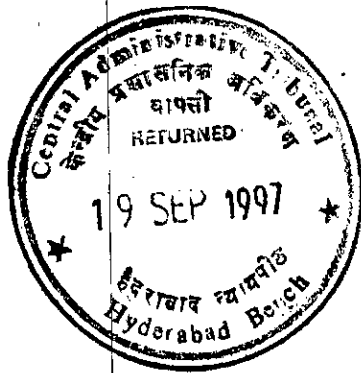
Date: 9.9.97

To Sh. V. Venkateswara Rao, Adv.

Sir,

I am to request you to rectify the defects mentioned below in your application within 14 days from the date of issue of this letter, failing which your application will not be registered and action under Rule 5 (4) will follow.

1) stamps of Subsequent Value to be affixed to the valuation



objection compared with.

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22/9/97



DEPUTY REGISTRAR (JUDL)

19/9/97

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL AT HYDERABAD

D.A. No.1259 of 1997

Between :

B.P.Mamdelu,
S/o Paramanand,
Aged 52 years, Tradesman 'E',
EC No.1498,
Nuclear Fuel Complex,
Hyderabad - 500 062.

..... Applicant

AND

1. The Chief Executive,
Nuclear Fuel Complex,
ECIL Post,
Hyderabad - 500 062.
2. The Dy.Chief Executive (Admn.)
Nuclear Fuel Complex,
ECIL Post,
Hyderabad - 500 062.
3. The Manager (Personnel & Admn.)
Nuclear Fuel Complex
ECIL Post,
Hyderabad - 500 062.
4. The Administrative Officer,
Nuclear Fuel Complex,
ECIL Post,
Hyderabad - 500 062.

..... Respondents

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENTS

I, Saini Goverdhan Rao, S/o Shri S. Sanjeeva Rao, aged 36 years, resident of Krishnanagar, Moulali, Hyderabad, do hereby solemnly affirm and state as under :

I am the Administrative Officer of NFC and I have perused the records relating to this case and as such, I am aware of the facts of the case. I am filing this reply statement on behalf of Respondents 1 to 4 as I have been duly authorised to do so. The

Attestor

वी. वी. रामी रेड्डी
V.V. RAMI REDDY,
सहायक कार्मिक अधिकारी
Asst. Personnel Officer,
भारत सरकार, Govt. of India,
नाईस / Nuclear Fuel Complex
हैदराबाद / HYDERABAD-500 062

Deponent.

एच. गोवर्धन राव
S. GOVERDHAN RAO,
प्रशासनिक अधिकारी-III
Admn. Officer-III

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material averments in this O.A. are denied except those that are specifically admitted hereunder. The applicant is put to strict proof of all such averments except those that are specifically admitted hereunder.

2. In order to appreciate the background of the case, the Respondents 1 to 4 submit a brief history of the case and the circumstances which led to the non-promotion of the Applicant to the higher grades sought by him as given below :

The Applicant was initially appointed as Tradesman 'B' in the Nuclear Fuel Complex w.e.f. 16.8.72 and was promoted as Tradesman 'C' w.e.f. 1.2.1978. He was placed under suspension from 20.2.82 to 20.6.84 as a disciplinary action was pending against him for attempting to take out some Government material, copper pieces, from the Plant premises. On conclusion of the Departmental Inquiry, he was removed from service w.e.f. 20.6.84 by the Competent Authority. The Applicant then filed W.P. No.15916/84 in the Hon'ble High Court of A.P. at Hyderabad, which was subsequently transferred to the Hon'ble Central Administrative Tribunal, Hyderabad Bench, as T.A.No.21/89. The Hon'ble Tribunal, vide its Judgement dated 23.8.89, had set aside the penalty order of removal from service and directed NFC to take him back into service with all consequential benefits. A Review Application No. 53 of 1989 filed by NFC against the said order was dismissed by the Hon'ble Tribunal, vide its order dt.9.3.90. NFC had then filed a SLP (C) No.12721/90 in the Hon'ble Supreme Court against the Order dated 23.8.89 of the Hon'ble Tribunal, but the same was dismissed by the Hon'ble Supreme Court, vide their Order dated 19.10.95. The Applicant

Attestor

श्री श्री रामी रेड्डी
V. R. RAMI REDDY,
महायुक्त व्यक्ति अधिकारी
Asst. Personnel Officer,
भारत सरकार Govt of India,
नाईस / Nuclear Fuel Complex
हैदराबाद/HYDERABAD-500 062

Deponent
एस. गोवर्धन राव
S. GOVARDHAN RAO,
प्रशासनिक अधिकारी
Admin. Officer

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was, in compliance with the Hon'ble Tribunal's Order, reinstated in service on 28.8.90, after interim stay was not granted upto that date by the Hon'ble Supreme Court and a contempt Application No.34/90 has been filed by the Applicant in which a Notice dt.3.8.90 was received from the Tribunal. After reinstatement, he was given promotion to the grade of Tradesman 'D' (T/D) w.e.f. 1.2.82 and to the grade of Tradesman 'E' (T/E) w.e.f. 1.2.95. The Applicant, vide his letter dated 30.4.97, represented that he should be promoted to the Grades of T/E, T/F & T/G w.e.f. 1.2.86, 1.2.91 & 1.2.97 respectively on par with his juniors and be paid the arrears of pay & allowances with reference to the aforesaid promotions. Vide NFC's letter dated 9.5.97, he was informed that under the 'Merit Promotion Scheme' adopted by the Department, promotions of Tradesman have to be considered based on meritorious performance and not on the basis of seniority and as such, his request for promotion to the higher grades, mentioned by him, on par with his juniors cannot be considered. The Applicant has thereafter filed this O.A. impugning the said letter dated 9.5.97.

3. In this context, a brief narration of 'Merit Promotion Scheme' of the Department of Atomic Energy for its scientific and technical personnel is given below :

3.1 Dr.H.J.Bhabha, the founder of the Indian Nuclear programme, had foreseen, more than four decades ago, the need to identify and nurture the scientific and technological capabilities of the young scientists and engineers in this country in order to be self-reliant and ensure that when the need arises to implement the national programme connected with atomic energy, it would not

Attestor

वी. वी. रामी रेड्डी
V V. RAMI REDDY,
सहायक कार्यालय अधिकारी
Asst. Personnel Officer,
भारत सरकार Govt of India,
ना ई स / Nuclear Fuel Complex
हैदराबाद/HYDERABAD-500 062

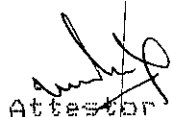
Deponent

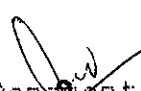
एच. गोवर्धन राव
S. GOVERDHAN RAO
प्रशासनिक अधिकारी
Admn. Officer-III

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be necessary to look for competent people from elsewhere, but it will be possible to find them ready within the country. This concept of self-reliance was the foundation of Dr.Bhabha's architecture for constructing the edifice of the Indian national nuclear programme, an achievement of which the country is justifiably proud. Any policy for growth of science in the country is organically linked to the promotion policy that would govern the growth of scientific and technical personnel. Realising this, Dr.Bhabha had formulated the 'Merit Promotion Scheme' to apply to the scientific and technical personnel of the Department. This scheme, tested and found to have been appropriate by more than four decades of experience has been by and large adopted in the succeeding years by other agencies of the Government of India responsible for pursuing research and development in frontier areas of science and technology, like Space and Defence oriented institutions. The outstanding feature of this Scheme, which makes it basically different from the concept of vacancy-based promotion in other areas of the Government, relates to creating positions at higher levels for the growth of an individual through an upgradation system rather than selecting a person by making him compete with other individuals to rise and occupy an available / vacant higher position. Due to the aforesaid basic difference, any grievance of an individual governed by the Scheme can only be on the basis that a work of a scientific/technological significance done by the individual, has been ignored or overlooked in the process of assessing the merit of that individual.

3.2 Having pointed out the basic difference between the Merit


Attestor


Dependent
एस. गोवर्धन राव
S. GOVERDHAN RAO
प्रशासनिक अधिकारी-III
Admn. Officer-III

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Promotion Scheme of the Department of Atomic Energy and the vacancy-based promotion system, applicable elsewhere in the Government of India, it must be clarified that there are guidelines under the Merit Promotion Scheme to regulate and guide the process of assessment of individuals. These guidelines take into account the number of years that an individual has spent in his present grade, the relevance and excellence of the contents of the work carried out by the individual and reported by him in the Self-Assessment Section of the Annual Confidential Report and the performance of the individual in an oral interview or viva-voce before a Standing Selection Committee (DPC). It would be seen that seniority in a given grade, by mere residency in the same grade, does not by itself place the individual ahead of his peers in the same grade and make him eligible for consideration for promotion to the next higher grade. The only relaxation shown is that the longer an individual serves in a given grade, the less stringent the level of grading that he has to obtain in the Annual Confidential Report for being eligible for consideration to the next higher grade. Also, the level of performance expected at the oral interview would be proportionately lower in the case of an individual who has put in longer years in the lower grade.

3.3 Thus, it would be apparent that the purpose of this type of assessment is to provide for the rapid growth of people with higher competence and performance, while at the same time ensuring a regulated advancement for those who are not endowed with the highest levels of competence, performance and/or motivation, though not on a 'time-bound' basis, as alleged by

Attestor

वी. वी. रामी रेड्डी
V. V. RAMI REDDY,
सहायक कार्मिक अधिकारी
Asst. Personnel Officer,
भारत सरकार, Govt. of India,
नाईस / Nuclear Fuel Complex
हैदराबाद / HYDERABAD-500 062

Department

एस. गोवर्धन राव
S. GOVERDHAN RAO,
प्रशासनिक अधिकारी
Admn. Officer-III

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the Applicant.

3.4 A published outline of the 'Merit Promotion Scheme' of the Department of Atomic Energy for its scientific and technical personnel is annexed herewith as Annexure A-I.

3.5 It is apparent from the above that the request of the Applicant, for further promotions than what he has got, has been turned down by the Respondents within the framework of the 'Merit Promotion Scheme' for its scientific and technical personnel adopted by the Department and hence, the present O.A. is without merit, not maintainable in law as promotion is not a matter of right and hence, liable to be dismissed by the Hon'ble Tribunal.

4. On the basis of the above said background of the case, the Respondents submit their parawise reply to the O.A. as follows :

4.1 The contents of paras 1 to 5 need no specific reply as they are formal in nature and /or relate to matters of record.

4.2 In reply to para 6 (I), it is submitted that the contents therein are matters of record and hence, no specific reply is required.

4.3 In reply to para 6 (II), it is submitted that the contention of the Applicant that he is entitled for promotion to the Grade of T/E w.e.f. 1.2.86 and to the Grade of T/F w.e.f. 1.2.91 and to the Grade of T/G w.e.f. 1.2.97 by a comparison of his position with his juniors is not correct due to the following reasons :

a) In NFC, Tradesmen are governed by the 'Merit Promotion Scheme' of the Department under which the scientific and technical employees are promoted based on their performance

Attestor

वी. वी. रामी रेड्डी
V. V. RAMI REDDY,
सहायक कार्मिक अधिकारी
Asst. Personnel Officer,
भारत सरकार, Govt. of India,
माई स / Nuclear Fuel Complex
हैदराबाद/HYDERABAD-500 062

Deponent

एस. गोवर्धन राव
S. GOVERDHAN RAO,
प्रशासनिक अधिकारी-III
Admn. Officer-III

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during a particular period. The employees are recommended for promotion after due assessment of their performance by the duly constituted Screening Committee taking into account their over all performance as reflected in the ACRs and the norms prescribed for promotion. Thereafter, a Selection Committee interviews the candidates and during the interview a detailed assessment of the candidates is made and on that basis, suitable recommendations are made by the Selection Committee.

b) Under the 'Merit Promotion Scheme', based on the recommendations of the Selection Committee, all suitable candidates are promoted to the next higher grade by the Competent Authority without any requirement of vacancy or the availability of posts at that level. This is done by creation of a post at the next higher level and abolition of the post vacated by the employee concerned. As such, the question of seniority does not arise.

c) Since the Applicant has not actually worked during the period from 20.2.82 to 28.8.90, his performance for the said period could not be assessed. He was given promotion to the grade of T/D w.e.f. 1.2.1982. Further promotion to the next higher grade of T/E was given w.e.f. 1.2.95 based on his performance after reinstatement in service. The 'Merit Promotion Scheme' does not permit notional promotions being given based on a comparison with his juniors. The Applicant has already been adequately compensated for the period from 20.2.82 to 28.8.90 by the

Attestor

वी. वी. रामी रेड्डी
V. V. RAMI REDDY,
सहायक कार्यालय अधिकारी
Asst. Personnel Officer,
भारत सरकार, Govt. of India,
साईस / Nuclear Fuel Complex
हैदराबाद/HYDERABAD-500 062

Deponent


ए. गोवर्धन राव
S. GOVERDHAN RAO,
प्रशासनिक अधिकारी-III
Adm. Officer-III


::8::

same being treated as duty and back wages paid. He has been given promotions as are due. Since promotions are not a matter of right and one has to earn the same, his claim for promotions to the grades of T'man/ E, F & G with effect from certain dates on a comparison with his juniors, is untenable and ought to be rejected by this Hon'ble Tribunal.

5. In reply to para 7, it is submitted that as stated above, the request of the Applicant for further promotions to the Grade of T/E from an earlier date and T/F and T/G on certain other dates, could not be considered under the 'Merit Promotion Scheme' of the Department as he has not rendered actual service for the period from 20.2.82 to 28.8.90 and his performance could not, therefore, be assessed for that period. In addition to fulfilling the requirement of a certain number of years in each grade, the Applicant is also required to satisfy other parameters like meritorious performance during the period under report, amenability to discipline, devotion to duty, good relations with colleagues, etc., under the 'Merit Promotion Scheme' of the Department. Hence, the stand taken by the Respondents, vide the impugned letter dt. 9.5.97, is well within the 'Merit Promotion Scheme' and cannot be treated as arbitrary, illegal or unconstitutional, as alleged. Since he could not be considered for further promotions as requested for by him, the question of extending any consequential benefits, like arrears of pay and allowances, seniority etc., linked to such promotions, does not arise at all.

6. For the reasons stated in above, it is submitted that the Applicant has not made out any case either on fact or in law and

Attestor 
 V. V. RAMI REDDY,
 सहायक कर्मिक अधिकारी
 Asst. Personnel Officer
 भारत सरकार, Govt. of India,
 नाईस / Nuclear Fuel Complex
 हैदराबाद/HYDERABAD-500 062.


 Deponent
 एस. गोविंदन राव
 S. GOVINDHAN RAO,
 प्रशासनिक अधिकारी-III
 Admin. Officer-III

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therefore, there is not merit in the O.A. This Hon'ble Tribunal may, therefore, be pleased to dismiss the O.A. with costs.

Sworn and signed before me

on this 28th day of Feb 1998

at Hyderabad

Before me

(DEEDHANT)
एस. गवर्धन राव
S. GOVERDHAN RAO,
प्रशासनिक अधिकारी-III
Admin. Officer-III

VERIFICATION

I, S. Goverdhan Rao, S/o S. Sanjeava Rao, serving as Administrative Officer, Nuclear Fuel Complex, do hereby verify that the statements made in the foregoing paras are true to the best of my knowledge and based upon the information derived from the office records pertaining to the matter and I believe the same to be true. No material fact has been suppressed.

Place :

Date :

(ATTESTOR)
वी. वी. राम रेड्डी
V. V. RAMI REDDY,
सहायक कार्यालय अधिकारी
Asst. Personnel Officer,
भारत सरकार, Govt. of India,
नाईस / Nuclear Fuel Complex
हैदराबाद / HYDRABAD-500 062

Before me,

(Attesting CGSC)

(DEEDHANT)
एस. गवर्धन राव
S. GOVERDHAN RAO,
प्रशासनिक अधिकारी-III
Admin. Officer-III

~~EXHIBIT - R - D~~

I.A.H. R-2

ANNEXURE - D

MERIT PROMOTION SCHEME

DAE, being a Scientific Department, has from its inception followed a policy in promotion of officers in scientific and technical grades based on the need to develop a cadre of competent scientists and technologists. This scheme is known as Merit Promotion Scheme. The success of the scheme in identifying and ensuring promotion of talented scientists at a faster rate to reach the top at the shortest possible time has been proved during the last 25-30 years.

Promotions are made in DAE from one grade to the other higher grade not on the basis of vacancies but on the basis of development and work of the individual scientific-research/technical personnel. Under the Scheme, a Scientific Officer/Engineer or a technical personnel deserving promotion because of the merit of his work is never denied for want of vacancy. A suitable post will always be created at the level required for accommodating the promotion. While creating such posts, the lower posts vacated by the personnel concerned are abolished.

Normal increments and promotions of scientific and technical personnel in this Department take place on fixed dates in a year, either on the 1st February or 1st August in the case of Scientific category and on the 1st May or 1st November in the case of technical staff.

SCIENTIFIC PROMOTIONS

There are several checks and balances built into the system to ensure that evaluations and recommendations for promotions are done in a systematic and balanced manner. For example, there is a system of confidential report, originating from the candidate assessed by the immediate superior, reviewed and countersigned by the Head of the Division or Director of the Group. In the assessment form there is enough scope to reflect on the work carried out by the officer as well as his individual qualities.

On the basis of the confidential report, a Standing Screening Committee recommends the cases for promotion on the basis of standards and guidelines prescribed and it is ensured that no deserving person has been overlooked. Confidential dossiers are made available to the Screening Committee for assessing the outstanding abilities, achievements and managerial experience. The Screening Committee will be composed of immediate supervisors and balancing member from other Divisions/Units of the Department so that a uniformity exists in the entire Department.

Based on the recommendations of the Screening Committee, a selection Committee interviews the individuals and during interview detailed assessment of the candidates is made and suitable recommendations made.

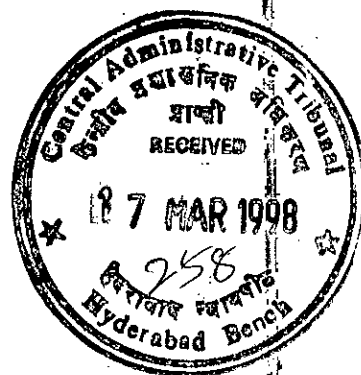
TECHNICAL

Procedure for promotion of technical staff is more or less similar to the scientific personnel.

Recommendations for promotion of technical staff are screened by the Screening Committee on the basis of norms prescribed and recommendations are made on the basis of Confidential reports of the individuals. Each case is assessed on its merits taking into account factors like qualification, length of service, his ability, record of work, amenability to discipline, devotion to duty, relations with colleagues etc and only those considered deserving of promotion on an overall assessment are recommended for promotion. Technical personnel recommended for

In the CAT HYD

O A No 1259 of 97



REPLY AFFIDAVIT

V. Vinod Kumar
Advocate

promotion are given trade tests before they are interviewed. Based on the outcome of the trade tests and personal interview, promotions are considered.

Approval of the recommendation for promotion both under scientific/technical categories are required to be approved by the appropriate authority who has been delegated with powers. While processing these cases, it is necessary to ascertain whether:

- a) the candidates were on duty on the dates from which they are recommended for promotion.
- b) there is no disciplinary action pending or contemplated against them.

One important aspect of the Merit Promotion Scheme is that seniority of an individual officer is not a criterion. Generally a list of all those candidates arranged with respect to the number of years they have spent in a particular grade is made available to the Screening Committee. Based on the gradings obtained in CR and personal interview, the brighter candidates pass through every grade in the shortest possible time to reach higher levels much before his colleagues who may have joined before him or along with him. This has been accepted by the scientific and technical community in this Department. Therefore the normal definition of seniority and inter-se seniority do not apply to the promotion policy for Scientists, Engineers and Technical personnel in this Department.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1259/97.

Dt. of Decision : 29-01-99.

B.P.Mamdelu

..Applicant.

Vs

1. The Chief Executive,
NFC, ECIL Post, Hyderabad.
2. The Dy.Chief Executive(ADMN.)
NFC, ECIL Post, Hyderabad.
3. The Manager(Personnel & Admn.),
NFC, ECIL Post, Hyderabad.
4. The Administrative Officer,
NFC, ECIL Post, Hyderabad.

..Respondents.

Counsel for the applicant : Mr.V.Venkateswara Rao

Counsel for the respondents : Mr.V.Vinod Kumar, Addl.CGSC.

CORAM:-

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON. Mr.B.S.JAI PARAMESHWAR : MEMBER (J)

Heard Mr.V.Venkateswara Rao, learned counsel for the applicant and Mr.V.Vinod Kumar, learned counsel for the respondents.

2. The applicant was working as Tradesman-C has removed from service by order dated 20-6-84. The said order of removal was ultimately set aside by this Tribunal in T.A.No.21/88 with a direction to reinstate the applicant with all consequential benefits including back wages. The direction given by this Tribunal in T.A.21/88 reads as

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-2-

follows:-

The appellate authority also, in his order, stated that the acquittal was by giving the benefit of doubt and therefore this does not preclude taking of departmental action against him. In the absence of the original record relating to the decision of the competent authority as to why departmental action should be resorted to in the instant case, we can infer from the orders of the appellate authority that a decision was taken to proceed departmentally on the assumption that the acquittal was due to benefit of doubt. Since, this is a wrong assumption, it follows that there is no proper application of mind as required by the decision of the Supreme Court in AIR 1984 SC 626. It would follow that the discretion, if any, exercised by the competent authority, is irregular and has to be set aside. The application is accordingly allowed and the applicant is directed to be reinstated into duty with all consequential benefits. In the circumstances of the case there will be no order as to costs."

3. Accordingly, the applicant was reinstated to officiate as Tradesman-D in an Industrial ^{post in} temporary capacity w.e.f., 1-2-82. Thereafter he was issued with another memo dated 6-3-97 in supersession of his earlier memo dated 6-4-96 informing him that the R-1 promoted the applicant to the grade of Tradesman-D w.e.f., 1-2-82 and Tradesman-E w.e.f., 1-2-95 after he had submitted a representation dated 30-4-97 (Annexure-VI). The applicant submits that he was entitled for promotion to the grade of Tradesman-E w.e.f., 1-2-86 and to the grade of Tradesman-F w.e.f., 1-2-91 and to the grade of Tradesman-G w.e.f., 1-2-97 in as much as his juniors were already promoted to the said grades and ^{we} ~~are~~ are functioning in the said grades. The applicant submitted a representation dated 30-4-97. The respondents by their letter No.NFC/PAR/2-96/552 dated 9-5-97 (ANNEXURE-VII) informing ^{ed} ~~ing~~ him that under ^{the} ~~a~~ merit promotion Scheme, promotion of Tradesman has to be considered on merit but not on the basis of seniority and his request for promotion to the higher grades on par with his juniors was not acceded to by the competent authority.

4. Hence, the applicant has filed this OA to declare

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-3-

that the applicant herein is entitled for promotion to the grades of Tradesman-E, F & G w.e.f., 1-2-86, 1-1-91 and 1-2-97 respectively with all consequential benefits such as arrears of pay and allowances, seniority etc., by holding that the letter No.NFC/PAR/2-96/552 dated 9-5-97 issued by the respondent No.4 as illegal, arbitrary and unconstitutional.

5. The respondents have filed a reply that the applicant had not worked for the period from 20-2-82 to 28-8-90, his performance for the said period could not be assessed, that he was given promotion to the Grade of Tradesman-D w.e.f., 1-2-82 and further promotion to the higher grade of Tradesman-E w.e.f., 1-2-95 based on his performance after reinstatement into service. The 'merit promotion Scheme' does not permit notional promotions being given based on a comparison with his juniors, that the applicant has already been adequately compensated for the period from 20-2-82 to 28-8-90 by the same being treated as duty and back wages paid, that he was given the promotions as ^{we} are due and ~~that~~ since the promotion is not a matter of right, ~~as~~ his claim for promotions to the grades of Tradesman-E, F & G with effect from certain dates on a comparison with his junior is untenable.

6. The applicant claims promotion under ^{the} merit promotion scheme. The respondents submit ~~tht~~ since he was absent for certain period his performance could not ~~be~~ assessed and that he was given promotion in the grade of Tradesman-D w.e.f., 1-2-82 and to the grade of Tradesman-E w.e.f., 1-2-95.

7. The first contention of the applicant is that he has been reinstated with all consequential benefits including back wages. Hence, the period of his absence due

-4-

to the removal which was set aside by this Tribunal should not be taken note of for considering him for promotion to the higher grades in accordance with the merit promotion. If so he should be considered as if he ^{was} ~~is~~ in service right from the date of his removal and 4 years merit promotion scheme should be considered on that basis. If records for the period ^{were} ~~is~~ not available then the records ^{for} ~~from~~ the previous ^{years} ~~year~~ should be taken note of to promote him to the higher grades.

8. This point has been considered by us. When the applicant has been reinstated with all consequential benefits such as back wages, seniority etc., it is reasonable to consider him for promotion under the merit promotion scheme as if he was in service during the period ^{while} ~~with~~ he was away from his work due to the initial removal order. The fact that he was not in service should be ignored for consideration for his promotion to the higher grades under the merit promotion scheme.

9. The applicant has been promoted to the Tradesman-D & E. No doubt, he has been promoted to Tradesman-D on 1-2-82 and that is in order. But the applicant submits that his promotion to Tradesman-E should not be from 1-2-95 but it should be from 4 years after, from the date of his promotion to the grade of Tradesman-D. The higher promotion also to the Tradesman-F & G should be given on that basis. The applicant further contends that he had been promoted to Tradesman-D and E. That itself ^{was} ~~proof~~ his merit and hence he cannot be ignored to the promotion of Tradesman-F & G as having no merit. We have already answered the question in regard to his consideration of promotion to various grades in accordance with the merit promotion as if he was not ^{removed} ~~promoted~~ from service. That


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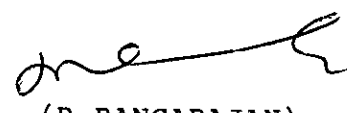
will take care of the request for the date of promotion to the Tradesman-D and E. But the merit has to be assessed. Just because he was promoted to Tradesman-D & E cadre on merit promotion scheme it does not mean that he should be eligible for Tradesman-F & G also on that basis. A proper scrutiny of his record of service and other details have to be examined for giving him promotion to higher grade of Tradesman-F & G. In that view the impugned order dated 9-5-97 needs revision.

10. In view of the foregoing the impugned order dated 9-5-97 is set aside. The respondents are directed to reconsider the promotion of the applicant to the post of Tradesman-F & G as per the merit promotion scheme. His promotion to the Tradesman-D should be updated to the year of 1986 in accordance with the merit promotion scheme. However his pay in the Tradesman-D should be fixed notionally and he is eligible for arrears if any from the date he actually shouldered the responsibility of Tradesman-D. In case he is promoted to the higher grades of Tradesman-D the fixation of pay in higher grades will be done on the basis of his notional pay fixation in Tradesman-D category and arrears if any, on that basis will be awarded to him.

11. The learned counsel for the applicant brought to our notice the reported judgement reported in 1994 (5) SLR 742 (Sulekh Chand and Salek Chand Vs. Commission of Police & ors) to impress upon us that he should be given actual fixation of pay as Tradesman-E may not be notional but it is an actual fixation and arrears should be drawn on that date. We considered this contention. In our opinion the reported judgement may not come to his rescue. Hence his contention is rejected.

- 12. Time for compliance is 4 months from the date of receipt of a copy of this order.
- 13. The OA is ordered accordingly. No costs.

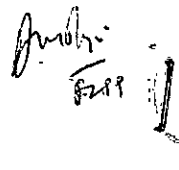

(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

29.1.99

Dated : The 29th January, 1999.
(Dictated in the open Court)

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1. ~~HDHND~~
2. ~~HHRP M(A)~~
3. ~~HSSJP M(J)~~
4. ~~D.R.(A)~~
5. ~~SPARE~~

22/99
1st and 11nd Court.

Typed By
Compared by

Checked by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:HYDERABAD.

~~THE HON'BLE MR. JUSTICE D.H.NASIR:~~
~~VICE - CHAIRMAN~~

~~THE HON'BLE H. RAJENDRA PRASAD~~ :
~~MEMBER (A)~~

~~THE HON'BLE R. RANGARAJAN~~ :
~~MEMBER (A)~~

~~THE HON'BLE MR. B.S. JAI PARAMESHWAR:~~ ✓
~~MEMBER (J)~~

DATED: 29-1-99

ORDER/JUDGMENT

~~M.A./R.A/C.P.NO.~~

IN

~~R.A.NO~~ : 1259/97

~~ADMITTED AND INTERIM DIRECTIONS~~
~~ISSUED.~~

~~ALLOTED~~

~~DISPOSED OF WITH DIRECTIONS~~

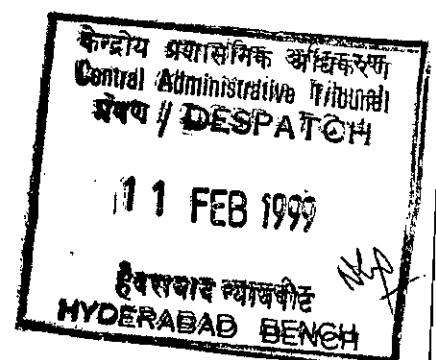
~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

(9 copies)



High Court File No. 80/99

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

WRIT PETITION NO. 13737/99 ~~2001~~

W.P.M.P.NO. 16830/1999 ~~2001~~

A Writ Petition was filed in the High Court of Andhra Pradesh by ~~THE~~ Chief Executive, NFC, Hyd. & Others. And Registrar, CAT Hyd. & Others against the Order/Judgment of this Hon'ble Tribunal dated 29-1-99 and made in O.A.No. 1259/97

The High Court was pleased to ~~Dismissed/Allowed/~~ Disposed of the W.P. in modification of order passed by Tribunal and direct Order Interim Suspension/Stay/Notice the operation of Judgment that the Case of 2nd respondent for further promotion may be considered on Y20-2-2001 despite the fact that he is not in actual service

The Judgment of the Tribunal in O.A.No. and the Order/Notice of the High Court of Andhra Pradesh enclosed herewith for perusal.

Submitted.

DEPUTY REGISTRAR :

HON'BLE VICE-CHAIRMAN:

HON'BLE MEMBER (JUDL) :

HON'BLE MEMBER (ADMN) :

14/5/2001
REGISTRAR:

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9/4/99

IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH: AT HYDERABAD
(SPECIAL ORIGINAL JURISDICTION)

TUESDAY, THE TWENTIETH DAY OF FEBRUARY
TWO THOUSAND AND ONE

:PRESENT:

Filed
942001
THE HONOURABLE MR. S.B. SINHA, THE CHIEF JUSTICE
AND
THE HONOURABLE MR. JUSTICE S.R. NAYAK

WRIT PETITION NO. 13737 of 1999

Between:

1. The Chief Executive, Nuclear Fuel Complex,
Department of Atomic Energy, ECIL Post,
Hyderabad.
 2. The Deputy Chief Executive (Admn),
Nuclear Fuel Complex, Department of
Atomic Energy, ECIL Post, Hyderabad.
 3. The Manager, (Personnel & Admn.),
Nuclear Fuel Complex, Department of
Atomic Energy, ECIL Post, Hyderabad
 4. The Administrative Officer, Nuclear Fuel Complex,
Department of Atomic Energy, ECIL Post,
Hyderabad.
- ...Petitioners/
Petrns.

And

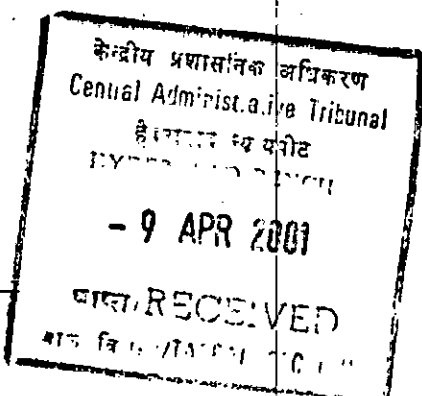
1. The Central Administrative Tribunal,
Hyderabad Bench; rep. by its Registrar,
Hyderabad.
 2. Shri B.P. Mandelu, Tadesman, SC No.1498,
Estate Maintenance, Nuclear Fuel Complex,
Department of Atomic Energy, ECIL Post,
Hyderabad.
- ...Respondents/Resppts.

Petition under Article 226 of the Constitution of India
praying that in the circumstances stated in the Affidavit filed
herein the High Court will be pleased to issue an order or
direction or writ, more particularly one in the nature of
certiorari calling for the records in OA No. 1259/97 on the file
of the ~~Central~~ Central Administrative Tribunal, Hyderabad Bench
and to set aside the order dt. 29-1-99 in the Said O.A.

FOR THE PETITIONERS: Mr. L. Narasimha Reddy, SC for C.G.
FOR THE RESPONDENT No. 1: None appeared
FOR THE RESPONDENT No. 2: Mr. Venuri Venkateswar Rao, Advocate

The Court made the following ORDER:-

..Contd.



Department of Atomic Energy, Government of India,

Hyderabad. He was, in the year 1980, was Grade-C
 (Grade C) and was promoted to Grade D in the year 1982.

Tradesman. He was charge sheeted and a departmental
 proceedings was initiated against him. He, however, was not
 found guilty and the charges levelled against him and was
 reinstated in service on 28-8-1990. He did not serve the
 organisation from 20-2-1982 to 27-8-1990.

The question of his promotion having regard to the fact

that he was directed to be reinstated with all consequential

benefits came up for consideration before the appropriate

authority and by reason of an order dated 6-4-1996, it was

directed: that he be reinstated with all consequential

benefits. The order was signed by the Chief Administrative Officer, NFC.

The order appoints Shri

B.P. Mamdelu, Tradesman/C, EC.No.1498, EM to officiate

as Tradesman/D in an industrial temporary capacity in

NFC w.e.f. 01.02.1992.

While so officiating, Shri Mamdelu will be paid an

initial pay of Rs. 1680/- in the scale of pay of Rs. 1320-

30-1560-EB-40-2040 plus usual allowances admissible

under Central Govt. Rules. There will be no change in

other terms and conditions of his appointment as

communicated at the time of his initial appointment."

The order was signed by the Chief Administrative Officer, NFC.

The order was signed by the Chief Administrative Officer, NFC.

(**WRIT PETITION NO. 13737 of 1999.**)

JUDGMENT: (Per the Hon'ble the Chief Justice Shri S.B. Sinha).

This writ petition is directed against a judgment and order dated 29-1-1999 passed by the Central Administrative Tribunal in O.A.No. 1259 of 1997 whereby and whereunder the Original Application filed by the second respondent herein was disposed of directing:

"In view of the foregoing the impugned order dated 9-5-97 is set aside. The respondents are directed to reconsider the promotion of the applicant to the post of Tradesman-F & G as per the merit promotion scheme. His promotion to the Tradesman-D should be updated to the year of 1986 in accordance with the merit promotion scheme. However his pay in the Tradesman-D should be fixed notionally and he is eligible for arrears if any from the date he actually shouldered the responsibility of Tradesman-D. In case he is promoted to the higher grades of Tradesman-D the fixation of pay in higher grades will be done on the basis of his notional pay fixation in Tradesman-D category and arrears if any, on that basis will be awarded to him."

The basic fact of the matter is not in dispute. The second respondent herein was an employee at all material times and still is working in Nuclear Fuel Complex,

There will be no change in other terms and conditions of his appointment as communicated at the time of his initial appointment.

The second respondent, thereafter, filed a representation on 30-4-1997, *inter alia*, praying for promotion to the posts of Grade-F and Grade-G on the ground that Sri D.Krishna Rao, Sri Sunder Babu, Sri A.Rajaiah, Sri R.Narsing

Rao and Sri G.Madhusudhan, who are junior to him, had been promoted. The said representation of the second respondent

was rejected by the petitioners herein by an order dated 9-5-1997, which is in the following terms:

"With reference to his representation dated 30.4.1997, Shri B.P.Mamdelu, T/E, EC No.1498, EM is hereby informed that under Merit Promotion Scheme, promotion of Tradesman has to be considered on merit but not on the basis of seniority. As such his request for promotion to the higher grades on par with his juniors is not acceded to by the Competent Authority."

Thereafter, the aforementioned application was filed by the second respondent herein before the Central Administrative Tribunal. The learned Tribunal has noticed that

In the reply filed by the petitioners herein before it, it had

Yet again on or about 6-3-1997 a Memorandum was issued, as a result whereof his scale of pay was revised in the following manner:

"In supersession of this office O.M.No.NFC/PAR/2-96/451 dated 6-4-1996, approval of Chief Administrative Officer, N.F.C., is hereby conveyed to the promotion of Sri B.P.Mamdalu, E.C.No. 1498, E.M., to the grades of Tradesman (D) w.e.f. 01.02.82 and Tradesman (E) w.e.f. 01.02.95.

Consequently, the pay of Sri Mamdelu from time to time is regulated as detailed below:

Month & Year	Grade	Pay fixed	Remarks
01.02.82	T/D	Rs.428/-	Pre-revised scale
01.02.83	"	Rs.440/-	
01.02.84	"	Rs.452/-	
01.02.85	"	Rs.464/-	
01.01.86	"	Rs.1470/-	
			Rs.1320-3-1560-EB-40-2020 (Revised scale of pay)
01.02.86	"	Rs.1500/-	Scale of pay Rs.1400-40-1800-EB-50-2300
01.02.87	"	Rs.1530/-	
01.02.88	"	Rs.1560/-	
01.02.89	"	Rs.1600/-	
01.02.90	"	Rs.1640/-	
01.02.91	"	Rs.1680/-	
01.02.92	"	Rs.1720/-	
01.02.93	"	Rs.1760/-	
01.02.94	"	Rs.1800/-	
01.02.95	T/E	Rs.1900/-	
01.02.96	"	Rs.1950/-	
01.02.97	"	Rs.2000/-	

and granted on the basis of the performance of the officers concerned and thus there is no occasion for considering the cases of the said officers on merit-cum-suitability basis.

Mr. Vemuri Venkateswara Rao, learned counsel appearing on behalf of the second respondent, on the other hand, submitted that the reasons assigned by the petitioners in their reply before the learned Tribunal cannot be held to be relevant for the purpose of invoking the aforementioned merit promotion scheme. Mr. Rao would urge that if the second respondent could be promoted with retrospective effect from 1982 when he was not in actual service, there is absolutely no reason as to why his past performance, as also performance from 1990, cannot be taken into consideration for further promotion. The procedure for promotion of scientific and technical staff is as follows:

SCIENTIFIC PROMOTIONS

There are several checks and balance built into the system to ensure that evaluations and recommendations for promotions are done in a systematic and balanced manner. For example, there is a system of confidential report, originating from the candidate assessed by the

been stated that his case for further promotion could not be considered having regard to the fact that he was not in actual service from 20-2-1982 to 27-8-1990. The Tribunal further noticed that in reply it has been contended that he had been adequately been compensated by treating the said period as on duty and his back wages for the said period had also been paid and further more even promotions have been granted and as such he is not entitled to seek further promotions of Grade-G with effect from the date of his said representation and as alleged in the said O.A., before the Central Administrative Tribunal.

Mr. L.Narasimha Reddy, learned counsel appearing on behalf of the petitioners herein raised a short question in support of this application. The learned counsel contends that merit promotion scheme is applicable in the case of the Department Atomic Energy. Such a scheme, according to Mr. Reddy, was evolved having regard to the performance of the Scientists. The learned counsel would urge that higher posts are neither selection posts nor even existence of any vacancy required therefor. All promotions of higher scales of pay are

deserving of promotion on an overall assessment are recommended for promotion. Technical personnel recommended for promotion are given trade tests before they are interviewed. Based on the outcome of the trade tests and personal interview, promotions are considered.

Approval of the recommendation for promotion both under scientific/technical categories are required to be approved by the appropriate authority who has been delegated with powers. While processing these cases, it is necessary to ascertain whether:

(a) the candidates were on duty on the dates from which they are recommended for promotion.

(b) there is no disciplinary action pending or contemplated against them.

One important aspect of the Merit Promotion Scheme is that seniority of an individual officer is not a criterion. Generally a list of all those candidates arranged with respect to the number of years they have spent in a particular grade is made available to the Screening Committee. Based on the gradings obtained in CR and personal interview, the brighter candidates pass through every grade in the shortest possible time to reach higher levels much before his colleagues who have joined before him or along with him. This has not been accepted by the scientific and technical community in this Department. Therefore the normal definition of seniority and inter-se seniority do not apply to the promotion policy for Scientists, Engineers and Technical personnel in this Department.

Immediate superior reviewed and countersigned by the Head of the Division or Director of the Group. In the assessment form there is enough scope to reflect on the work carried out by the officer as well as his individual qualities.

On the basis of the confidential report, a Standing Screening Committee recommends the cases for promotion on the basis of standards and guidelines prescribed and it is ensured that no deserving person has been overlooked. Confidential dossiers are made available to the Screening Committee for assessing the outstanding abilities, achievements and managerial experience. The Screening Committee will be composed of immediate supervisors and balancing member from other Divisions/Units of the Department so that a uniformity exists in the entire Department.

Based on the recommendations of the Screening Committee, a selection Committee interviews the individuals and during interview detailed assessment of the candidates is made and suitable recommendations made.

TECHNICAL

Procedure for promotion of technical staff is more or less similar to the scientific personnel.

Recommendations for promotion of technical staff are screened by the Screening Committee on the basis of norms prescribed and recommendations are made on the basis of Confidential reports of the individuals. Each case is assessed on its merits taking into account factors like qualification, length of service, his ability, record of work, amenability to discipline, devotion to duty, relations with colleagues etc., and only those considered

although he was not in service from 1982 to 1990. We are, therefore, of the opinion that such an order of promotion must have been passed having regard to the performance of the second respondent either prior to initiation of departmental proceeding and consequent order of suspension issued against him and after his reinstatement, which took place on 28-8-1990. The writ petitioners, therefore, having not considered this aspect of the matter must be held to have erred in law in issuing the order dated 9-5-1997, which was impugned before the learned Central Administrative Tribunal.

We, however, may notice that the learned Tribunal in its impugned order committed a mistake in so far as it directed grant of promotion to the second respondent from 1986 to the post of Tradesman-D in accordance with the Merit Promotion Scheme and thereafter fixing his pay notionally. The learned Tribunal further erred in directing that he should be considered eligible for arrears, if any, from the date he actually shouldered the responsibility of Tradesman-D. Having regard to the nature of the Merit Promotion Scheme, as noticed hereinbefore, such a direction was uncalled for having

the validity of the scheme is not in question.

The validity of the aforementioned scheme is not in question. The learned Central Administrative Tribunal

therefore, in our opinion, has rightly proceeded to consider the

respective cases of the parties having regard to the said

scheme only. It may be that in a given case having regard

to the peculiar nature of the said scheme, the case of the

second respondent could not have been considered for further

promotion, but as indicated hereinbefore, such a case has not

been made out by the petitioners. The second respondent had

been reinstated in service with all consequential benefits,

which would include consideration of his case for promotion in

terms of the existing Unit's rules. It may be that the second

respondent was not in actual service for a long time viz., from

20-2-1982 to 27-8-1990. But that did not, as indicated

hereinbefore, stand in his way in obtaining promotion from

Group C to D from 1-2-1982 and further promotion from

Group D to E from 1-2-1995.

Thus, the second respondent's case for promotion had

been considered, at least, from Group C to D and D to E,

regard to the fact that the second respondent was entitled to an order of up-gradation strictly in terms of the said Scheme and not otherwise. Although a person is not entitled to an order of promotion, but having regard to the scope and purport of Article 16 of the Constitution of India, he is only entitled to be considered therefor in terms of the extent rules. We, therefore, in modification of that order passed by the learned Tribunal, direct that the case of the second respondent for further promotion may be considered, despite the fact that he was not in actual service from 20-3-1982 to 27-8-1990 keeping in view the performance since 1990 in the light of the observations made hereinbefore.

The writ petition is disposed of with the aforementioned directions.

Sd/- T.R. RATNA KUMAR
ASST. REGISTRAR

|| TRUE COPY ||

SECTION OFFICER

One Fair Copy to the Hon'ble Mr. S.B. Sinha, The Chief Justice
(for His Lordships kind perusal)

One Fair Copy to the Hon'ble Mr. Justice S.R. Nayak
(for His Lordships kind perusal)

To

1. The Registrar, Central Administrative Tribunal, Hyderabad.
2. 8 L.R. Copies
3. The Under Secretary, Union of India, Ministry of Justice, Law and Company Affairs, New Delhi.
4. The Secretary, A.P. Advocates Association (library), High Court, Hyderabad
5. 2 C.D. Copies
6. One CC to Mr. V. Venkateshwar Rao, Advocate (OPUC)

t/kgk

High court File No. 80/99

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

WPMP.No. 16830 of 1999

WRIT PETITION NO. ⁱⁿ 13737 /1999

A writ Petition was filed in the High Court of Andhra Pradesh
by ~~Sri~~ Chief Executive, N.F.C., Hyderabad & Or. Vs Registrar, CAT, Hyd. & Am.
against the Order/Judgment of this Hon'ble Tribunal ~~dated~~
dated 29-1-99
and made in O.A.No. 1259/97.

The High Court was pleased to ~~pass an order~~ and notice on 9-7-99. Order Interim
Suspension ~~of the operation of Judgment on~~

The Judgment of the Tribunal in O.A.No. 1259/97
& notice
and the order of the High Court of Andhra Pradesh enclosed
herewith for perusal.

Submitted.

Deputy Registrar.

Hon'ble Vice-Chairman. 23/8

Hon'ble Member(A) I 23/8

Hon'ble Member(A) II

Hon'ble Member(J) 23/8

12/10/99
17/8/99
17/8/99

21/11/99

IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH AT HYDERABAD.

FRIDAY THE NINTH DAY OF JULY, 1999
PRESENT

HON'BLE MR. JUSTICE B. SUBHASHAN REDDY
AND
HON'BLE MR. JUSTICE E. DHARMA RAO

W.P.M.P.No. 16830 of 1999
in

W.P.No. 13737 of 1999

Between:

1. The Chief Executive, Nuclear Fuel Complex, Department of Atomic Energy, ECIL Post, Hyderabad.
 2. The Deputy Chief Executive (Admn.) Nuclear Fuel Complex, Department of Atomic Energy, ECIL Post, Hyderabad.
 3. The Manager (Personnel & Admn.) Nuclear Fuel Complex, Department of Atomic Energy, ECIL Post, Hyderabad.
 4. The Administrative Officer, Nuclear Fuel Complex, Department of Atomic Energy, ECIL Post, Hyderabad. ... Petitioners/ (Petitioners in W.P.No. 13737/99 on the file of High Court)
- and

1. The Central Administrative Tribunal, Hyderabad Bench, rep., by its Registrar, Hyderabad.
2. Shri B.P. Mandelu, Tradesman, EC.No. 1498, Estate Maintenance, Nuclear Fuel Complex, Department of Atomic Energy, ECIL Post, Hyderabad-62. ... Respondents/ (Respondents in do)

Counsel for petitioners: Mr. B. Adinarayana Rao, Sr. Central Govt. Standing Counsel
Counsel for respondents: V. Venkateswara Rao for R-2

Petition filed under Section 151 of C.P.C., praying the High Court to issue an order to suspend the operation of the order dt. 29.1.1999 in O.A.No. 1259/97 on the file of the Central Administrative Tribunal, Hyderabad Bench, pending W.P.No. 13737/99 on the file of the High Court.

The Court, while directing issue of notice to the respondents herein to show cause why this application should not be complied with made the following order. (The receipt of this order will be deemed to be the receipt of notice in the case)

ORDER

Interim suspension. Notice.

Sri V. Venkateswara Rao, takes notice for R-2 and seeks time to file counter.

Post after three weeks.

|| TRUE COPY ||

332
28/7/99

28 JUL 1999

Sd/- D. LAKSHMINARAYANA,
ASSISTANT REGISTRAR

for ASSISTANT REGISTRAR

1. The Registrar, The Central Administrative Tribunal, Hyderabad Bench, Hyderabad. (BY RPAD)
2. B.P. Mandelu, Tradesman, EC.No. 1498, Estate Maintenance, Nuclear Fuel Complex, Department of Atomic Energy, ECIL Post, Hyderabad. (BY P/ Energy)

Hearing date

RETURN OF THE WRIT OF CERTIORARI ORDER NISI

[To be Ordered on Writ to appear]

The process of the writ of certiorari where of mention is made, was served on respondent this day of One thousand nine hundred and ninety.

This should be served on the Respondent No. and to the High Court.

[Sd]

Writ and Rule Nisi

W.P.No. of 199

Certified that the required conveyance charges and the process for the service of the process have been collected. It is requested that the English Translation of the process services respect if is vernacular, may be sent along with the Rule Nisi returned.

FORM NO. 8.

FORM NO. 8

RETURN OF THE WRIT OF CERTIORARI UNDER NISI

[To be endorsed on writ to produce.

The process of the writ certiorari were of mention is within made with all things launching the same in the several papers hereto annexed, as with commanded.

The annexure of

The

respondent herein

Date

day of

Sd/-

WRIT OF COURT ORDERS—ORDER LIST (TO PRODUCE AND/OR TO APPEAR)
IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD.

(Special Original Jurisdiction)

day, the 9th day of July

One thousand nine hundred and ninety nine

WRIT PETITION NO. 13737 of 1999

Between The Chief Executive, Nuclear Fuel complex
Dept of Atomic Energy, ECIL Post, Hyd & others Petitioner

And

Central Admn Tribunal, Hyderabad Bench Respondent
rep by its Registrar, Hyd & others.

Respondent No. 1

Mr. B. Adinarayana Rao. Upon motion this day made into this Court by being opinion that the record relating to and touching upon all the matters and contentions raised in the Memorandum of representation petition, a copy of which is annexed hereto, together with the decision therein, should be called for and pursued.

IT IS HEREBY COMMANDED

- 1) That you, the aforesaid respondent No. do send for our use in High Court of Judicature of Andhra Pradesh, Hyderabad, all and singular the said record and other with all things touching the same as fully and perfectly as they have been made by you and now remain your custody or power together with this, Rule Nisi before the day of 1999 and 8th Aug 99.

That you intend to oppose the petition, you the aforesaid Respondent No. do appear personally or by Advocate before the 8th day of Aug 1999 at 10-30 a.m. before the Court show cause why this Petition should not be complied with and that we may cause to be done there on what of right and according to Law shall see fit to be done.

Notice :— YOU HAVE TO FILE YOUR COUNTER AFFIDAVIT WITHIN 6 MONTHS, UNLESS OTHERWISE DIRECTED BY THE HIGH COURT, MATERIAL PAPERS RELIED UPON BY YOU SHOULD BE FILED IN BOOK FORM DULY STITCHED GIVING EXHIBIT NUMBERS TO EACH DOCUMENT.

WITNESS : The Hon'ble M. H. C. Liberman
Andhra Pradesh at Hyderabad, this the 22nd day of July
One thousand nine hundred ninety nine.

HYDERABAD BENCH

29 JUL 1999

WIT/RECEIVED
JUDICIAL SECTION

Chief Justice of High Court of
day of 1999 i.e. the year

Assistant Registrar.

341
29/7/99

AFFIDAVIT FILED ON BEHALF OF THE PETITIONERS

I, S.Goverdhan Rao, S/o S.Sanjeeva Rao, aged 37 years, R/o Krishna Nagar Colony, Moula Ali, Hyderabad, do hereby solemnly state and sincerely affirm as follows.

1. I am working as Administrative Officer in the Office of the Nuclear Fuel Complex, Department of Atomic Energy, Govt. of India, Hyderabad and as such I am well acquainted with the facts and circumstances of the case. I am duly authorised to file this affidavit on behalf of the Petitioners.

2. I submit that this Writ Petition is being filed questioning the Order of the Central Administrative Tribunal, Hyderabad Bench in O.A. No.1259/97 dated 29.01.1999 for being illegal, arbitrary and contrary to the 'Merit Promotion Scheme' in vogue in the Nuclear Fuel Complex of the Department of Atomic Energy for its scientific and technical personnel (of which the Nuclear Fuel Complex is a constituent unit). A copy of the O.A. No.1259/97 and Order dated 29.01.1999 of the Hon'ble Tribunal in the said O.A. are enclosed as Annexure-1 and Annexure-2.

3. I submit that the Second Respondent herein i.e., the Applicant in O.A. No.1259/97 before the Central Administrative Tribunal, Hyderabad Bench, was suspended on 20.02.1982 while working as Tradesman 'C', following the allegation of his involvement in a theft case, and pursuant to the result of a departmental enquiry was removed from service with effect from 20.06.1984. However, the Central Administrative Tribunal, Hyderabad Bench by an Order in T.A.No.21/88, dated 09.03.1990, directed reinstatement of the Second Respondent into service and in compliance with the same, the Second Respondent was reinstated into service on 28.08.1990.

2nd page,
corrections :

ATTESTOR

DEPONENT

श्री. वी. रामी रेड्डी
V. V. RAMI REDDY
प्रति अधिकारी II Adm. Officer-II,
एन एफ सी / Nuclear Fuel Complex,
भारत सरकार / Govt. of India,
हैदराबाद / HYDERABAD-500 062.

S. GOVERDHAN RAO
Administrative Officer
Govt. of India
Dept. of Atomic Energy
NUCLEAR FUEL COMPLEX
Hyderabad-500 062.

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
HYDERABAD**

W.P. No. 13737 OF 1999

BETWEEN :

1. The Chief Executive,
Nuclear Fuel Complex
Department of Atomic Energy
ECIL Post, Hyderabad – 500 062.
2. The Deputy Chief Executive (Admn.)
Nuclear Fuel Complex
Department of Atomic Energy
ECIL Post, Hyderabad – 500 062.
3. The Manager (Personnel & Admn.)
Nuclear Fuel Complex
Department of Atomic Energy
ECIL Post, Hyderabad – 500 062.
4. The Administrative Officer
Nuclear Fuel Complex
Department of Atomic Energy
ECIL Post, Hyderabad – 500 062.

..... **PETITIONERS**

Vs

1. The Central Administrative Tribunal
Hyderabad Bench,
Rep. by its Registrar
2. Shri B.P.Mamdelu
Tradesman, EC No.1498
Estate Maintenance,
Nuclear Fuel Complex
Department of Atomic Energy
ECIL Post, Hyderabad – 500 062.

..... **RESPONDENTS**

1st page,
corrections :


ATTESTOR

श्री. वी. रामी रेड्डी
V. V. RAMI REDDY
प्रशा. अधिकारी II Admn. Officer-II,
एन एफ सी / Nuclear Fuel Complex,
भारत सरकार Govt. of India,
हैदराबाद/HYDERABAD-500 062.


DEPONENT

S. GOVERDHAN RAO
Administrative Officer
Govt. of India
Dept. of Atomic Energy
NUCLEAR FUEL COMPLEX
Hyderabad-500 062.

7. I submit that it was also reiterated that the allegation of the Second Respondent that his co-employees were promoted is irrelevant, as the '*Merit Promotion Scheme*' is not based on seniority. The Hon'ble Tribunal failed to consider the aforementioned crucial aspects of the case/scheme, and went on to pass orders mechanically basing its reasoning on a pedantic interpretation that since the Second Respondent was ordered to be reinstated with all consequential benefits, he was bound to be considered for promotion to Tradesman 'E' w.e.f. 1986 and to re-consider his promotion to the grades of Tradesman 'F' & 'G' as per the '*Merit Promotion Scheme*' of the Department. Hence, the Writ Petition.

8. I submit that when the Second Respondent had not served for the period between 20.02.1982 to 27.08.1990, granting him promotion to the grades of Tradesman 'D' and Tradesman 'E' with effect from 01.02.1982 and 01.02.1995 respectively (based on the record of his performance available) was itself more than what he deserved and done in all fairness. Further, considering him for promotion to the grades of Tradesman 'E' w.e.f. 1986, Tradesman 'F' and Tradesman 'G' in accordance with the '*Merit Promotion Scheme*' of the Department on the basis of his promotion to the grade of Tradesman 'E' w.e.f. 1986 as per the direction of the Hon'ble Tribunal will be acting contrary to the spirit of the '*Merit Promotion Scheme*' and the order is impossible to be complied with without violating the '*Merit Promotion Scheme*'.

9. I submit that the Petitioners herein have no other alternative remedy except to approach this Hon'ble Court under Article 226 of the Constitution of India. They have not filed any other Writ Petition nor initiated any other proceedings for the grant of relief as prayed for.

4th page,
corrections :

ATTESTOR

DEPONENT

वी. वी. राम रेड्डी
V. V. RAMI REDDY
प्रशा. अधिकारी - II Admn. Officer-II,
एन एफ सी / Nuclear Fuel Complex,
भारत सरकार Govt. of India,
हैदराबाद/HYDERABAD-500 062.

S. GOVERDHAN RAO
Administrative Officer
Govt. of India
Dept. of Atomic Energy
NUCLEAR FUEL COMPLEX
Hyderabad-500 062.

4. I submit that following reinstatement the Second Respondent made a representation claiming promotion and the Petitioners promoted the Second Respondent to the grades of Tradesman 'D' and Tradesman 'E' with effect from 01.02.1982 and 01.02.1995 respectively. However, the Second Respondent made further representation alleging that he ought to be promoted to the grades of Tradesman 'E', Tradesman 'F' and Tradesman 'G' with effect from 01.02.1986, 01.02.1991 and 01.02.1997 respectively on par with those of his co-employees given promotions from the said dates. The Merit Promotion Scheme is based on the performance of the employees and has little to do with seniority. The Second Respondent has not served the Department during the period 20.02.1982 to 27.08.1990 and his performance during the above period cannot, therefore, be assessed and hence his request was turned down by letter dated 09.05.1997.

5. I submit that aggrieved by the rejection of his claim for promotion to the grades of Tradesman 'E' Tradesman 'F' and Tradesman 'G' with effect from 01.02.1986, 01.02.1991 and 01.02.1997 respectively, the Second Respondent filed O.A. No.1259/97 before the Central Administrative Tribunal, Hyderabad Bench and the Tribunal passed Orders dated 29.01.1999 directing the Petitioners herein to reconsider the promotion of the Second Respondent to the grades of Tradesman 'F' and Tradesman 'G' as per the Merit Promotion Scheme and to advance his promotion to Tradesman 'E' to the year 1986.

6. I submit that the Petitioners filed Counter Affidavit before the Hon'ble Tribunal stating that as per the guidelines under the '*Merit Promotion Scheme*', the number of years that an individual has served in his present grade ; the relevance and excellence of the contents of the work carried out by him and reported in the self-assessment section of the Annual Confidential Reports and the performance in the interview before a Standing Selection Committee (DPC) will have to be considered if an employee is to be given promotion.

3rd page,
corrections :


ATTESTOR

वी. वी. राम रेड्डी
V. V. RAMI REDDY
प्रशा. अधिकारी II Admn. Officer-II,
एन एफ कॉ / Nuclear Fuel Complex,
भारत सरकार Govt. of India,
हैदराबाद/HYDERABAD-500 062.


DEPONENT

S. GOVERDHAN RAO
Administrative Officer
Govt. of India
Dept. of Atomic Energy
NUCLEAR FUEL COMPLEX
Hyderabad-500 062.

10. For the reasons mentioned above and others to be argued at the time of hearing, it is humbly prayed that this Hon'ble Court be pleased to issue an order or direction or Writ, more particularly one in the nature of *Certiorari* calling for the records in O.A.No.1259/97 on the file of the Central Administrative Tribunal, Hyderabad Bench, and set aside the Order dated 29.01.1999 in the said O.A., and pass such other order or orders deemed fit in the interests of justice.

11. Pending disposal of the Writ Petition, it is humbly prayed that this Hon'ble Court be pleased to suspend the operation of the Order dated 29.01.1999 in O.A. No.1259/97 on the file of the Central Administrative Tribunal, Hyderabad Bench and pass such other order or orders deemed fit in the facts and circumstances of the case.

5th and last page,
corrections :

Solemnly sworn and signed his name
On this the day of June, 1999.


DEPONENT

S. GOVERDHAN RAO
Administrative Officer
Govt. of India
Dept. of Atomic Energy
NUCLEAR FUEL COMPLEX
Hyderabad-500 062.

Before me



ATTESTOR

वी. वी. रामी रेड्डी
V. V. RAMI REDDY
प्रशा. अधिकारी II Admn. Officer-II,
एन एफ सा / Nuclear Fuel Complex,
भारत सरकार Govt. of India,
हैदराबाद/HYDERABAD-500 062.

**Memorandum of Writ Petition.
(Under Art. 225 of the Constitution of India).**

**In the High court of Judicature of A.P. at Hyderabad.
(Special Original Jurisdiction).**

W.P.No. 13737 of 1999.

Bet:-

1. The Chief Executive, Nuclear Fuel Complex, Department of Atomic Energy, ECIL Post, Hyderabad. 62.
2. The Deputy Chief Executive (Admn) Nuclear Fuel complex, Department of Atomic Energy, ECIL Post, Hyderabad. 62.
3. The Manager (Personnel & Admn) Nuclear Fuel complex, Department of Atomic Energy, ECIL Post, Hyderabad. 62.
4. The Administrative officer, Nuclear Fuel complex, Department of Atomic Energy, ECIL Post, Hyderabad. 500062. ... petitioners.

and

1. The Central Administrative Tribunal, Hyderabad Bench, rep by its Registrar, Hyderabad.
2. Shri. B.P. Mandelu, Tradesman, EC No. 1498, Estate Maintenance, Nuclear Fuel complex, Department of Atomic Energy, ECIL Post, Hyderabad-500 062. ... Respondents.

The address for service on the petitioners is that of Mr. D. Adinarayana Rao, Advocate, Sr. Central Govt Standing counsel, High court, Hyderabad.

For the reasons stated in the accompanying affidavit, the petitioners herein prays that this Hon'ble court may be pleased to issue an order or direction or writ, more particularly one in the nature of Certiorari calling for the records in O.A.No. 1259/97 on the file of the Central Administrative Tribunal, Hyderabad Bench and set aside the order dated. 29-1-1999 in the said O.A. and pass such other orders as may deem fit.

**Hyderabad.
1-27-1999.**

W. Sharma
counsel for petitioners.

