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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.826/99

DATE OF ORDER : 7-4-2000

Between :-

1. C.Srisailam 5. T.M.Narayana
2. M.B.Satya Kumar 6. N.Krishna Rao
3. C.Janardhan 7. M.Ramamurthy
4. P.Rajendra Prasad

..Applicants

And

1. Union of India rep. by the Secretary,
Dept. of Atomic Energy, Govt. of India,
CSM Marg, Mumbai-400039.
2. Staff Relations Officer, Dept. of Atomic
Energy, Govt. of India, CSM Marg,
Mumbai-400 039.
3. Chief Executive, Nuclear Fuel Complex,
ECIL Post, Hyderabad-500062.

..Respondents

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Counsel for the Applicants : Shri P.B.Vijaya Kumar

Counsel for the Respondents : Shri B.N.Sarma, Sr.CGSC

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CORAM:

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

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

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

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(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

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Heard Sri P.N.Reddy for Sri P.B.Vijay Kumar, learned counsel for the applicant and Sri M.C.Jacob for Sri B.N.Sarma, learned Standing Counsel for the Respondents.

2. There are 7 applicants in this O.A. They are working as Tradesmen in the various departments under the Respondent No.3 and have put in long years of service. Applicants 1, 2, 4 and 5 are working as Tradesman-E. Applicant No.3 is working as Tradesman-G. Applicant No.6 is working as Tradesman-D and applicant No.7 is working as Tradesman-B in the Nuclear Fuel Complex. They submit that the promotions are given to the employees as per the scheme in the category of Scientific Officers, Supervisors and Technicians. In the normal course the Technicians are not promoted to the grades of Scientific Assistant and Scientific Officers. While this scheme has been in vogue since the inception of ^NJFC, yet in order to have skilled staff members and also to motivate the employees to acquire additional qualifications in the sphere of their duties while in service, a revised scheme was introduced during the year 1984 as recommended by TC/TSC, according to which the employees who acquire additional qualification in their respective field of work which is useful to the functions of the organisation would be assessed and promoted to the grades to which they are found to be suitable. In order to consider their cases more in the nature of direct recruitment to another category the norms as prescribed for direct recruitment to such categories would be made applicable.

They submit that the TC/TSC had raised the percentage of marks to 60% while revising the norms vide its meeting held on 27.10.92. Based on the clarifications furnished by TC/TSC it was decided in NFC to raise the percentage to 60% to consider the cases of promotion of persons acquiring the higher qualifications either B.Sc.Degree or Diploma in any of the Engineering courses with effect from February, 1995. When the NFC employees Association have resisted such a move, it was agreed in a meeting dated 20.5.95 of NFC Management and NFCEA to consider all the pending cases as on 1.2.95 as per earlier arrangement as an "one time measure" and it was made clear to the Employees Association that from August, 1995 onwards no relaxation in percentage of marks would be made, strictly adhering to the norms prescribed.

3. Only in case of direct recruitment and promotion of the employees no percentage was prescribed in the Recruitment and Promotion Rules. In any organisation employees acquire higher qualification after joining the organisation to improve their promotional avenues and for career development. Instead of encouraging the employees to acquire additional qualifications, the NFC management is discouraging the employees by prescribing 60% of marks as criteria for promotion. They submit that some of the employees aggrieved by the revised percentage had approached this Tribunal in OA 617/96 praying for a direction to the respondents to consider their cases for promotion to the post of Scientific Assistant A/B under merit promotion scheme in terms of agreement arrived at between the Management and the Employees Association on 16-1-92. While disposing of the above OA, the Tribunal directed

as under :-

"If the applicants fulfil the conditions as laid down in the letter No.NFC/01/03/92-IR/022 dt.31-1-92 on or before 31-8-95 for consideration for promotion to the post of Scientific Assistant A/B, they shall be considered in accordance with the letter dt.31-1-92 and if found fit they shall be promoted as Scientific Assistant A/B in accordance with the rules."

4. As per the above direction, Respondent No.3 herein by proceedings dt.10.3.99 have proposed to consider the cases of the applicants in the OA 617/96. But, surprisingly the Respondent No.3 included the two Tradesman (E) viz S/Sri B.Satyanarayana who is a L.M.E. with 54% of marks and Ch.Mugali, MTP who is a L.E.E. with 59.6% marks in the list of candidates to be considered for promotion. Their inclusion is contrary to the revised promotional policy in the post-acquired qualifications. Both of them having less than 60% of marks in their qualifications, which qualifications were acquired only after the cut off date i.e. August, 1995. Originally the meeting of the Standing Selection Committee meeting was scheduled on 19.3.1999 but afterwards postponed to 27.3.1999.

5. They further submit that all the applicants herein are Diplomaholders, except ^{the} applicant Nos.3 and 7 who are having B.Sc. degree with percentages ranging from 44% to 59.85%. They are aspirants for promotion to the post of Scientific Assistant A/B. The applicants are also equally eligible for promotion to the post of Scientific Assistant A/B as of S/Sri Ch.Mogilli and G.Satyanarayana. They submit that the NFC never Circulated the letter of 92 to anybody and atleast they should have notified to those who applied seeking permission to study higher studies

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the requirement of 60% for the purpose of promotion. If the departmental candidates are treated on par with the direct recruits, virtually there is no weightage to the service rendered all along by the applicants. Further the management in its recent advertisement for the post of Scientific Asst. A (Radio Graphis) advertised only 50% of the marks in B.Sc. and it is also mentioned that one Mr.T.Narasimha of A.M.D., which is a sister concern of N.F.C. was also promoted to the next higher post without having 60% marks in the qualifying examination. // Thus they have filed this OA to declare the prescription of 60% of minimum marks in B.Sc for scientific and Technical Grades under Ref.No.TC/1(12)/92/ 3299 dt.3-11-92 as arbitrary, illegal and discriminatory and by quashing the same direct extension of promotion to all the applicants without reference to 60% of minimum marks on par with other similarly placed employees with effect from the date of their acquisition of the qualifications with all consequential and attendant benefits.

6. The respondents have filed the reply. They submit that as per the understanding arrived at between the Management and the Association 31-1-1992 (Annexure R-2 page-11 to the counter), it was agreed to consider the employees of who acquired more than 55% of marks with any two subjects out/three (Physics, Mathematics & Chemistry) can be considered for Scientific Assistant 'B' and those with less than 55% marks for Scientific Assistant 'A'. In the meanwhile the recruitment norms have been revised in the meeting held on 27-10-1992 and percentage of marks was raised to 60% (Annexure R-3 to the counter). Based on the clarification fur-

nished by TC/TSC ~~as per~~ order No.TC/1(5)/94/3669 dated 19.12.94 (Annexure R-4 to the counter) it was decided in NFC to raise the percentage of 60% to consider the cases of promotion of persons acquiring higher qualifications either B.Sc.Degree or Diploma in any of the engineering courses with effect from February, 1995. When the NFC Employees Association have resisted such a move, it was agreed in a meeting held on 20.5.1995 of NFC Management with NFC Employees Association to consider all the pending cases as on 1-2-1995 as per the earlier arrangement as a one time measure and it was made clear to the NFC Employees Association that from August, 1995 onwards no relaxation of percentage of marks ~~would be~~ made. Accordingly the cases of the employees fulfilling the said requirement i.e. possessing 60% marks in B.Sc or Diploma in Engineering alone were considered. Against this decision the Association and others had filed OA 617/96. The Tribunal had directed the respondents to consider the cases of the employees who acquired higher qualifications upto the end of August, 1995 for promotion to the post of Scientific Assistant A or B as per the old norms and thereafter the new norms can be followed. In view of that direction all the cases of such employees including the applicants herein who acquired qualification beyond August, 1995 were considered to avoid further litigation. They submit that the applicants acquired the qualification after 1-2-1996.

7. Thus they submit that the applicants having acquired qualification after August, 1995 with less than 60% marks cannot claim promotion for Scientific Assistant 'A' or 'B'.

8. Thus they pray for dismissal of the O.A.

9. The applicants have filed rejoinder stating that inspite of the directions in OA 617/96, other persons have been given promotion in the month of January, 1996 but the applicants cases were overlooked on the ground that they does not possess 60% of marks. They further submit that as per the direction in OA 617/96, it is submitted that it was not brought to the notice of courts that for the purpose of promotion to the post of Scientific Assistant-A, Technicians/Tradesman are governed by merit promotions scheme for which vacancies are not required and the main criteria is seniority and further application of rules of direct recruitment to the promotees ignoring considerable length of service 15 to 20 years is illegal, erroneous and also violative of Article-14 to Constitution of India.

10. It is stated that as per the meeting held between the Association ~~and the Management~~ it was resolved to relax the 60% of marks to those employees who had secured higher qualification earlier to August, 1995. Further the Management had taken the decision that after August, 1995 they will strictly adhere to the recommendations of the TC/TSC in following the norms in the letter dated 16-7-1992, the applicants in the rejoinder attempted ~~out a~~ to make ^{out a} case that they are eligible for promotion in the merit quota. It is not possible to accept the contention of the applicant when the applicant acquired higher qualification in 1996 with less prescribed marks. ^{They} cannot claim promotion to the post of Scientific Assistant 'A' or 'B' on the ground that the Management ~~had~~ agreed to give such relaxation earlier. The respondents have categorically stated that after August, 1995,

no official having less than 60% marks was considered for promotion. When that is so the applicants having acquired the qualification with less percentage of marks than prescribed after August, 1995 cannot claim for promotion to the post of Scientific Assistant 'A' or 'B'.

11. The applicants in the prayer requests for setting aside the impugned order dated 3-11-1992. It is not that the applicants does not know about the instances of 3-11-1992. The very fact that an understanding was reached along with the Union and during the discussions held on 20.5.1995, it cannot be said that the applicants ^{are} not aware of the circular dt. 3-11-1992. Even if it is not circulated, it cannot be said that the applicants are not aware of the circulars prescribed in the letter dated 3-11-1992., as they were not promoted even earlier to the post of Scientific Assistant. ~~Hence challenging the letter dated 3.11.1992 by filing this OA has to be ~~not~~ considered as belated one. Hence the applicants cannot get the relief due to law of limitation.~~ Secondly even if considering the request of the applicants to set aside the letter dated 3-11-1992 the same cannot be done in view of the observations and the directions given in the earlier OA 617/96 dated 22.9.1998. In that OA all the contentions raised in this OA considered and on that basis only it was held that the agreement reached between the Management and Union in the meeting held on 20.5.95 is followed but no ~~new~~ ~~new~~ period is extended from 1.8.1995 to 31.8.1995 by that order. Hence we see no new point to set aside the impugned notification dated 3.11.1992.

J

12. The applicant contends that some other employees were promoted even though they did not fulfill the qualifications as per the order dated 3-11-1992 even after 31-8-1995. The reply is very clear in that connection. In the reply it is stated that none others except Mr. L.P.Sastry was promoted in accordance with the agreement reached in the meeting held on 20-5-1995 as he had acquired the additional qualification on 19.5.1995, earlier to 1.8.1995 and all other applicants were eligible for promotion only with effect from 1.2.1996 and they acquired their qualification between 2-8-1995 and 1-2-1996.

13. The applicant in this OA has not given details as having acquired the qualification earlier to 31.8.1995 either in the OA or in the rejoinder. Hence the applicant cannot ask for the promotion. In view of what is stated above, we find no merits in the O.A. and the same is dismissed. No order as to costs.


(B.S.JAI PARAMESHWAR)
Member (J)
7.4.00


(R.RANGARAJAN)
Member (A)

Dated: 7th April, 2000
Dictated in Open Court.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH, HYDERABAD

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

COPY TO:

1. HDHNC

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

2. HRRN(ADMN) MEMBER

THE HON'BLE MR. R. RA'NGARAJAN
MEMBER (ADMN)

3. HBSJP(JUDL) MEMBER

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

4. D.R. (ADMN)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

DATE OF ORDER

7/4/00

MA/RA/CP.NO.

IN

CA. NO.

826/00

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय नियन्त्रित अधिकारी
Central Administrative Tribunal
हैदराबाद न्यायालय
HYDERABAD BENCH

-8 MAY 2000

Despatch No.

प्रमाणित/प्रमाणित
verified/verified