

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1092 of 1999

DATE OF ORDER: 22nd FEBRUARY, 2001

BETWEEN:

C.Babu Prasad, s/o late C.P.Jacob,
Technical Assistant-A, Defence
Research & Development Laboratory,
Kanchanbagh, Hyderabad.

.. APPLICANT

AND

1. The Union of India, rep. by the Secretary
to Government, Ministry of Defence,
South Block, New Delhi-110 001.
2. The Defence Research & Development
Organisation, Ministry of Defence,
New Delhi, rep. by the Scientific
Advisor to Defence Minister.
3. The Director, Defence Research &
Development Laboratory, Kanchanbagh,
Hyderabad-500 058.
4. Senior Administrative Officer,
Grade-I, Defence Research &
Development Laboratory,
Kanchanbagh, Hyderabad.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.N.RAMA MOHANA RAO

COUNSEL FOR THE RESPONDENTS: Mr.B.NARSIMHA SHARMA

CORAM:


HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN

HON'BLE SRI M.V.NATARAJAN, MEMBER (ADMN.)

:JUDGEMENT:

ORDER(PER HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, VICE
CHAIRMAN)

The sole grievance of the applicant in this
application is with regard to his non-promotion to the post
of Technical Assistant 'B'.



2. The applicant was working as Technical Assistant 'A' in The Defence Research & Development Laboratory, Hyderabad. The next higher post on promotion is Technical Assistant 'B' to which he was eligible for consideration. The promotion was by way of Flexible Complementing Scheme in accordance with Rule 8 of the Defence Research & Development Organisation Technical Cadre Recruitment Rules, 1995 (for short DRTC Rules). Rule 8 reads as under:-

"Promotions from one grade to another grade in the cadre shall be made under the limited flexible complementing system. Employees in each grade who have rendered a minimum of 5 years regular service in the grade as on 1st September of the year of assessment including the service rendered by them in a post included in schedule 1 and held by them immediately before the date of commencement of these rules shall become eligible for assessment for promotion to the next higher grade.

Provided that relaxation upto three months in the qualifying service for eligibility for assessment may be given to direct recruits or promotees who join after 1st September for reasons beyond their control.

Provided further that if a junior is eligible for assessment having completed minimum residency period, all individuals senior to him shall also be eligible for assessment."

As per these rules, employees who had completed 5 years of



regular service as on 1st September of the year of assessment including the service rendered in a post included in Schedule 1 and held by them before the commencement of these rules shall become eligible for the posts for promotion to the next higher grade. The period of five years is called 'residency period'. As per these rules, interviews for Technical Assistant-B were to be held in May 1996 and a list of 25 Technical Assistants Grade 'A' has been published who are found eligible for such assessment. The name of the applicant was, however, not included therein on the plea that he had not completed 5 years. He, therefore, moved the Tribunal in OA 569/96 questioning the non-inclusion of his name in the list and the Tribunal by the interim order dated 1.5.96 directed to interview the applicant taking into consideration his service of Tradesman 'A' and Junior Scientific Assistant Gr.II put together, but his result not to be published until further orders. Pursuant to the interim order, he was assessed and the result was kept in a sealed cover. Before the OA came up for final hearing, the DRTC Rules stood amended in 1997 and by virtue of the amendment, the applicant was also made eligible for being assessed. As the applicant was already assessed, the Tribunal directed the result be declared and the applicant be promoted if found fit. But after the sealed cover was opened, it was found that the applicant was not found fit for promotion in the order of merit. The said action of respondents is now impugned in this OA.

3. In the additional reply filed by the respondents, it was stated that 18 vacancies were released initially

taking 70% of 26 eligible candidates. Later on as per the Central Administrative Tribunal's orders, two more individuals were considered. As per SRO 177/95, the maximum vacancies to be filled by way of promotion was 70% of the eligible candidates in the lower grades and the 30% in the higher grades. The rationale for fixing this percentage was explained as to maintain the overall cadre structure keeping in view the organisational requirement as well as to safeguard the career prospects of the employees in a balanced way. It was stated that the applicant was considered strictly in accordance with the rules but he was not found fit.

4. We have heard the counsel on either side and perused the minutes of the selection.

5. The main contention of the learned counsel for the applicant is that the promotion being on the basis of the assessment of the eligible employees in respect of each year, the concept of a fixed number of vacancies to which employees are promoted will not arise. It is his argument that all the eligible employees, should be considered for assessment without reference to the number of vacancies, for promotion. This appears to be a sound argument, at the first blush, but on going into the Scheme under rule 8 of the Rules, in detail, we find no substance in the plea.

6. Sub-rule 2 of rule 8 gives an indication as to the maximum number of employees in a grade who could be considered for promotion subject to their being found fit. It reads as under:-



"The maximum number of employees in a grade who can be promoted to the next higher grade subject to their being found fit for promotion shall be a percentage of the total eligible employees in that grade at each annual assessment as given in Schedule-IV subject to the provision of sub-rule (6) of rule 4."

Sub-rule 6 of rule 4 which has to be considered in this context is reproduced herein below:-


"(6) Notwithstanding anything contained in the foregoing sub-rules, the authorised combined strength of categories II and III shall, at no time, exceed 70% of the total authorised strength of the cadre. The authorised strength of various categories and grade shall be further subject to the following conditions:-

(a) the combined strength of grades 3 and 4 of category-I shall not exceed 70% of the total strength of category I;

(b) the combined strength of grades 3 and 4 of category-II shall not exceed 70% of the total strength of category-II; and

(c) the combined strength of grades 3 and 4 of category-III shall not exceed 30% of the total strength of category III."

Sub-rule 2 of Rule 8 fixes the maximum number of employees in a grade who could be promoted during assessment in



respect of each year. Rule 4 provides for the procedure for fixation of authorised permanent strength of various grades in the cadre, from time to time. Sub-rule 6, however, limits the authorised combined strength of categories II and III at 70% of the total authorised strength of the cadre. Thus it is clear that the eligible candidates are entitled to be assessed for promotion only against the fixed number of posts which depends upon the percentage of the eligible candidates. In the instant case, it was 70%.

7. A perusal of the assessment sheet discloses that the total number of eligible employees were found as 26. As per SRO 177 dated 26.8.95 putting the limit as 70% of them, it came to 18 posts (18.2). The reservations are as follows: Unreserved - 13 posts, SC - 3, and ST - 2. Thus the applicant along with the other eligible candidates had been considered for filling up 18 posts and the merit list has been prepared. The applicant belongs to unreserved category. The last mark in the merit list against unreserved category was 80 out of 100. The sealed cover containing the names of the applicant and another was opened and it was found that they obtained very much less than 80%. Hence they could not be appointed in the said assessment in 1995-96. The applicant was again considered for the assessment year 1996-97 when there were only 2 eligible employees. As per the above percentage of 70% as only one post could be filled up, both employees were considered and the applicant was again not recommended for the promotion. He was, therefore, considered once again for 1997-98 when only one eligible employee was found and



he was considered and promoted.

8. Thus we find no infirmity in the action of the respondents in not recommending the applicant for promotion during the relevant year in question. The claim of the applicant, therefore, is wholly baseless and devoid of force.

9. The OA, therefore, fails and dismissed, in the circumstances, without ordering costs.

M. V. Natarajan
(M.V.NATARAJAN)
MEMBER (ADMN.)

V. Rajagopala Reddy
(V.RAJAGOPALA REDDY.J)
VICE CHAIRMAN

DATED: 22 FEBRUARY, 2001

vsn

4
2622001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

COPY TO:-

1. ~~HDHJ~~
2. HBSJP (JUDGE) MEMBER
3. HM.VN (ADMN) MEMBER
4. ~~D.R. (ADMN)~~
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

1ST AND II COURT

TYPED BY CHECKED BY
COMPARED BY APPROVED BY

THE HON'BLE MR. JUSTICE V. RAJA GOPALA
REDDY VICE-CHAIRMAN

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

THE HON'BLE MR. M. V. NATARAJAN
MEMBER (ADMN.)

DATE OF ORDER

22/2/2001

MA/RA/CP.No.

CA.No.

1092/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

9 Copies

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद / DESPATCH

14 MAR 2001

हैदराबाद बेंच
HYDERABAD BENCH