

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :

AT HYDERABAD.

ORIGINAL APPLICATION NO.1208 OF 1999.

DATE OF ORDER :- 2nd FEBRUARY, 2001.

BETWEEN :

Dr. A.K. Srivastava,
S/o Sri O.P. Srivastava,
aged about 39 years,
Senior Scientific Assistant(Explosives),
O/o the Director, C.F.S.L., B.P.R.D.,
Ramanthapur, Hyderabad-13. .. APPLICANT

A N D

1. The Director General,
Bureau of Police Research
and Development, Ministry of
Home Affairs, C.G.O. Complex,
Block No.11, 3/4th Floor,
Lodhi Road, New Delhi-110 003.
2. The Secretary to the
Union Public Service Commission,
New Delhi - 110 011.
3. The Secretary to the
Ministry of Home Affairs,
New Delhi - 110 001. .. RESPONDENTS

Counsel for Applicant : Mr.K. Venkateswara Rao

Counsel for Respondents : Mr. V. Rajeswara Rao, SC

CORAM :

THE HONOURABLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN
THE HONOURABLE MR. M.V. NATARAJAN, MEMBER(ADMINISTRATIVE)

Contd... 2.

O R D E R.M.V. NATARAJAN, MEMBER(A) :

1. Dr. A.K. Srivastava has filed the present O.A. praying this Tribunal to call for the records relating to Advertisement No.7 issued by the U.P.S.C. published in Employment News 10-16 of April 1999 in so far as the recruitment to the post of Junior Scientific Officer (Explosive) in C.F.S.L. B.P.R & D. Ministry of Home Affairs and consequently declare that the applicant is entitled for counting the service rendered by him as Junior Scientific Assistant Grade I in the Ministry of Defence for the period from 1.10.1996 to 14.2.1997 for the purpose of promotion as Junior Scientific Officer and pass such other order or orders as this Tribunal may deem fit and proper in the circumstances of the case.

2. Earlier he had submitted two representations dated 19.4.1999 and 21.5.1999 to the respondent No.1 regarding direct recruitment to the post of JSO (Exp), in reply to which, the respondent No.1 has given a reply on 21.6.1999 informing him as follows :

"B.P.R&D vide their letter No.18/26/98-Adm.II dated 17.6.99 has informed that you will be considered for promotion to the grade of JSO (Exp) in CFSLS as and when you fulfil the requisite eligibility conditions for promotion."

3. According to the applicant, the Recruitment Rules for the said post provide for 33 1/3% of the posts of Junior Scientific Officer ~~are~~ to be filled by promotion failing which transfer on deputation including short term contract and 66 2/3% by direct recruitment. According to the applicant, 6 posts of Junior Scientific Officers in the discipline of Explosives have been sanctioned. Out of which, four posts are to be filled by direct

recruitment and two posts by promotion. The four posts to be filled up by direct recruitment have already been filled up and the two posts intended to be filled up by promotion are vacant. The applicant submits that as he is working in the post of C.F.S.L. from 17.2.1997 he will be completing the requisite service of three years by 16.2.2000. He submits that if four months of service rendered by him as Junior Scientific Assistant Grade I in the same scale in the Ministry of Defence is also reckoned, he will be eligible for promotion even earlier than 16.2.2000. On the apprehension that as per the UPSC's advertisement for recruitment of one post of Junior Scientific Officer (Explosives) as appeared in the Employment News (10-16 April, 1999) ^{if} the said post is filled by direct recruitment, it would not only be in contravention of the recruitment rules but also would seriously affect his promotion to the said post, he has filed the present O.A.

4. At the time of admission, on 31.8.1999 this Tribunal passed the following interim order :

" ... If the advertised post is not the one earmarked for the promotion quota then the respondents are directed to go ahead with the selection. If the post advertised is for promotional quota, no selection be made as per the advertisement."

5. The respondent No.1, namely, Director General, B.P. R&D, Ministry of Home Affairs, New Delhi, in his reply affidavit has submitted that a running roster for all the disciplines of the post of Jr. Scientific Officer was being maintained to give effect to various methods of recruitment as prescribed in the Recruitment Rules for the post of Jr. Scientific Officer, and no post under promotion quota could be filled up as no Senior Scientific Assistant which was a feeder post for promotion to the post of Jr. Scientific Officer (Explosive) was eligible for being considered for promotion to the said post. Therefore, the

posts falling under promotion quota were filled up under the failing which clause of promotion i.e. by transfer on deputation. According to respondent No.1, as per the running roster maintained to give effect to the methods of recruitment prescribed in the Recruitment Rules, out of the two vacant posts of Jr.Scientific Officer, one fell under direct recruitment quota and one under promotion failing which deputation quota. Accordingly, the post falling under direct recruitment quota was the one which was advertised for being filled up by direct recruitment, and the second vacant post falling under the promotion quota will be filled up, as per the reply affidavit, after Senior Scientific Assistant under Explosives discipline becomes eligible to be considered for promotion as per Recruitment Rules. The applicant having been appointed as Senior Scientific Assistant (Explo.), CFSL, BPR&D with effect from 17.2.1997 acquired the eligibility period of three-year service in the said post on 16.2.2000 and as per the procedure to be observed by the D.P.C. issued by the Ministry of Personnel in DOPT O.M. No.22011/9/98-Estt.(D) dated 8.9.1998, the applicant became eligible to be considered for promotion on 16.2.2000 and the crucial date for determining his eligibility would be January 1, 2001. The respondent No.1 affirms that the action of the respondents was in accordance with the Recruitment Rules and as per the running roster maintained in their office for the post of Junior Scientific Officer.

6. We have heard the learned counsels on either side at length. The points now argued before us by the learned counsel for the applicant are :

- (1) that the applicant is eligible to be considered by the D.P.C. on 1.1.2000 itself.
- (2) that the service rendered from 1.10.1996 to 14.2.1997 in the same pay scale as Junior

Scientific Assistant Grade I in the Ministry of Defence should also be taken into consideration while determining the three years qualifying service.

7. In respect of the first point raised during the arguments, the learned counsel for the applicant has produced a copy of the DO letter No.44-6/2000-SPB.II/Pt. dated 16.11.2000 from one Sri A.K.Dash, Director (Staff) to all the Circle Heads in the Department of Posts. This circular is in no way concerned with the filling up of the post with which the applicant is concerned, as it is a ~~general~~ direction issued by the Department of Posts for filling up of vacant posts in promotion quota for less than one year, in the year 2000 and ~~that~~ are to be filled by ~~the~~ Department. The copy of the DOPT Circular dated 8th September, 1998 was furnished by the learned Standing Counsel for the respondents to supplement the submission made in the reply affidavit that the crucial date for determining the eligibility of the applicant would be January 1, 2001. The learned Standing Counsel for the respondents submitted that it was with reference to this ~~old~~ ~~calendar~~ position of the DPC that the Department had informed the applicant that he will be considered for promotion to the grade of JSO (Explosive), CFSL as and when he fulfils the eligibility conditions for promotion, and as per the Note in the DOPT Circular dated 8th September, 1998, the ~~calendar~~ for DPC puts no bar on earlier completion of various pre/post-DPC related actions.

8. During hearing on the second issue raised above, the learned counsel for the applicant conceded that he would not like to argue, obviously because no document in support of this claim has been filed in the O.A.

9. We are satisfied from the reply affidavit furnished

before us that the UPSC notification referred to by the applicant related to the direct recruitment and was not intended for filling up the vacancy falling under promotion quota. Accordingly the orders passed by this Tribunal on 31.8.1999 is held as redundant.

10. The O.A. is dismissed. No order as to costs.

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

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

DATED THE 2nd DAY OF FEBRUARY, 2001.

DJ/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD

COPY TO

1ST AND 2ND COURT

✓ 1. HON'BLE JUDGE
✓ 2. HON'BLE MEMBER (JUDG)
✓ 3. HON'BLE MEMBER (ADMIN)
✓ 4. D.T. (ADMIN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR JUSTICE V.RAJA GOPAL REDDY
VICE-CHIEF JUDGE
THE HON'BLE MR B.S. JAI PRASAD MEHRA
MEMBER (JUDG)
THE HON'BLE MR M.V. NATARAJAN
MEMBER (ADMIN)

DATE OF ORDER: 2/2/2001

MR/PA/C.P.N.C.

IN
CA. NO: 1208198

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P.CLOSED

C.M. CLOSED

DISP. S.D. OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

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