

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIFUR

O.A.No.176/99

Date of order: 6/11/2001

R.N.Agnihotri, S/o late Sh.Rameshwar Nath Agnihotri,
Industrial Liaison Officer 'C', Information Planning
& Coordination Group, Central Electronics
Engineering Research Instt, Pilani, Dist.Jhunjhunu.

...Applicant.

vs.

1. Union of India through, Secretary, Council of Scientific & Industrial Research, Anusandhan Bhawan, Rafi Marg, New Delhi.
2. Director General, Council of Scientific & Industrial Research, Anusandhan Bhawan, Rafi Marg, New Delhi.
3. Director, Central Electronics Engineering Research Institute, Pilani, Distt.Jhunjhunu.
4. Administrative Officer, Central Electronics Engineering Research Institute, Pilani, Dist.Jhunjhunu (Rajasthan).

...Respondents.

Mr.S.K.Singh : Counsel for applicant

Mr.Arun Chaturvedi : for respondents.

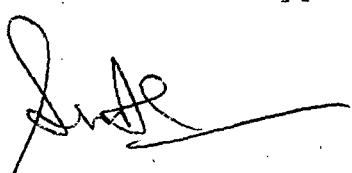
CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.A.P.Nagrath, Administrative Member.

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to quash and set aside the office memorandum dated 15.2.99 (Annex.A1) and direct the respondents to give the benefit of 2 years earlier assessment incentive for acquiring higher qualification to the applicant from the date on which similarly situated



persons were given such benefit.

2. In brief the case of the applicant is that he was initially appointed as Cataloguer on 5.6.71 and was confirmed w.e.f. 17.9.71. He was appointed as Sr. Technical Assistant on 27.1.78 and was relieved to join in the Indian Institute of Petroleum, Dehradun. The applicant was promoted on the post of Information Officer-B and thereafter Industrial Liaison Officer vide office memorandum dated 1.5.85 in the pay scale Rs.700-1300. It is further stated that the applicant joined on the post of Industrial Liaison Officer-B on 26.7.85 in Central Electronics Engineering Research Institute, Pilani and was promoted as Industrial Liaison Officer-C vide order dated 22.2.94. It is also stated that during the service tenure, the applicant acquired the following qualifications:

- i) B.A in 1974
- ii) B.Lib. in 1976
- iii) B.Sc. in 1977-78
- iv) M.Lib. in 1982-83 from Aligarh Muslim University.
- v) Diploma in Management from IGNOU
- vi) M.S Software from BITS while serving in CEERI.

It is stated that the applicant was denied two years earlier assessment benefit without any reason or rhythm. The applicant filed representation which was also rejected. It is stated that as per instructions contained in circular dated 6.11.90, the employee working on 31.12.81 who have acquired/will acquire entry level qualification of next group may be assessed two years earlier than the normal period of assessment prescribed. The applicant acquired entry level qualification, therefore he is entitled to the



relief sought for. It is also stated that similarly situated persons, S/Shri B.G.Sharma, PVL Reddy and A.K.Bagchi have already been given such benefit but the applicant have been denied the same. Therefore, the action of the respondents' department is arbitrary, unreasonable and in violation of Articles 14 and 16 of the Constitution of India. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. In the reply, it is stated that the first representation of the applicant was rejected on 8.10.96, therefore, this O.A is barred by limitation and repeated representation do not extend the limitation. It is also stated that the applicant joined the Indian Institute of Petroleum in 1978 as Sr.Technical Assistant not on transfer but after his selection as fresh appointee and permission to appear in M.Lib was also granted by the Indian Institute of Petroleum. It is also denied that the applicant joined in CEERI on promotion in the year 1985 but he joined in CEERI as a fresh appointee, therefore, the applicant is not entitled to any benefit as per circular dated 6.11.90. It is stated that this benefit is admissible only to those who were in service as on 31.12.81 and acquired higher qualification of next group. It is stated that the applicant joined CEERI in 1985 as fresh appointee and acquired higher qualification thereafter, therefore, the applicant is not eligible for consideration for the said benefit and in this way, the applicant has no case.

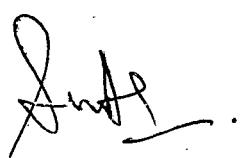
4. Additional counter has also been filed, which is on record.

5. Heard the learned counsel for the parties and also perused the whole record.



6. As regards limitation, we are of the considered opinion that the application is not barred by limitation. After the impugned order dated 8.10.96, the applicant filed another representation on 31.1.97 but before the final reply was given, the applicant was informed that his case is under examination and finally it was disposed of vide order dated 15.2.99, therefore, by filing this application on 16.4.99, this Q.A cannot be said to be barred by limitation.

7. Now the question arises whether the applicant is entitled to the benefit of circular dated 6.11.90 as the same benefit was given to S/Shri B.G.Sharma, PVL Reddy and A.K.Bagchi. According to the circular dated 6.11.90, the benefit of two years earlier assessment is admissible only to those employees who ^{are} working on 31.12.81 and have acquired/will acquire entry level qualification of next group. The applicant appears to have been selected as Senior Technical Assistant in the year 1978 for Indian Institute of Petroleum, which is the establishment of CSIR. The applicant was relieved to join and he was also paid T.A and Luggage charge, as admissible to an employee on transfer. Thereafter, the applicant was selected on promotion in the year 1985 on the post of Industrial Liaison Officer, which is clearly evident from the office memorandum dated 1.5.85. On a perusal of office memorandum dated 1.5.85, it can be said that the applicant was selected on promotion, therefore stating that it was a fresh appointment of the applicant is not at all acceptable and it could be established that on 31.12.81, the applicant was in service of CEERI, hence he is eligible to get the benefit of 2 years earlier assessment, as per circular dated 6.11.90 as the same benefit is



admissible to those who were in service as on 31.12.81 and acquire higher qualification of next group. Therefore, the applicant is entitled to the benefit of the circular and denial of this benefit to the applicant appears to be arbitrary, unreasonable and in violation of Articles 14 and 16 of the Constitution of India.

8. On a perusal of the pleadings of the parties, it also appears that similar benefits have also been given to S/Shri B.G.Sharma, PVL Reddy and A.K.Bagchi and denial of such benefit to the applicant is only an arbitrary action of the respondents' department.

9. We, therefore, allow this O.A and quash the letter dated 15.2.99 and direct the respondents' department to grant the benefit of 2 years earlier assessment incentive to the applicant in pursuance of circular dated 6.11.90 from the date on which S/Shri B.G.Sharma, PVL Reddy and A.K.Bagchi were given such benefits. The applicant shall also be entitled to all consequential benefits, if any.

0. No order as to costs.

lnd
(A.P.Nagrath)

Member (A)

S.K. Agarwal
(S.K. Agarwal)

Member (J).