

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH: JAIPUR

N.A. No. 168/2001

Date of decision: 11.02.2003

1. R.K. Gupta, Son of Shri K.C. Gupta, aged about 50 years, at present working on the post of Scientist 'B' (Chemist) in the office of Regional Director, Central Ground Water Board, Jaipur, resident of 84/166, Dhaval Giri Marg, Mansarovar, Jaipur.
2. G.K.Sharma, S/o C.L. Sharma, aged about 47 years, at present working on the post of Assistant Chemist in the office of Regional Director, Central Ground Water Board, Jaipur, resident of 106/45, Chhatrapati Marg, Mansarovar, Jaipur.

: Applicants.

rep. by Mr. P.V. Calla: Counsel for the applicants.

-versus-

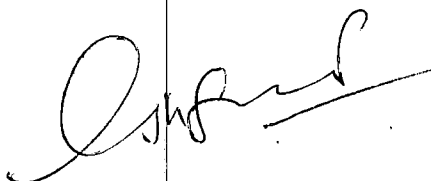
1. The Union of India through its Secretary, Ministry of Water Resources, Government of India, Shram Shakti Bhawan, New Delhi.
2. The Union Public Service Commission, through its Secretary, Dhojpur House, Shahjahan Road, New Delhi.
3. The Central Ground Water Board through its Chairman, Ministry of Water Resources, C.G.O. Complex, N.H. 4, Faridabad.

: Respondents.

rep. by Mr. S.S. Hasan proxy counsel for
Mr. S.M. Khan,

: Counsel for the
respondents.

CORAM: The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.
The Hon'ble Mr. H.O.Gupta, Administrative Member.



ORDER

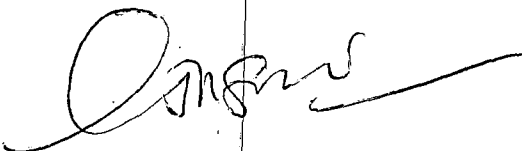
Per Mr. Justice G.L.Gupta :

The two applicants are Chemist and Assistant Chemist and they seek the following reliefs:

- i) an appropriate order or direction the respondents may kindly be directed to include the name of the applicants in the eligibility list (Annex. A.1) published on 26.3.99.
- ii) an appropriate order or direction the Hon'ble Tribunal may kindly direct that the rules prescribes eligibility criteria for promotion to the post of Scientist 'C' be declared as discriminatory and illegal in as much as it prescribes different yardsticks for an in service candidate than to a deputationist and further direct the respondents to prescribe the same yardstick for in service candidates as are applicable for deputationists otherwise the rules be declared as ultra vires and unconstitutional.
- iii) any other relief to which the applicants are found entitled in the facts and circumstances of the present case, may also be granted.
- iv) the Original Application may kindly be allowed with costs.

2. It is not necessary to state the facts of the case in detail in view of the submissions made by the learned counsel for the parties that the decision rendered by this Tribunal on 31.12.2002 in O.A. No. 234/99 fully applies to this case.

3. In short, the grievance of the applicants is that their names ought to have been included in the eligibility list issued under order dated 26.3.99 for promotion to the post of Scientist Grade 'C'. It is averred that promotion to the post of Scientist 'C' is to be given from amongst Scientist 'B' on completion of 5 years regular service in the grade of Scientist 'B' and



from among the employees coming on deputation and working in the scale of Rs.2000-3500 for 8 years. It is averred that the said provision is discriminatory and the applicants who have also been put in 8 years regular service should also be held eligible for promotion to the post of Scientist 'C'.

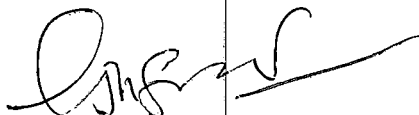
3. In the reply, the respondents' have resisted the claim of the applicants on the ground that they have not put in 5 years regular service as Scientist 'B' and the provision of 8 years regular service in the scale of pay of Rs.2000-3500 does not apply to them.

4. The learned counsel for the applicants contends that in O.A. No. 234/99 identical contention was raised by the respondents but that contention was repelled keeping in view the various decisions of the Tribunal and hence the applicants are also entitled to the same relief. He submits that time limit may also be fixed in the order for including the name of the applicants in the eligibility list.

5. The learned counsel for the respondents does not dispute that the matter of the applicants is identical to the applicants in O.A. No. 234/99 decided on 31.12.2002.

6. The Tribunal has held that the provisions prescribing different norms for departmental candidates and deputationists for promotion to Scientist 'C' is ultra vires the principles of equality before the law.

In the case of S.K. Sehgal and others
vs. Union of India and others (O.A. No. 477/CH of 2002



decided on 30.10.2002), the Chandigarh Bench of this Tribunal directed the respondents therein to consider the case of the applicants for promotion to the post of Scientist 'C', from the date they completed 8 years of service in the pre-revised scale of pay of Rs.2000-3500.

That decision was followed by this Bench in O.A. No. 234/99.

7. A Bench of this Tribunal consisting one of us (Justice G.L.Gupta), held that Scientist 'B' who had not put in 5 years regular service in the grade were also eligible to be considered for promotion as Scientist 'C' if they had put in more than 8 years of regular service in the scale of pay of Rs.2000-3500.

8. During the course of arguments it was stated by the learned counsel for the applicants that the decisions of various Benches have been implemented by the respondents which fact was not disputed by the learned counsel for the respondents.

During the course of the arguments it was also brought to our notice that pursuant to the interim order passed by this Court, the applicants have also been interviewed.

9. Consequently, the O.A is allowed. The respondents are directed to include the name of the applicants in the eligibility list (Annex. A.1) and pass appropriate order in this regard within one month from the date of communication of this order.

10. No order as to costs.

(H.D.Gupta)
Administrative Member

(G.L.Gupta)
Vice Chairman.

jsv.