

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 293 of 2000

Jabalpur, this the 19th day of February, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri G. Shanthappa, Judicial Member

Gopal Singh Rajput, Son of Santlal  
Singh aged about 45 years, Senior  
Technical Assistant (Chemical),  
Central Ground Water Board, North Central  
Region, Bhopal, Division XII Bhopal. ... Applicant

(By Advocate - Shri A.K. Tiwari)

V e r s u s

1. Union of India, through  
Secretary, Ministry of Water  
Resources, Central Ground Water  
Board, Central Headquarter Office  
NH IV, Faridabad-121001.
2. Central Ground Water Board  
Central Headquarter Office, NH IV  
Faridabad 121 001 through its  
Director. ... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant  
has claimed the following main reliefs :

"(i) to pay the applicant entire arrears of pay  
from 18.4.85 to 17.11.99,

(ii) to pay the interest @ 18% per annum on the  
aforesaid arrears of pay from the date of accrual  
i.e. 18.4.85 till payment."

2. The brief facts of the case are that the applicant  
was appointed as Assistant Store Keeper with effect from  
10.09.1984. Thereafter <sup>in</sup> the Central Ground Water Board, his  
next higher post for promotion is Technical Assistant. The  
applicant was considered for the post of Technical  
Assistant. The applicant could not submit his experience  
certificate alongwith the application. However he was  
selected and appointed. After the experience certificate

was submitted by the applicant the respondents did not accept the certificate as the certificate submitted by the applicant from two different places from Nagpur and Faridabad, do not make it three years, which was an essential requirement. The applicant has submitted that his part time experience also should have been considered.

However the Department found that the appointment was not eligible according to the rules. The applicant filed OA No. 58/1989.

The Tribunal vide its order dated 9th October, 1995 in the aforesaid OA has passed the following orders :

"6. Shri Quazi has been selected and appointed. Shri Mishra has been appointed after reversion of the petitioner. The department has total 11 posts out of which 7 are already occupied. Four posts are vacant. The petitioner possesses the degree as required by the rules but technically he did not fulfil the requirement of experience. As the petitioner by now must have acquired sufficient experience, it is directed that the department shall now consider the case of the petitioner for promotion to one of the vacant posts within a period of three months. With these observations, the petition is disposed of. There shall be no order as to costs."

In pursuance of the judgment of the Tribunal the Department has conducted DPC and considered the applicant. The reversion order passed by the respondents has been withdrawn and the applicant has been appointed vide order dated 5th November, 1999. By this order the applicant has been appointed as Technical Assistant from his original date of appointment i.e. with effect from 18.4.1985. The respondents have not extended the benefit of arrears of pay to the applicant with effect from 18.4.1985 to 17.11.1999 on the ground that the applicant has not worked on the higher pay scale of Technical Assistant during this period, and since he has not held the higher post of Technical Assistant during this period he cannot be granted higher pay. Accordingly, they have granted the benefit of notional fixation of pay from that date to the applicant.



3. On the other hand the contention of the applicant is that he has been selected for the post of Technical Assistant in the year 1985. He possessed all the requisite qualification and experience to hold the post of Technical Assistant. The respondents have arbitrarily reverted him to the lower post of Assistant Store Keeper and did not allow him to work in the higher post. Therefore the respondents are themselves responsible for not allowing him to work on the higher post. The applicant himself was prepared to work in the higher post and infact appointed to the higher post, it was because of the reversion order he could not work on the higher post.

4. Heard the learned counsel for the parties and perused the records carefully.

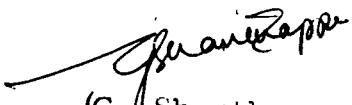
5. We have ~~also~~ given <sup>our</sup> careful consideration to the rival contentions made on behalf of the parties. We find that the applicant was found suitable and appointed as Technical Assistant in the year 1985. The respondents however have reverted the applicant from the post of Technical Assistant on the ground that he does not possess the requisite experience for the post. The applicant has approached this Tribunal and the Tribunal vide its order dated 9th October, 1995 has directed the respondents to consider the case of the applicant on the ground that "the petitioner by now must have acquired sufficient experience". It was in pursuance of these directions the respondents have considered the case of the applicant and found him suitable for appointment to the post of Technical Assistant from the year 1985. The contention of the respondents that the applicant has not worked on the higher post of Technical Assistant is not entitled for higher scale of pay, is not tenable and is rejected.

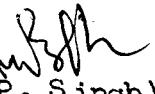
According to the order passed by this Tribunal, the

respondents have failed to consider the applicant's suitability for the post of Technical Assistant immediately after the directions were given by the Tribunal. They have taken about more than 4 years to implement the order of the Tribunal, although the applicant was appointed from a retrospective date. Therefore the applicant was not at fault and was willing to work on the higher post and in fact was appointed notionally from 1985. It was because the respondents did not allow the applicant to work on higher post. The applicant therefore cannot be denied the benefit of higher post immediately after the directions were given by the Tribunal.

6. In view of the aforesaid, we direct the respondents to fix the pay of the applicant in the grade of Technical Assistant (T.A.) on notional basis w.e.f. 18.4.1985 and actual pay of the post of T.A. from the date which is 3 months after the directions were given by the Tribunal i.e. on 9th October, 1995 passed in OA No. 58/1989. The respondents are further directed to comply with the aforesaid order and grant all consequential benefits to the applicant within a period of two months from the date of receipt of copy of this order.

7. Original Application is allowed accordingly. No costs.

  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman