


OA No. 233/2010Dt. 14-03-2014

Order pronounced today in the
open court by the aforesaid
Bench.


17/3/14
C.O.

**Draft order in OA No. 233/2010
(Jamuna Prasad vs. Union of India & Others)
is submitted herewith for consideration.**

Anil Kumar

**(Anil Kumar)
Member (A)**

Hon'ble Member (J)

*I agree
with it*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 233/2010

ORDER RESERVED ON 13.03.2014

DATE OF ORDER 14.3.2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE MR. M. NAGARAJAN, JUDICIAL MEMBER

Jamuna Prasad son of Late Shri Sukh Ram, resident of 52/203, Sector 5, Pratap Nagar, Sanganer, Jaipur. Presently working as Scientific Officer "E", Atomic Minerals Directorate, Pratap Nagar, Jaipur.

... Applicant

(By Advocate: Mr. R.P. Sharma)

Versus

1. Union of India through the Chairman, Atomic Energy Commission and Secretary to the Government of India, Department of Atomic Energy, Anu Shakti Bhawan, Chatrapati Shivaji Maharaj Marg, Mumbai.
2. The Director, Atomic Minerals Directorate for Exploration and Research, Department of Atomic Energy, 1-10-153-156, Begum Pet, Hyderabad.
3. The Regional Director, Atomic Minerals Directorate for Exploration and Research, Western Region, Department of Atomic Energy, Sector-5, Extension Pratap Nagar, Sanganer, Jaipur.

... Respondents

(By Advocate: Mr. T.P. Sharma)

ORDER

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

The applicant has filed this OA praying for the following reliefs:-

- "(i) by an appropriate order or direction supersession of applicant in respect of promotion to the grade of Scientific Officer "F" may kindly be declared illegal and

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- may kindly be declared illegal and the non applicant-respondents may be directed to promote the applicant to the grade of Scientific Officer 'F' with effect from date his juniors were so promoted by reconsidering his case from w.e.f. 1.7.2009 and thereby provide all consequential benefits at par with his juniors;
- (ii) any other order or direction which this Hon'ble Tribunal deems just and proper may also be passed in favour of the applicant."

2. The brief facts of the case, as stated by the learned counsel for the applicant, are that the applicant was appointed as Scientific Assistant 'B' on 19.05.1980. He was promoted from time to time and on 01.02.1991, he was given promotion to the post of Scientific Assistant 'E'. He was further promoted as Scientific Officer 'D' on 01.06.2000 w.e.f. 01.02.1996. Subsequently, he was further promoted as Scientific Officer E' vide order dated 20.09.2001 w.e.f. 01.02.2001 (Annexure A/4).

3. The applicant became eligible for promotion to the post of Scientific Officer 'F' on 01.08.2006 having completed five years as Scientific Officer 'E'. However, the applicant was not promoted to the post of Scientific Officer 'F' whereas his junior, Shri S.K. Sharma, was given promotion to the post of Scientific Officer 'F'. In subsequent years also, juniors to the applicant have been promoted to the post of Scientific officer 'F' but the applicant has not been given promotion.

4. The respondent vide letter dated 21.01.2010 have informed the applicant (Annexure A/1) that his case for promotion was

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considered by the Screening Committee along with the case of other officers with reference to the norms specified as he is not fulfilling the promotion norms. The Screening Committee did not recommend his name for promotion to the grade of SO/F w.e.f. 01.07.2009. Being aggrieved by this communication, the applicant has filed the present OA.

5. The learned counsel for the applicant argued that on the basis of extraneous reasons and consideration, the applicant was posted at such a place where his technical skill was of no use. His work was restricted to prepare the estimate for minor works. He was asked to work under Shri G.S. Sharma, who is a Geologist. The applicant was never assigned any work commensurate to his skill, experience and technical qualifications possessed by him.

6. Shri G.S. Sharma had been given powers to write the ACRs of the applicant being the immediate superior authority. The Geologist in no manner can assess the performance of the persons in Engineering Section, especially when he has no knowledge in the Engineering.

7. The applicant under the Right to Information Act demanded the copies of promotion policy, rules, seniority list and copies of the promotion order issued in support of S/Shri Ramesh Chand and S.K. Sharma respectively but his application was rejected. The applicant has never been conveyed any adverse remark or the ACR

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below the bench mark. Therefore, his case for promotion could not have been considered by the Screening Committee without communicating the adverse ACR or ACR below the bench mark. Therefore, the learned counsel for the applicant argued that the respondents be directed to re-consider the applicant's case for promotion w.e.f. 01.07.2009.

8. The respondents have filed their reply. In their reply, they have submitted that the promotion of scientific and technical personnel in the respondents directorate are governed under the merit promotion scheme, which is purely on merit basis and is de-linked from the availability of vacancies applicable to other categories of staff. The said scheme is in operation ever since 1971.

9. The learned counsel for the respondents further submitted that an officer in the grade of Scientific Officer-E is eligible to be considered for promotion to the higher grade of Scientific Officer-F provided the employee has completed at least five years of service in the lower grade and has been able to earn a specific grading in the confidential reports for the preceeding four years as on the eligible date for consideration of promotion.

10. The learned counsel for the respondents has submitted that the case of the applicant is being placed before the Screening Committee w.e.f. 01.08.2006 every year for consideration for promotion to the next higher grade. His case could not be

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recommended for promotion as he did not have the requisite CR grading.

11. The learned counsel for the respondents denied that the Public Information Officer has not furnished the copies of Promotion Policy/ Rules etc. to the applicant. He was informed that the required information can be made available to him subject to payment of fee of Rs.62/- only as prescribed under the Right to Information Act, 2005. The copy of the promotion order of Shri S.K. Sharma, promoting him to the grade of Scientific Officer 'F' has been provided to the applicant on 31.01.2011.

12. The criteria for granting various increments are different than the criteria for granting promotion. He applicant was awarded the increments as recommended by the Review Committee.

13. The applicant has filed the rejoinder.

14. Heard the learned counsel for the parties and perused the documents on record. From the perusal of the reply filed by the respondents, it is clear that the criteria of promotion to the post of Scientific Officer 'F' is merit. The confidential report for the proceeding four years as on the eligible date for consideration of promotion are taken into account for assessing merit of the officer. The concerned officer is required to have a specific grading to be assessed as meritorious.

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15. From the perusal of the pleadings, it is clear that the case of the applicant was placed before the Screening Committee w.e.f. 01.08.2006 every year for consideration for promotion to the next higher grade. However, the applicant's case could not be recommended for promotion as he did not have requisite CR grading.

16. The learned counsel for the applicant had argued that the applicant was not given adequate work or the work relating to his experience and he was asked to work under a Geologist who could not correctly assess his work. We are not inclined to agree with these contentions as they are not relevant for the promotion of the applicant. These arguments may be valid for the applicant to raise if he chooses to represent against his ACRs which are either adverse or below the bench mark.

17. The applicant has right of consideration for promotion. The respondents have considered his case but the Screening Committee did not recommend his name for promotion to the grade of Scientific Officer 'F' w.e.f. 01.07.2009 because he did not fulfill the promotion norms. It is not the case of the applicant that he was more meritorious than the other who have been promoted. If he has been given either adverse or below bench mark ACR then he can take recourse to the remedy as provided under the rules for their upgradation.


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18. The learned counsel for the applicant had argued that the applicant has not been provided the adverse ACRs or the below bench mark ACRs. The respondents are directed to examine this point. If the adverse/below bench mark ACRs have not been communicated to the applicant, they must be communicated to him within a period of two months from the date of receipt of a copy of this order.

19. However, in view of the discussion above, we are of the considered opinion that the applicant is not entitled for any relief in the present OA. We do not find any illegality or infirmity in the letter dated 21.01.2010 (Annexure A/1) issued by the respondents to the applicant.

20. Consequently, the OA being devoid of merit is dismissed with no order as to costs.


(M. NAGARAJAN)
MEMBER (J)


(ANIL KUMAR)
MEMBER (A)

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