

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 1230/2013

Order reserved on: 1.02.2017
Order pronounced on: 7.02.2017

**Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

R.C. Saxena
S/o Late Shri K.N. Saxena
R/o A-38, CBRI Colony, Roorkee
Uttarakhand ... Applicant

(Through Shri M.K. Bhardwaj, Advocate)

Versus

UOI and others through

1. The Secretary,
Ministry of Science and Technology
2, Rafi Marg, Anusandhan Bhawan
New Delhi-110001
2. The Director General,
Council of Scientific & Industrial Research
2, Rafi Marg, Anusandhan Bhawan
New Delhi-110001
3. The Director
Central Building Research Institute
Roorkee-247667 ... Respondents

(Through Shri Praveen Swarup, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

The facts of the case are that the applicant, who is a Hindi Officer in Council of Scientific and Industrial Research (CSIR), was due for time bound promotion on completion of 11 years of

service in terms of Office Order No.6 dated 12.11.1981 and letter dated 16.01.1985. Vide letter dated 30.08.1984, the respondents had clarified as follows:

"Continuation of benefit granted under special grade scheme to the holders of all isolated posts including Telephone operators on the basis of present procedure of clubbing will be discontinued. Now, there will not be clubbing of isolated posts as enumerated in the first paragraph of the O.M. dated 29th June, 1983 with any other cadre posts. The holders of all isolated posts will be considered for promotion through Departmental Promotion Committee as stipulated in this office circular dated 12.11.1982 to the next higher grade as distinct from Special grade."

2. The 1985 letter provides as follows:

"i) the incumbents of the isolated posts, who were placed in the special grade posts, during the period from 12.11.1981 to 29.08.1984 but have not so far been granted next promotional scale in terms of the decision of the Governing Body should be interviewed by the Departmental Promotion Committee, if not already done, and assessed for promotion to the next higher promotional scale.

In all such cases the effective date of promotion would be the date on which they have completed 11 years of service."

3. The applicant was initially appointed as Hindi Officer on 14.02.1992. He was considered for promotion after having completed 11 years of service by a Departmental Promotion Committee (DPC) meeting held on 2.05.2005 but was not found fit for promotion. However, he was promoted with effect from 14.02.2004 when the DPC meeting was again held on 3.04.2006 and found him fit for promotion.

4. The bone of contention is that according to the applicant, the letter of 1985 provides that the effective date of promotion would be the date when the individual completes 11 years of service and, therefore, he should have been promoted with effect from 14.02.2003 whereas the respondents have granted him promotion from 14.02.2004. The respondents countered this by stating that 1985 circular clearly states that the incumbent shall be interviewed by the DPC and assessed for promotion to the next promotional scale. The respondents counsel states that the applicant was assessed for promotion from 14.02.2003 but was found unfit by the DPC and was promoted with effect from 14.02.2004 after he was found fit by the next year DPC.

5. The applicant also relied on the judgment of the Hon'ble High Court of Delhi in WP (C) 7423/2013, **Govt. of NCT of Delhi and others Vs. Shri Rakesh Beniwal and others**, wherein the respondents had been directed to be considered for promotion from the date when their immediate juniors were promoted. The facts, in brief, in that case were that the applicants before the Tribunal had appeared for appointment to various posts of DASS and they were appointed many years after their batch mates had been appointed. The candidates in that case were appointed on different dates for which the applicants were not to be blamed. The Tribunal had allowed the OA, which was challenged in the Writ and the Writ was dismissed. Needless to say that the facts of that case are different from the

facts involved in the present case and, therefore, this cannot be treated as a precedent.

6. The applicant next relied on OA 1421/2012, **Satyabir Singh Vs. Union of India and others** decided by the Tribunal on 26.11.2014. This was a case of in situ promotion to be done before 1st July of every year through an Assessment Committee. The Committee meeting had not been held for 2 years. The applicant's grouse was that he had completed requisite years of service on 1.10.2006 and should have been promoted from that date but the respondents promoted him from 14.01.2009 i.e. from the date of the meeting of the Committee. The Tribunal had allowed the aforesaid OA. Again we find that the facts of the case are completely different. In the cited case, it was the fault of the respondents whereas in the present case, the DPC meeting was held on 2.05.2005 but it did not find the applicant fit.

7. The respondents, first of all, raised the preliminary objection that the cause of action arose in 2005 whereas this OA has been filed in 2013 and the delay has not been explained by the applicant. All these years, the applicant has gone on filing representations, which cannot be an excuse to condone the delay. Learned counsel for the respondents argued that the OA is not maintainable as it suffers from the defect of delay and laches and is thus hit by Section 21 of the Administrative Tribunals Act 1985.

8. We have heard the learned counsel for the parties, gone through the pleadings available on record and perused the judgments cited.

9. The issue is only whether the incumbent has to be promoted from the date on which he has completed 11 years of service, whether or not he is cleared by the DPC. The answer is clearly in the 'negative' as would be clear from the circular dated 16.01.1985. The applicant is clearly misreading the clause. Promotion from the date would be the date on which the incumbent completes 11 years of service, subject to clearance by the DPC. Therefore, on merits, the facts and guidelines do not support the applicant's case.

10. As regards the ground of limitation, we do not find any cogent reasons put forth by the applicant on why he has moved the Tribunal after a lapse of so many years. Therefore, the preliminary objection that the OA is hit by limitation, is also sustained.

11. We have already discussed the judgment in the case of Rakesh Beniwal (supra) and Satyabir Singh (supra) and held that these judgments do not apply in the present case as the facts are completely different.

12. In view of above discussion, we find no merit in this OA and it is, therefore, dismissed. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

/dkm/

(P.K. Basu)
Member (A)