

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ORIGINAL APPLICATION NO. 180/00788/2017

Thursday, this the 11th day of October, 2018

CORAM

HON'BLE MR.ASHISH KALIA, JUDICIAL MEMBER

G.Swaminathan, aged 73 years
(Retired Senior Hydrologist,
Central Ground Water Board),
'Praseeda', 95 A, Ulloor Gardens
Thiruvananthapuram – 695 011

... **Applicant**

[By Advocate Mr.Praveen Hariharan]

V.

1. Union of India
represented by the Secretary to Government of India
Ministry of Water Resources, River Development & Ganga
Rejuvenation, ShramSakthi Bhavan, Rafi Marg
New Delhi – 110 001
2. The Chairman, Central Ground Water Board
“Bhujal” Bhavan, CHQR's
NH-IV, FARIDABAD – 121 001
(Haryana State) ...

Respondents

(By Advocate Mr.K.Kesavankutty,ACGSC)

This application having been finally heard on 11.10.2018, the Tribunal on the same day delivered the following in the open court.

ORDER

Per: MR.ASHISH KALIA, JUDICIAL MEMBER

O.A 180/01084/17 is filed by the applicant praying for the following reliefs:

- “i. Set aside Annexure A6 order
- ii. direct the 1st respondent to grant the benefits strictly in accordance with Annexure A-2 order by implementing FCS to the applicant from 06/06/1987 and by granting in-situ promotions and revise pay scales accordingly;
- iii. Direct the 1st respondent to take up Annexure A7 representation and to grant the benefits sought for therein;
- iv. grant such other reliefs as may be prayed for and the court may deem fit to grant .”

2. The applicant had joined the Central Ground Water Board(CGWB) as Senior Technical Assistant (STA) under the Hydrology(H) discipline on 21.7.1973. He was later promoted to the post of Junior Hydrologist with effect from 21.11.1983. He was later promoted to the post of Scientist C (Senior Hydrologist) with effect from 18.2.1998. Finally he has retired from service on attaining superannuation with effect from 31.1.2004. It is further submitted that there are 5 disciplines in the CGWB viz;

- a) Hydrology (H)
- b) Hydro-geology (HG)
- c) Hydro-meteorology (HM)
- d) Geo-physics (GP)
- e) Chemistry (CH)

3. A new policy, Flexible Complimenting Scheme (FCS), with effect from 06.06.1987, has been implemented by the respondents. As per which an officer in the scientific wing can be promoted from one grade after a prescribed period of service irrespective of the vacancies in the next higher grade. This scheme was made applicable only to Group A officers. As there is a disparity in Hydrology discipline in so far as there is no Group A level junior post in Hydrology discipline. In view of the anomaly that exists in the junior post in Hydrology being in Group B were as junior post in other disciplines were in Group A, the FCS was implemented only for the junior officers in the other discipline but not for the officers in the Hydrology discipline. Aggrieved by this, applicant had filed O.A 886/1996 seeking a direction to be issued to the respondents herein to upgrade the Group B posts of junior Hydrologist as Group A with retrospective effect from 6.6.1987 and to bring the category of Junior Hydrologist also within the purview of the FCS and to consider this applicant for promotion as Scientist C in due implementation of the FCS. This Tribunal has disposed of the said Original Application literally allowing the contentions of the applicant. Paragraph 4 and 5 of the Order of this Tribunal in O.A 886/1996 dated 14.8.1997 are as follows:

“4. Now that the Hydrology discipline has been included by A-7 in the FCS, the only question which remains is whether it is to be so included retrospectively. It is clear from Annexure A-5 that unless the inclusion of the hydrology discipline is done with retrospective effect,

there will be injustice done to the officers of the hydrology discipline, which is caused solely by an inadvertant error on the part of the respondents to include the hydrology discipline in the FCS even in the very beginning. The fact that the Fifth Central Pay Commission is also considering the issue would not make, any material difference to the application before us since what is sought here is a relief for the period from 1.6.87 and the Pay Commission recommendations would cover only the period starting from 1.1.1996. It is clear that the discipline of, hydrology was excluded from the FCS for no good reason. Even after FCS was extended to the hydrology discipline, the post of Junior Hydrologist has been excluded from the FCS for no good reason and applicant was denied the benefit of FCS. The action of the respondents in excluding the Junior Hydrologist's post from the FCS is clearly arbitrary and cannot be sustained. We consider that applicant is, therefore, entitled for the relief prayed for to the extent that he is entitled to the benefits that would have accrued to him as a result of the inclusion of the hydrology discipline within the purview of FCS retrospectively from 6.6.87 and the post of Junior Hydrologist included in the FCS retrospectively from 6.6.87.

5. We, therefore, direct the respondents to work out the benefits that would accrue to the applicant had the hydrology discipline been included in the Flexible Complimentary Scheme with effect from the date on which A-1 came into effect, i.e, 6.6.1987 and had the post of Junior Hydrologist been included in the Flexible Complementary Scheme on 6.6.1987 in accordance with the office memorandum of the Department of Science and Technology dated 28.5.1986, and to grant applicant those benefits within a period of four months of today. “

4. This matter went up to the High Court, which has also upheld the order passed by this Tribunal and rejected the petition filed by the Department on

23.1.2015.

5. Notices were issued and Mr.K.Kesavankutty,ACGSC appeared on behalf of the respondents and filed reply statement.

6. Mr.K.Kesavankutty, ACGSC, learned counsel for the respondents fairly submitted at the Bar that the applicant joined as Junior Hydrologist (Group B Gazetted) w.e.f 21.11.1983, later on re-designated as Assistant Hydrologist (Group 'B' Gazetted) and is eligible for his in-situ promotion to the grade of Scientist 'C' under FCS w.e.f 01.01.1992 on completion of 08 years residency period in the feeder grade as per provision of the existing recruitment rules and further in-situ promotion to the grade of Scientist 'D' under FCS w.e.f 1.1.1997 on completion of 5 years residency period.

7. Heard Mr.Praveen Hariharan, learned counsel for the applicant and Mr.K.Kesavankutty,ACGSC, learned counsel for the respondents and perused the records.

8. In view of this, I find no reason to disallow this Original Application.

Thus, I, hereby, set aside Annexure A-6 order and direct respondent no.1 to grant all benefits strictly in accordance with Annexure A-2 order, by implementing Flexible Complimenting Scheme, to the applicant with effect from 6.6.1987 and by granting in situ promotion and revise the pay scale accordingly. This order shall be implemented within 60 days from the date of receipt of a copy of this order.

9. The Original Application is disposed of as above. No costs.

**(ASHISH KALIA)
JUDICIAL MEMBER**

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List of Annexures

Annexure A-1 - True copy of the chart containing the various group, Grade and category of posts with the method of promotion

Annexure A-2 - True copy of the order dated 14.8.1997 passed in O.ANo.886/1996 by this Tribunal

Annexure A-3 - True copy of the office memorandum of the department of Science and Technology dated 28.5.1986

Annexure A-4 - True copy of the judgment dated 23.1.2015 in OP No.22691/1997

Annexure A-5 - True copy of the Lawyer notice dated 21.12.2016 issued on behalf of the applicant

Annexure A-6 - True copy of the order dated 15.5.2017 passed by the 1st respondent

Annexure A-7 - True copy of the representation dated 17.7.2017submitted by the applicant

Annexure R2(a) - True copy of O.M dated 28.5.1986 of the Government of India, Ministry of Science and Technology, New Delhi

Annexure R2(b) - True copy of amended Rule dated 3.2.1998 of the Ministry of Water Resources, New Delhi

Annexure R2(c) - True copy of order dated 14.8.1997 in O.A No.886/1996 of this Tribunal

Annexure R2(d) - True copy of the judgment dated 23.1.2015 in O.P No.22691 of 1997(S) of the Hon'ble High Court of Kerala

Annexure R2(e) - True copy of letter No.22/34/1996-CGWB dated 7.4.2017 of the Ministry of Water Resources, New Delhi

Annexure R2(f) - True copy of letter No.3-(G.S.Menon)/2015-Sci.Estt. Dated 15.5.2017 of the Ministry of Water Resources, New Delhi

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