

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.404 of 2012

Date of CAV: 24.08.2018

Date of Pronouncement: 04.09.2018

Between:

M.B. Satya Kumar, S/o. Achuta Chary,
Age 53 years, Occ: E.C. No. 4448 RMFP (FMA),
R/o. Flat No. 303, Kanthimal Apartments,
Kamala Nagar, ECIL Hyderabad.

... Applicant

And

1. Union of India, Represented by its
Secretary,
Department of Atomic Energy,
BARC, CSM Marg, Mumbai.
2. The Joint Secretary,
Department of Atomic Energy,
BARC, CSM Marg, Mumbai.
3. The Chief Executive,
Nuclear Fuel Complex, Hyderabad.
4. The Deputy Chief Executive (Administration),
Nuclear Fuel Complex, Hyderabad.

... Respondents

Counsel for the Applicant ... Mrs.R. Vijaya Lakshmi, Advocate
For Smt. Shoha N., Advocate

Counsel for the Respondents ... Mr. V. Vinod Kumar, Sr. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***
Hon'ble Mr. Swarup Kumar Mishra ... ***Member (Judl.)***

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

The O.A is filed against the impugned order Ref:NFC/PAR.11/OA
339/2010/11/1275 dt 10-11-2011 of the respondents. Applicant is seeking a

direction to the respondents to promote the applicant as SO/C and exempt him to appear in the written exam.

2. Brief facts of the case are that the applicant was appointed as Tradesman/B in the respondents organization on 5-6-1985. Applicant acquired additional qualification of Diploma in Electrical Engineering in 1996 and B.Tech (Electrical) in 2007. The same were entered in his service book vide Ir dt 18-5-2007 of respondents. Based on the additional qualifications acquired, applicant sought promotion to SO/C as per promotional norms issued in Aug-2003 which provide for promotion after acquiring additional qualification based on the performance in a personal interview. Only one such opportunity is provided to appear for personal interview after acquiring the additional qualification. Applicant claims that his request for promotion was not considered even after obtaining the requisite additional qualification. In the meanwhile, promotion norms were revised from 1.01.2009. According to the revised norms candidates to get promoted after acquiring additional qualifications shall have to qualify in a Departmental written qualifying exam (DQE) in two attempts and in a period of 3 years of acquiring the additional qualification. After qualifying in the written exam the candidates will be subjected to a personal interview and then promoted based on performance. As the applicant acquired the additional qualifications prior to 2009, he approached this Tribunal vide OA-339/2010 to direct the respondents to apply 2003 promotional norms and allow him to directly appear for the personal interview without the written exam. The Tribunal allowed his prayer and directed the respondents accordingly. Complying with the orders of the Tribunal, the respondents considered his case for promotion and rejected it vide impugned order dt 10-11-2011.

3. The applicant's contention is that after having acquired the additional qualification he should be promoted to SO/C by considering the interview just as a formality. Promotion is to be based on additional qualification and there cannot be any rejection based on interview.

4. The respondents state that the applicant acquired additional qualification of B.Tech (Electrical) in 2006 from Institute of Advanced Studies in Education, a deemed university located in Rajasthan. The Institute was not recognized by AICTE and therefore the matter was referred to the department. In the meanwhile, the promotional norms were revised from 1.1.2009. The applicant appeared at the DQE on 26.7.2009 but failed. He had another chance to appear at the DQE but instead approached the Tribunal in OA-339/2010. As per orders of the Tribunal dt 16-3-11, his promotion was considered based on 2003 norms by a selection committee and found him unfit to be promoted as SO/C. The respondents further emphasize that the post to which the applicant is to be promoted is SO/C, a Group A post calling for strict assessment of performance. Therefore the interview is a serious assessment of the applicant in terms of capabilities/knowledge and not just a formality.

5. Heard the learned counsel and perused the documents placed on record.

6. It is seen that the applicant did appear at the written test as per 2009 norms but failed. Although he had a second chance to appear at the DQE but since he approached this Tribunal vide OA 339/2010, he was examined as per 2003 norms but was found unfit.

7. During the arguments the learned counsel for the applicant has pointed out that the impugned order dt 10.11.2011 issued by the respondents while complying with the order of this Tribunal does not give reasons for the applicant being

rejected for promotion. The respondent counsel was then directed to produce the minutes of the selection committee vide docket order date 21/8/2018. The respondent counsel verified with the respondents and reported to the Tribunal on 24.8.2018 that the respondent organization does not maintain any minutes and that if called for, files will be produced.

8. The grievance of the applicant as articulated by his counsel is that the impugned order should have been a speaking and a reasoned order stating grounds for rejection. We in the Tribunal agree with the contention of the counsel for the applicant. Therefore, in the interest of justice, the respondents are directed to issue a speaking and reasoned order clearly stating the grounds on which the applicant could not be considered for promotion to SO/C within 60 days of the receipt of this order.

9. The OA is therefore allowed to the extent stated and disposed of. No order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 4th day of September, 2018

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