

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

Original Application No. 1031 of 2012

Date of CAV: 07.09.2018

Date of Order: 10.09.2018

Between:

T. Shoba, W/o. T. Ramshanker,
Aged 47 years, R/o. Flat No. B209, 'B' Block,
May Flower Heights, Opp: Noma Function Hall,
Mallapur, Hyderabad – 500076.

... Applicant

And

1. The 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. N. Shoba, 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.) }

This OA has been filed by the applicant with a prayer to declare the proceedings of the respondents in Proceedings No. NFC/PAR-II/Prom.4656/2011, dated 18.08.2011 in not redesignating her as Scientific Assistant B (SA/B) with effect from her appointment as Scientific Assistant A (SA/A) with all consequential benefits as arbitrary, illegal, unjust and violative of Articles 14 & 16

of the Constitution of India and to consequently direct the respondents to redesignate her as SA/B with effect from 01.08.1994 with all consequential benefits such as seniority, promotion and arrears of allowances.

2. Brief facts of the case are that the applicant joined the respondents organization as Draughts Man 'A' and graduated to the level of Scientific Assistant C as under:

- i) From Draftsman – A to Scientific Assistant- A with effect from 01.08.1994.
- ii) From Scientific Assistant- A to Scientific Assistant- B with effect from 01.08.1998.
- iii) From Scientific Assistant- B to Scientific Assistant- C with effect from 01.08.2002.
- iv) From Scientific Assistant- C to Scientific Officer Grade –SB with effect from 01.08.2006.

3. In the year 1992, the respondents organization have come up with a new merit scheme which is purely based on merit. As per this Scheme, employees who acquire additional qualification are eligible to be promoted if they secure not less than 60% marks. The applicant acquired additional qualification in the year 1993 by passing Diploma in Civil Engineering with 51.66%. At that interval of time, the applicant was working as Scientific Assistant A and based on her additional qualification, her plea is that she should be promoted as Scientific Assistant B. The respondents considered and rejected her claim, vide the impugned order dated 18.08.2011. Therefore, the present OA.

4. The contention of the applicant is that since she has acquired additional qualification she has to be necessarily promoted as Scientific Assistant B, more so

in the context of Scientific Assistant A post being abolished. The applicant also cites the orders of this Tribunal in OA Nos. 847/1995, OA 1662/03, 11/2004, 229/05, 149/2007 & Batch, wherein, as per the applicant, the respondents were directed to redesignate the applicants in the said OAs as Scientific Assistant B from the date they were promoted as Scientific Assistant A, along with consequential benefits. The applicant contends that she is also a similarly situated person holding additional qualification and therefore, she has to be promoted on par with those who got the relief in the cited OAs.

5. The respondents contend that the applicant has acquired additional qualification of Diploma in Civil Engineering during 1993 with 51.66% marks as against the requisite minimum 60%. Therefore she is not qualified as per the new promotion policy of 1993 where. in the pre-requisite condition is to obtain not less than 60% marks. The respondents also indicate that in OA Nos. 847/95, 229/05, 149/2007, the applicants therein had acquired the additional qualification and promoted as SA/A prior to 01.02.1992 and hence, they were redesignated as SA/B w.e.f. 01.02.1992. The applicants in OA No. 1662/03 and 11/04 had acquired the additional qualification with more than 60% marks after 01.02.1992 and therefore, they were given SA/B from the date of their promotion as SA/A. In other words, the respondents are making it clear that prior to 1992, those who acquired additional qualification with less than 60% were promoted as per the policy existing at that juncture of time. However, for those applicants who have acquired additional qualification after 1992, they have been applying the condition of minimum of 60% marks to consider elevation. Hence, it is not permissible to designate the applicant as SA/B from SA/A because she acquired additional qualification in 1993 and that too, with a percentage of less than 60%. Besides, the respondents have asserted that SA/A posts have not been abolished.

6. Heard learned counsel for both sides.

7. The merit promotion scheme envisages a minimum of 60% marks to be secured whenever any employee were to acquire additional qualification. The employee working for the organization after 1992 i.e. after implementation of the merit policy scheme have been subject to this rule of achieving minimum of 60% marks. The applicant has only obtained 51.66% in the Diploma in Civil Engineering as is evident from the Annexure A-9 to the OA. Therefore, she is obviously ineligible. The OAs quoted by the applicant do not apply to her case as they are on a different footing as explained in the above paras. The applicant also contends that SA/A post has been abolished, but she has not produced any Memo confirming the same. The applicant has also referred to item No. 4 of the letter Ref.No. NFC/04/03/92-IR/076, dated 07.04.1992, wherein the CEO of the 3rd respondent organization has assured the Staff Association that a decision of Trombay Council has been received and it will be implemented w.e.f. 01.02.1992. It was a general reply on implementation of the merit promotion scheme and there is nothing specific which would support the claim of the applicant. The applicant has not ushered any material to support her claim substantively. The applicant has therefore not made out any case to buttress her claim for promotion as per the rules stipulated and explained above.

8. In the result, the OA is dismissed. No order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

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

Dated, the 10th day of September, 2018

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