

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

Original Application No.921 of 2013

Reserved: 19.09.2018

Order pronounced: 20.09.2018

Between:

Chittohadathil Unnikrishna, age 54 years,
S/o. H.B. Ganapathi Nambodiri, Occ: SO/C,
E.C. No. 4754, MBA-P, NFC, Hyderabad,
R/o. H. No. 7-56, Anushakthi Nagar, Dammaiguda,
Nagaram, Hyderabad.

... Applicant

And

1. Union of India, Rep. by
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.)}

The OA has been filed in not redesignating the applicant as per the judgment in OA 11/2004 dt.8.11.2005 as SA/D or SO/SB w.e.f. 1.2.2004.

2. Brief facts of the case:

The applicant was appointed as Technician B in the respondent organization on 21.3.1990 and thereafter, he gradually rose in the organization upto Technician D in 1996. He acquired additional qualification of Diploma in Electrical and Electronic Engineering with 60.33% marks in November 1997. As per the merit promotion scheme of 1992 of the respondent organization, an employee who acquires additional qualification shall be eligible for promotion based on the findings of a selection committee which assesses the merit of the candidate and decides. The selection committee has found him fit for Scientific Assistant-A (SA/A) with effect from 1.2.98. These promotions were secured in normal course. The applicant represented that he should be promoted to the grade of SA/B w.e.f. 1.2.98. But the respondents did not agree. Being aggrieved the applicant filed OA 11/2004 in this Tribunal praying for redesignation as SA/B w.e.f. the date of appointment as SA/A which was agreed to by the Tribunal, leading to consequential rise at different levels. Applicant was therefore placed in SA/B on 1.2.98, SA/C on 1.2.2001, SO/SB w.e.f. 1.2.2006. The applicant's grievance is that his promotion to SO/SB should be from 1.2.04 and not 1.2.2006. Therefore, the present OA.

3. The contention of the applicant is that as per the promotion policy, the applicant is eligible for promotion to SO(SB) from 1.2.04 on the grounds that every three years all others were given promotion. The holding of the interview by the Selection Committee is just an empty formality. There were no interviews conducted in 2004 and 2005 to find out whether the candidate was suitable. Main grouse is that others got in three years whereas the applicant was promoted after five years to the said grade.

4. The respondents have intimated that the applicant was originally promoted as SA/A w.e.f. 1.2.98, but on his prayer in OA 11/2004 and the order of this Tribunal thereof, the SA/A promotion was redesignated as SA/B w.e.f. 1.2.98, and this had a consequential impact of advancing his promotion in SA/C to 1.2.2001. Thereafter, he was eligible to be considered for SO/SB or SA/D. The selection committee which met on 6.10.2006 based on the performance of the applicant found him to be fit from 1.2.2006 and not w.e.f. 1.2.2004. Accordingly the applicant joined the post of SO/SB on 1.2.2006. The respondents claim that under the merit promotion scheme, merit is the criteria and based on the same the applicant was promoted w.e.f. 1.2.2006 and not for the earlier years. The respondents also point out that they filed WP 5523 of 2006 before the Hon'ble High Court of A.P. challenging this Tribunal order 8.11.2005 and that the final outcome is awaited.

5. The applicant, as is seen from the details above, has gained elevations indicated, in pursuance of this Tribunal order in OA 11/2004. The respondents did consider his promotion for SO/SB w.e.f. 1.2.2004 through a Selection Committee formed exclusively for the purpose. However, the committee after due assessment has found him fit w.e.f. 1.2.06. The essential element of merit promotion scheme as in indicated in the nomenclature itself is merit. The selection committee has considered his candidature and decided. As claimed by the applicant that others got it and he did not get would mean that the Committee did differentiate the candidates who appeared before it based on merit. The right of the selection committee in doing so cannot be questioned. Moreover, the respondents have complied with the order of this Tribunal in OA 11/04 by redesignating him as SA/B instead of SA/A and thereupon giving the benefit of advancing his promotion to SA/C as well. However, the very order of this

Tribunal in OA 11/2004 is under adjudication by the Hon'ble High Court for the State of Telengana and for the State of Andhra Pradesh. The applicant has not made out a case with any new facts wherein the intervention of this Tribunal is warranted.

6. Therefore, the OA is dismissed. No order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

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

Dated, the 20th day of September, 2018

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