

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

Original Application No.418 of 2013

Reserved: 10.09.2018

Order pronounced: 12.09.2018

Between:

1. K. Nageswara Rao, S/o. K. Govind,
Aged about 47 years, Working as Scientific Officer 'D'
Nuclear Fuel Complex, Moula Ali, ECIL Post, Hyderabad.
2. D. Rajendra, S/o. late Sri D. Girdawar Singh,
Aged about 46 years, Working as Scientific Officer 'D'
Nuclear Fuel Complex, Moula Ali, ECIL Post, Hyderabad.
3. C. Mahadev Prabhu, S/o. late C.Y.S. Sharma,
Aged about 49 years, Working as Scientific Officer 'D'
Nuclear Fuel Complex, Moula Ali, ECIL Post, Hyderabad.
4. R. Panneer Selvam, S/o. late S.P. Rangasamy,
Aged about 46 years, Working as Scientific Officer 'D'
Nuclear Fuel Complex, Moula Ali, ECIL Post, Hyderabad.

... Applicants

And

1. Union of India, rep. by
The Secretary, Department of Atomic Energy,
CSM Marg, Mumabi.
2. The Chief Executive,
Nuclear Fuel Complex, Moula Ali, ECIL Post,
Hyderabad.
3. The Chief Administrative Officer,
Nuclear Fuel Complex, Moula Ali, ECIL Post,
Hyderabad.
4. The Administrative Officer,
Nuclear Fuel Complex, Moula Ali, ECIL Post,
Hyderabad.

... Respondents

Counsel for the Applicant ... Mrs. Rachna Kumari
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.)}

OA is filed against the order No.NFC/PAR.II/Prom./4700/2011/1143, dated 16.07.2011 of the 4th respondent, rejecting the claim of the applicants for considering their cases for upgradation to the next higher grade of SA 'C', with consequential benefits.

2. The applicants were appointed as Scientific Assistant/B in the respondent organization vide Orders No. NFC/PER/0228/90/I/88 dated 18.12.1990. The applicants over a period of time have scaled the ladder of promotion and reached the position of Scientific Assistant D. The respondent organization has brought in a merit promotion scheme in 1992 and according to that scheme, those who acquire additional qualifications i.e. Diploma / B.Sc. with 60% and above marks will be eligible for promotion. This scheme is purely based on merit. Based on this scheme, some employees working in the respondent organization were promoted as Scientific Assistant/A (SA/A), some who were working as SA/A were promoted/ redesignated as SA/B consequent to different judicial orders on the subject. The applicants claim is that some employees have got the benefit of being promoted from SA/A to SA/B when these two cadres were merged and therefore, the same benefit be extended to them by merging SA(B) and SA (C). Accordingly, they have made representations to the respondents to redesignate them as SA/C from the date of appointment as SA/B. But, it was rejected by the respondent vide impugned order dated 16.07.2011. Therefore, the present OA.

3. The applicants contend that similarly placed employees when they approached this Tribunal in OA 847/95, they were promoted as SA/B by redesignating SA(A) as SA(B) with effect from 01.02.1992. The applicants

contend that some juniors who acquired additional qualification much later, were interviewed later to them, were promoted as SA/B. They further contend that this process went on and that some officials who were in the lower cadre like Tradesman were promoted as SA/A and subsequently redesignated as SA/B with retrospective effect. However, request of the applicants had been ignored for redesignating them as SA/C as was done in other cases. Their main contention is that such restructuring should happen at every level and not be confined to SA/A. The applicants state that SA/B is a superior post and only after putting in 4 years of service in SA/A one can be promoted as SA/B. The redesignation of some officials from SA/A to SA/B was not based on any merit and that unequals have been brought on to the same seniority without completing the required 4 years in SA/A category. The applicants contend that their request for being redesignated as SA/C from SA/B being turned down is discriminative. Further, the applicants contend that some officials filed OA Nos. 149/07, 299/07, 392/06, 531/06, 131/07, 183/07, 345/07, 346/07, 362/07, 400/07 & 401/07 and this Tribunal has allowed the OAs ordering that the applicants in the OAs be redesignated as SA/B. Thus, based on the orders of this Tribunal, they also need to be redesignated as SA/C from SA/B.

4. The respondents in their reply contend that the applicants have been duly promoted from SA/B to SA/D and that they have accepted the promotions on the dates they were offered to them. The respondents clarify that in 1992, norms for direct recruitment and promotion in respect of scientific and technical staff were revised. As per the revised norms, candidates have been recruited directly from open market who possess Diploma or B.Sc. Degree with not less than 60% as SA/B. In regard to numerous OAs quoted by the applicants in para 6 of the OA,

the respondents stated that orders of the Tribunal are under challenge before the Hon'ble High Court for the State of Telangana and the State of Andhra Pradesh and that they are awaiting final adjudication on the matter. Merely because SA/A was upgraded as SA/B, it would not justify redesignating the applicants as SA/C instead of SA/B as it is violative of the relevant recruitment norms. The applicants over a period of time have availed promotions up to the level of SA/D. Having accepted the promotions, coming up with the plea after many long years to redesignate them as SA/C instead of SA(B) at this juncture of time is unjustified. The respondents emphatically state that in merit promotion scheme there is no place for seniority. Those who were meritorious will automatically get elevated. Hence, the applicants have no case.

5. Heard learned counsel for both sides.

6. The main plea of the applicants is that some employees who were working as SA/A were redesignated as SA/B consequent to observation of this Tribunal in different OAs. The applicants stand is that the principle laid down by this Tribunal should also be applied to them and they should be redesignated as SA/C from SA/B. The order of this Tribunal has been challenged by the respondents in the Hon'ble High Court of Judicature for the State of Telangana and the State of Andhra Pradesh and the judgment is awaited. The recruitment norms as stated by the respondents do not provide for such redesignation from SA/B to SA/C. At this rate as claimed a demand will germinate that every level be merged with the higher one i.e. from SA/C to SA/D, SA/D to SA/E and so on. Such demands are not in consonance with the recruitment rules as informed by the respondents in the reply statement. It is also seen that the applicants have accepted promotions all along their career and seeking relief after many years of

discharging responsibility in different superior grades is difficult to appreciate. The applicants have not submitted any rule which supports their claim. Some of the employees were redesignated as SA/B because of this Tribunal's orders and not on their volition. Regarding seniority in merit promotion scheme it was made clear that such promotion should be made on merit and not on seniority basis. Therefore, those who got promotion on merit would get the consequential benefits. As seen from the above facts, the applicants have not made out a strong case for this Tribunal to interfere. Hence, the OA fails.

7. OA is accordingly dismissed. No order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

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

Dated, the 12th day of September, 2018

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