

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : INDORE

Original Application No.58/2011

Jabalpur, this Thursday, the 01st day of February, 2018

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Deepak Kumar Mishra, s/o Shri Anil Kumar Mishra, aged 33 years, Scientific Officer 'D', Raja Ramanna Centre for Advance Technology, Indore, r/o EB-3/13, Efficiency Apartment, CAT. Colony, Indore – 452013 (MP). -Applicant

(By Advocate – Shri Ramesh Chandra Shukla)

V e r s u s

1. Union of India & Ors through Secretary, Department of Atomic Energy, Anushakti Bhawan, CSM Marg, Mumbai – 400039.
2. Director, Raja Ramanna Centre for Advanced Technology, Sukhniwas, PO : CAT, Indore – 452013 (MP).
3. Purshootam Shrivastava, Section Head, Pulse High Power Microwave Section, Raja Ramanna Centre for Advanced Tehcnology, Sukhniwas, PO : CAT, Indore – 452013 (MP).
4. J.R. Jade, Assistant Personal Officer, Recruitment Section, Raja Ramanna Centre for Advanced Technology, Sukhniwas, PO : CAT, Indore – 452013 (MP) - Respondents

(By Advocate – Smt. Seema Sharma for respondents Nos.1 & 2)

(Date of reserving the order: 14.12.2017)

O R D E R

By Navin Tandon, AM.

The applicant is aggrieved by Annexure A-1 order dated 10.08.2010 whereby his representation for consideration of his

claim for promotion from Scientific Officer 'D' to Scientific Officer 'E' has been rejected. Hence, this Original Application has been filed.

2. Brief facts of the case are that the applicant had joined Bhabha Atomic Research Centre (BARC) Training School, Trombay, Mumbai as a Trainee Scientific Officer in the year 2001-02. After completion of training, he was appointed on the post of Scientific Officer 'C' on 01.09.2002 and thereafter promoted as Scientific Officer 'D' on 01.08.2005. The applicant claims that eligibility period for promotion to the post of Scientific Officer 'E' is four years. Since the applicant was promoted as Scientific Officer 'D' on 01.08.2005, he should have been promoted as Scientific Officer 'E' w.e.f. 01.07.2009. However, the respondents have rejected his claim vide Annexure A-1 order dated 10.08.2010, without assigning any reason.

3. Aggrieved by the order dated 10.08.2010, the applicant has filed this Original Application seeking following reliefs:

"8.1 It be held that impugned rejection of petitioner claim vide communication Annexure A/1 is void ab initio and it be quashed.

8.2 The Respondents be directed to consider the case of the applicant for promotion to the post of Scientific Officer 'E' with all consequential benefits ignoring the un-

communicated ACRs from the date his juniors were promoted i.e. 01.07.2009.

8.3 Any other relief as deemed proper by this Hon'ble Tribunal and costs of this O.A.”

4. It is relevant to mention that the matter pertains to the year 2011 in which the notices were issued on 20.01.2011. The respondents filed their reply on 09.08.2011 to which the applicant has also filed his rejoinder on 10.02.2012. Since there were some additional facts pleaded in the rejoinder, the respondents have filed their additional reply on 09.07.2013. Thereafter, instead of arguing the case on merits, the applicant had moved various Miscellaneous Applications and also filed his reply to the additional reply filed by the respondents.

5. During the pendency of this Original Application, the applicant has filed as many as five Miscellaneous Applications after filing of this Original Application.

5.1 MA No.201/1022/2013 was filed on 23.10.2013. In this MA, the applicant has prayed for summoning the following documents:

“I) All the records of screening committee concerning the applicant, on which the matter of promotion of the applicant was considered as well as the documents of grounds of rejection of promotion of the applicant.

II) All the CRs of the applicant which are concerned with the promotion of the applicant. Especially those concerning the document of information of the adverse entries in the CRs of the applicant.

III) All the documents which are evidence of malafide actions which are annexure Nos.R/7, R/8, R/9, R/16, R/17, A/5, A/14, A/19.

IV) The receipt of receiving of ACR for the period from 01/08/2008 to 30/06/2009.

V) The documents clearly establishing the fact that Shri J.R. Jade was the appropriate authority to decide the representation of the applicant.

VI) The copy of provisions of law, rule or circular, that the duplicate CR forms or another set of CR forms can be issued.

VII) The documents of norms and rules, which are written in the counter reply as well as in reply to rejoinder by stranger Shri K.Ramesh.

VIII) The complete document of merit promotion scheme which are concerned with the promotion of the applicant as written by Shri K. Ramesh in counter reply as well as in reply to the rejoinder.

IX) The original indent form dated 26/09/2006 as there are two indent forms of dated 26/09/2006 has been filed by Shri K. Ramesh.

X) The documents of justification of proprietary purchase that was approved by competent authority Dr. V.C. Sahni.

XI) All the quotations submitted by the Supplier against the indent of dated 26/09/2006.

XII) The minutes of meeting of negotiation that was conducted.

XIII) The annexures R/17, R/18, R/19, R/20, R/21, R/22, which has been filed by the deponent.

XIV) Annexure no. A/20, A/20A, A/20B and A/20C, A/22, A/23 which is suppressed and denied by deponent Shri K. Ramesh.

XIV) The documents mentioning the “extant orders” that only below normal or below average grading needs to be communicated as stated in averments of the deponent Shri K. Ramesh.”

This MA was allowed on 11.01.2016 and in compliance of thereof, the official respondents have submitted the entire records, as sought for by the applicant, on 22.02.2016.

5.2. MA No.201/1023/2013 has been filed on 23.10.2013. In this MA, the applicant has brought out that Shri K. Ramesh is a stranger in the OA, who has filed counter reply and reply to the rejoinder on behalf of the respondents without any authorization. Further, it has been mentioned that Shri K. Ramesh came in RRCAT after a long time of the happenings of the above OA. Actually, after joining the group and to defend the respondents of the OA, he has made averments of false and forged facts. On those

points the applicant has made clear-cut and specific averments that Shri K. Ramesh has committed the crime of forgery and fabrication in the O.A. Such factual points are to be cross-examined from Shri K. Ramesh, for the end of justice, which shall disclose the truth of the promotion as well as about the forgeries and fabrications, which are on the records of the OA. The applicant has prayed to summon Shri K. Ramesh (stranger according to him) for cross-examination.

This MA was dismissed on 11.01.2016. It needs to be mentioned that Shri K. Ramesh was posted as Administrative Officer-III in RRCAT.

5.3. MA No.201/00126/2014 was filed on 11.02.2014. Through this MA, the applicant has submitted that Shri K. Ramesh is a stranger in this case and he has no locus standi in the whole case. Shri K. Ramesh is filing documents on behalf of the respondents as well as applicant and is playing fraud at large in bunch of OAs, which are filed against the RRCAT, Indore,

In this 9 pages MA, the applicant has prayed that all the documents, which are filed under the signature of Shri K. Ramesh may be deleted. Especially, the documents of counter reply, reply to the rejoinder and MA No.201/269/2013.

This MA was also dismissed on 11.01.2016.

5.4. MA No.201/00127/2014 was filed on 11.02.2014.

The averments made in MA No.201/126/2014 have been repeated in this MA as well. The applicant has prayed that this Tribunal may consider forgeries, fabrications, fraud and patent lies of Shri K. Ramesh. On those grounds, proceedings may kindly be taken against Shri K. Ramesh under Section 340 Cr.P.C. read with Section 195(B) of Cr.P.C. against the crime which has been committed by Shri K. Ramesh.

This MA is pending for adjudication.

5.5 MA No.201/01133/2014 was filed by the applicant on 08.12.2014.

The applicant has submitted that Order 27, Rule 8 of Code of Civil Procedure has been violated up to this date, as there is no undertaking of Central Government has been filed on behalf of the public officers, nor on behalf of Director RRCAT. Even no memorandum has been filed on behalf of Union of India. Further, the applicant has alleged that the order sheet dated 02.01.2014 is forged and fabricated order sheet, which has been supplied to the applicant by cutting the left part of the order sheet. The applicant prayed that, "the point of respondents counsel and forgery in

supplying the true copy of order sheet dated 02.01.2014 kindly be considered and should be decided at the first priority by the Hon'ble Tribunal.”

This MA has been dismissed on 11.01.2016.

6. The official respondents have also filed MA No.201/269/2013 for deleting the name of respondents Nos.3 and 4. This MA has been dismissed on 10.07.2013.

7. MA No.201/00127/2014

7.1 This Miscellaneous Application running in 10 pages and consisting of 25 paragraphs has been filed for taking action against forgeries and fabrications committed by Shri K. Ramesh in counter reply, reply to the rejoinder and MA No.269/2013.

7.1.1. Shri Ramesh Chandra Shukla, learned counsel for the applicant argued that so far 11 advocates have appeared for the respondents and no Vakalatnama has been filed. As per Rule No.62 of CAT (Rules of Practice), 1993 the Vakalatnama is to be filed as per Form 11. He averred that delegated powers cannot be delegated. As per the documents filed by the respondents (Annexure R-32), Administrative Officer is authorised to sign on behalf of the official respondents. However, all the documents have been filed by Administrative Officer-III. Shri Ramesh Chandra

Shukla, learned counsel for the applicant argued that there is no documents which have been signed by the respondents, who have been impleaded in the O.A. Respondent No.2 has not authorised anybody. Further, the respondents Nos.3 and 4 have been impleaded in personal capacity and they have not authorised anybody. Vakalatnama for respondents Nos.1 to 4, which has been filed by Ms. Seema Sharma on 06.07.2015 has been signed by Administrative Officer-III and is not in the format of Form No.12 of CAT (Rules of Practice), 1993, but is in the format prescribed by the High Court. Shri Shukla completed his argument by saying that fraud and justice cannot live together. If something has been obtained by fraud, it is worthless.

7.2. Applicant, who was present in person, was asked whether any post of Administrative Officer (without any suffix I, II, II, etc.) is there at RRCAT, Indore. The applicant submitted that he does not know the position as far as 2011 is concerned. However, as on date there is no post with the designation Administrative Officer, i.e. without any suffix I, II, III. We feel that the points raised by the applicant are only dilatory in nature. The officer, who has signed the documents on behalf of the official respondents is authorised to do so. As per the notification dated 16.09.1991, issued by the

Ministry of Law & Justice, Department of Legal Affairs (filed alongwith reply to MA 201/00127/2014), Administrative Officer of RRCAT is authorized to sign and verify plaints and written statement in suits in any court of Civil Jurisdiction by or against the Central Government. Thus, the objection raised by the applicant in this regard is not sustainable.

Hence, the MA is dismissed.

8. In addition, the applicant has also filed three Review Applications, viz; RA 201/00001/2016, RA 201/00002/2016, RA 201/00003/2016.

8.1 RA 201/00001/2016 was filed against the order dated 11.01.2016, passed in Miscellaneous Application No.201/00126/2014.

It was submitted on behalf of the applicant that none of the respondents have signed on any document of counter reply, and counter rejoinder, nor they have filed memo of appearance or Vakalatnama, which is mandatory in law. Therefore, it was prayed to allowed the Review Application.

8.2 RA 201/00002/2016 was filed against the order dated 11.01.2016, passed in MA No.200/01023/2013 on the ground that Shri K. Ramesh is a stranger in the OA. He is not applicant, nor

respondent in the above OA. Even then the stranger Shri K. Ramesh has filed Counter reply and counter rejoinder in the O.A. Shri K. Ramesh has not filed any power on behalf of any respondent. It was stated that Shri K. Ramesh has got no personal knowledge about the facts of the OA, nor about the documents of OA.

8.3. RA No.201/00003/2016 is also against the order dated 11.01.2016, passed in MA No.201/01133/2014. In this RA, it has been stated that without considering the law and facts of the MA, this Tribunal has dismissed the MA No.201/01133/2014. It was again reiterated that none of the counsel have filed memo of appearance or Vakalatnama for any respondents. Further, Shri A. Sukumaran cannot appoint advocate for Union of India. He is playing fraud by appointing two advocates for Union of India.

8.4 All these RAs were dismissed on 03.05.2017 with the following observations:

“We have taken up these Review Applications. The Review Applications are irrelevant and not maintainable as it raises questions which should be decided only in the final hearing. Whether a party is in the correct Review Application or not is to be decided

only when the O.A. is taken up for hearing and not before that and especially not in his absence.

2. Thus, these Review Applications lack merit and the same are dismissed.”
9. Coming to the merits of the case, the applicant has listed the following facts and grounds of the case, which are as under:

“4.1 The applicant’s date of birth is 25.1.1977. He holds qualification of M.Sc in Physics from Bombay University. After completing Orientation Course for Engineering Graduate and Science Post Graduates (OCES) of 45th Batch of BARC Training School in the year 2002. He was appointed on the post of Scientific Officer ‘C’ on 1.9.2002. He was promoted on the post of Scientific Officer ‘D’ on 1.8.2005.

4.2 After an year of becoming Scientific Officer ‘D’ he was transferred, in the month of Oct 2006 to the newly constructed Pulse High Power Microwave Section on the same post where Respondent No.3 Shri Purshotam Shrivastava was the Head of the Section.

4.3 During applicant’s posting in Pulse High Power Microwave Section (PHPMS) his immediate superior Respondent No.3 wanted him to raise an unjustified indent of

CST Particle Studio but applicant refused to do so since he could smell an element of corruption. Such refusal by the applicant made the Respondent No.3 annoyed and he started maintaining grouse against him. The applicant made several correspondences with the higher authorities but nothing was yield. Even Respondent No.3 did not allowed the applicant to work in his specialized filed and tried his best to destroy the career of the applicant.

4.3 *Minimum eligibility period of promotion to the post of Scientific Officer 'E' is four years and thereafter on basis of CR Gradings. The gradings are as follows:-*

A + Exceptional

A 1 Outstanding

A 2 Very Good

A 3 Good

B + Satisfactory

B Below normal.

4.4 *There is local screening committee. It is not known who are nominated as members of the Committee. This Committee sends the case of an employee for consideration of DPC at Headquarters at Mumbai.*

4.5 *The applicant had completed statutory four years on the post of Scientific Officer 'D' and became eligible for consideration of his promotion on 1.7.2009. The local screening committee for no reason did not send the applicant's name for consideration of his promotion when CC No.1572 Shri Praveen Mohaniya placed at serial No.4 and CC No.1575 Shri Riyasat Hussain, placed at serial No.5 who are one batch junior to the applicant have been considered and promoted to Scientific Officer 'E' with effect from 1.7.2009. Copy of the order dated 6.7.2010 is Annexure A/2.*

4.6 *The name of the applicant was not recommended for the promotion to the post of Scientific Officer 'E' because department could not receive following confidential reports in time:-*

- (i) 2006-2007 i.e. from 1.8.2006 to 31.7.2007.*
- (ii) 2007-2008 (a) 1.4.2007 to 31.3.2008;*
- (b) 1.4.2008 to 31.07.2008;*

4.7 *2008-2009 i.e. from 1.8.2008 to 30.6.2009, the period when applicant stands transferred to Power Supplies Division. This CR was taken by the department for the second time in back date.*

4.8 *For the first time on 25.3.2008 the Respondent No.3 informed applicant through e-mail that he has not submitted his duly filled confidential report (CR) for the period 1.8.2006 to 30.7.2007. Copy annexed as Annexure A/3. In the same letter petitioner was asked to collect his CR from 1.8.2007 to 31.3.2008 and submit it on or before 26.8.2008 before 4 PM.*

4.9 *That the applicant intimated that he had already submitted his duly filled CR for the period 01.08.2006 to 31.07.2007. Copy of the letter dated 28.3.2008. Copy annexed as Annexure A/4.*

4.10 *On August 6th 2008 the Respondent No.3 informed the applicant that if applicant did not collect the CR for the period from 01.04.2008 to 31.07.2008 the same would be assessed in absence of applicant's work report and would be returned to higher authorities with fitting remarks. Copy annexed as Annexure A/5.*

4.11 *That despite of submitting duly filled CRs to the respondent No.3, Respondent 3 again and again send letters that the applicant had not submitted his duly filled CRs in time. In between, on 29.8.2008 the applicant has been transferred to the power supplies division. After the transfer*

Shri C.K. Pithawa, In-charge Indus Accelerator Complex issued three blank CRs for the period from 01.08.2006 to 31.07.2007, 01.08.2007 to 31.03.2008 and 01.04.2008 to 31.07.2008 to the applicant. The filled uplicate CR for the period from 01.08.2007 to 31.03.2008 had been submitted by the applicant to the Department on 08.10.2008. The acknowledgement of the same is annexed as Annexure A/6. Similarly duplicate CR from 01.04.2008 to 31.07.2008 and duplicate CR for 01.08.2006 to 31.07.2007 were submitted on 23.10.2008 and 30.10.2008 respectively. The acknowledgements are jointly marked as Annexure A/7. The CR for the period from 01/08/2008 to 30/06/2009 was also taken by the department second time in back date.

4.12 *That, this non consideration of CRs, which had already been submitted the name of the applicant was not considered by the DPC for the post of Scientific Officer E. On being aggrieved the applicant submitted his representation on 04.03.2010 specifying therein the misdeeds of respondent No.3 Shri Purushottam Shrivastava who deliberately and mischievously kept the Duly filled CRs of the applicant pending with him and did not forwarded*

them for further action there on. Copy of the representation Dated 04.03.2010 is annexed as Annexure A/8.

4.13 *That, this representation dated 04.03.2010 was rejected by non speaking order by Shri J.R. Jade, Assistant Personal Officer, being an officer of administrative branch and much junior to the applicant, had no authority to inspect and consider the representation. Copy of his letter dated 10.08.2010 is Annexed as A/1. In fact this representation was to be decided by the respondent No.2, the Director of RRCAT.*

4.14 *That, the applicant submitted reply to the letter dated 10.08.2010 issued by Mr. J.R. Jade (Annexure A/1) on 01.09.2010 clearly mentioning that the said representation was addressed to Director RRCAT and not to him, since he had no jurisdiction to evaluated his CRs and reply my representation. Copy of the reply by the applicant is annexed as Annexure A/9.*

4.15 *That, the annual confidential reports for period 2005 to 2009 have never been communicated to the applicant at any point of time.*

5.1 *Because, the applicant has submitted his CRs well in time to the Respondents but due to malice intention, the*

Respondent No.3 who was his immediate superior at the relevant point of time and was to grade CR of the applicant, did not forwarded the same to the Reviewing Authority for his consideration. The CRs were suppressed by the Respondent No.3 with the intention to damage the career of the applicant/promotion. The applicant has every right for consideration of his promotion. This violates his fundamental rights as envisaged under Articles 14 & 16 of the Constitution of India. It is well established that applicant has not been considered by the DPC. It is not the case of the applicant that he was considered and found unfit by the DPC.

5.2 *Because, the applicant has never been communicated any adverse remarks in his whole career and in the present case also though the duplicate CRs have been obtained from the applicant, the applicant has not been communicated about these CRs.*

5.3 *Because as per para 5.2 of Chapter V of Broucher on preparation and maintenance of confidential report it is provided that “a Reporting Officer should not wait till the expiry of the time-limit for submission of self-appraisal by the Government servant to be reported upon. If self-*

appraisal is not received by the end of first week, the Reporting Officer should take the initiative to remind the Government servant to be reported upon, in writing, asking him to submit self-appraisal of the Government by the stipulated date. It should also be made clear in the reminder that if the Government servant reported upon fails to submit self-appraisal by the stipulated date, the report will be written without self-appraisal". Copy Annexure-A/10. In the present case the Respondent No.3 was free to send his opinion without self-appraisal report of the applicant but the Respondent No.3 did not send his opinion only to harass the applicant and with a considered view to destroy his career.

5.4 *Because, as per instructions of Department of Personnel and Administrative Reforms, O.M. No.21011/1/77-Estt. Dated the 30-01-198, "All adverse entries in the confidential report of Govt. servant, both on performance as well as on basic qualities and potential should be communicated along with a mention of good points within one month of their being recorded. This communication should be in writing and a record to that effect should be kept in the confidential report (CR) dossier".*

5.5 That, there has been procedural irregularity of non-observance of DOPT instructions regarding assessment for promotion by DPC as under:-

In Civil Appeal No.7631 of 2002 (Dev Dutt Vs Union of India & Ors) decide on May 12, 2008, the Hon'ble Supreme Court has held that grading below bench mark grading is adverse because it eliminates the candidates from being considered for promotion, vide para 9 of the copy of the Hon'ble Supreme Court judgment. The applicant also relies upon the Full Bench judgment of the Hon'ble Apex Court in Abhijit Ghosh Dastidar Vs. Union of India and Others (2010) 1 SCC (L&S) 959, wherein it was held that uncommunicated grading below the bench mark should not have been taken into consideration for promotion.

5.6 Because, there is no misrepresentation on part of the applicant and he was not at fault, therefore, declining of his promotion to the post of Scientific Officer 'E' is arbitrary, illegal and malafide infringing his constitutional rights.

5.7 Grounds other than those raised in this OA shall be urged at the time of hearing."

10. The official respondents have filed the written statement and resisted the claim of the applicant. It was submitted that case of the applicant was put up before the Screening Committee in the year

2009, after he completed four years in the grade of Scientific Officer 'D'. Since he was not meeting the norms, therefore, he was not found fit for promotion. Regarding para 4.3 of the O.A, it has been submitted by the respondents that the applicant was working in his specialized field while functioning in Pulse High Power Microwave Section. He was never asked by his superiors to raise and indent of (software) CST Particle Studio. The procurement action for the purchase of the aforesaid item had been initiated vide indent dated 26.09.2006 (Annexure R-5). The purchase procedure was followed with the recommendation of various committees after proper review of the indent as well as with due approval of Competent Authority. In reply to para 4.4, it has been submitted that the Screening Committees are appointed by the Competent Authority to screen the promotion cases and the names of the officials who are meeting the prescribed norms are forwarded to the Standing Selection Committee (SSC), which after interviews, recommends the cases for promotion after assessing their performance or defer the case. It has been further submitted that scientific and technical staff of the RRCAT are governed by the Merit Promotion Scheme, in which seniority of an official has no role to play. Prior to 2005, Shri Praveen Mohaniya and Shri Riyasat Hussain were junior to the applicant in the grade of SO

“C” by one year. However, since the case of the applicant was deferred in the promotion interview during 2004, the applicant as well as the above two officials became SO “D” during 2005.

10.1. In regard to para 4.8 of the O.A, it has been submitted that the applicant was informed to collect the CR for the period from 01.08.2007 to 31.03.2008 urgently. However, he did not turn up to collect the CR form. Moreover, the CR for the previous year (01.08.2006 to 31.07.2007) was also pending with the applicant and was not submitted by him. It has also been submitted that respondent No.4 is Assistant Personnel Officer, Recruitment Section, RRCAT and is responsible for examining the representation submitted by the officials, put up to the Appropriate Authority and consequent upon the consideration of the representation by the Appropriate Authority, decisions arrived thereon are communicated. So far as his contention that CRs from 2006 to 2008 were not taken into consideration by the DPC, it has been submitted that while screening the cases during 2009, the CR’s of the applicant of those period were available before the Screening Committee. It has also been submitted that no grading less than Average (B+) was given to the applicant. Therefore, there

was no necessity to communicate about the grading given to the Applicant as per the extant orders.

11. In the rejoinder filed by the applicant, he has shifted his case to a new direction, viz. transferring the applicant, authorization of Administrative Officer-III to represent the respondents, allegation of forgery and fabrication against his superior officers and private respondents Nos.3 & 4, constitution of Screening Committee etc. He has also submitted in the rejoinder that the points raised in para 5.6 and 5.7 of the O.A, have not been dealt by the respondents and non reply to the same will amount to admission. In Annexure A-12, the applicant has filed Chapter – 6 of General Financial Rules, 2005 framed by Government of India, Ministry of Finance, Department of Expenditure, which is regarding Procurement of Goods and Services. Annexure A-14 letter dated 20.07.2009 is on the subject of Blank C.R. Report for Scientific/Technical Staff. Further, in Annexure A-15 Office Memorandum dated 16.02.2009, timely preparation and proper maintenance of ACRs has been prescribed.

12. The official respondents have specifically denied the averments made in the rejoinder. It has been submitted that since the applicant had not submitted back the original CRs issued to him

as per Annexure R-2 and R-3 of the reply, therefore, another set of CRs was provided to him. It has further been reiterated that the grading less than “B+”, i.e. less than “Average” is being communicated and basing upon the grading given to the applicant, there was no necessity to communicate about the grading given to the applicant.

13. The applicant, thereafter, had filed reply of reply to the rejoinder on 21.01.2014 again alleging the fraud and forgery committed by his superior officers as well as by respondent No.3.

14. On 14.12.2017, the arguments of the parties were advanced for more than four hours and after hearing them at length, the matter was reserved for orders. The applicant, knowing the fact that the matter is being reserved, has sent a 72 page application by Post, which was received in the Registry on 26.12.2017 and registered as MA/201/972/2017. In the M.A, he has filed certain documents and is praying for grant of time to hear him on the point of Review Applications filed by him. It is pertinent to mention that the Review Applications were filed against the aforementioned four dismissed MAs of the applicant and those RAs were also dismissed by this Bench on 03.05.2017. Since in the RAs, the applicant has raised certain allegations against S/Shri K. Ramesh, A. Sukumaran

and Shri G. Venkatesan (Officers In-charge of the case), which are not the subject matter of the O.A, we are not inclined to entertain this application by granting him any opportunity to be heard on this issue. Accordingly, application sent by the applicant by post is considered and rejected.

15. We have gone through the documents placed on record by either side.

16. The point for our consideration is whether the applicant is entitled for promotion to the post of SO “E” w.e.f. 01.07.2009, as has been claimed by him.

17. On perusal of record we find that case of the applicant was put up before the Screening Committee in the year 2009 when he completed four years in the grade of Scientific Officer ‘D’. Since he was not meeting the norms, he was not promoted to the post of SO ‘E’. The staffs of the RRCAT are governed by the Merit Promotion Scheme and are promoted on the basis of their CR gradings and not on the basis of seniority. So far as applicant’s contention that CRs from 2006 to 2008 were not taken into consideration by the DPC, it has been specifically submitted by the respondents Nos.1 & 2 in their reply that while screening the cases

during 2009, the CR's of the applicant of those period were available before the Screening Committee. Therefore, the CRs for the aforesaid period were also considered by the Screening Committee. But the applicant was not found fit for promotion during 2009.

18. The main contention of the applicant is that his ACRs for the period of 2006, 2007 & 2008 were not taken into account by the DPC while considering his case for promotion to the post of SO "E". It has been specifically submitted by the official respondents that while screening the cases during 2009, the CR's of the applicant of those period were very much available before the Screening Committee. It has also been submitted that no grading less than Average (B+) was given to the applicant. Therefore, there was no necessity to communicate about the grading given to the Applicant as per the extant orders.

19. Accordingly, O.A is dismissed as it is without merits. In view of the fact that the applicant has filed series of frivolous MAs and RAs, we are of the considered view that it is nothing but an act of misuse of process of law. Therefore, we deem it appropriate to impose a cost of Rs.1000/- on the applicant. The respondents may deduct the same from his salary and deposit it in Prime Minister's Relief Fund.

(Ramesh Singh Thakur)
Judicial Member
am/-

(Navin Tandon)
Administrative Member