

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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No. O.A. 350/00525/2015

Date of order: 6.10.2016

Present : Hon'ble Mr. Justice Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

AJOY KUMAR DHAR

VS.

UNION OF INDIA & ORS. (ERTL)

For the Applicant : In person

For the Respondent : Mr. B.P. Manna, Counsel

O R D E R (Oral)

Mr. Justice Vishnu Chandra Gupta, Judicial Member:

Heard the applicant in person and Ld. Counsel for the respondents and perused the records.

2. The applicant sought for the following reliefs:-

- Ä) An order do issue directing the respondent authorities to immediately grant all arrear promotions due to the applicant as specified in paragraph VI of the instant application with proper refixation of his pay and allowances as well as designation.
- B) An order do issue declaring that the applicant belongs to Scientific & Technical Cadre quashing thereby any order, memorandum, decision, etc.etc. arrived at by the respondent authorities which declare the applicant belonging to Non Scientific & Technical Cadre.



C) An order do issue directing the respondent authorities to immediately release the arrears of pay and allowances of the applicant commensurating with all his due, legitimate and past promotions.

D) Any other like further order/orders, direction/directions do issue which would be deemed just, fit and proper to secure the ends of justice."

3. The applicant who was initially inducted in service as Casual Labour was regularized on the post of Helper 'A' by an order dated 16.11.1992, thereafter he was promoted to Helper 'B' on 12.11.1996. He challenged his regularization w.e.f. 1992 on the ground that his period spent as Casual Labour should also be included but the relief has been declined in an O.A. filed by the applicant before this Tribunal having O.A. No. 514 of 2000 against which a Writ Petition No. 725 of 2005 was filed but the same was also dismissed. Thereafter he filed another O.A. No. 174 of 2007 but the same was dismissed. The order was challenged before the Hon'ble High Court in AST No. 117 of 2005. The AST was decided on 7.7.2005 with the liberty to the applicant to make a representation before the authorities ventilating his grievances and the authorities were directed to dispose of the same within a stipulated period without making any comment on the merits of the case. In pursuance thereof the applicant preferred a representation which was disposed of vide order



dated 27.1.2007 by the respondent authorities on 9.3.2006.

4. The aforesaid order was challenged before the Hon'ble High Court in WPCT No. 124 of 2009 and the same was also dismissed vide order dated 25.8.2011. He also filed a Review Application which was also dismissed on 12.9.2012. It is a fact that a re-structuring policy was introduced with the approval of the Government of India, Ministry of Information and Technology in STQC Directorate which has been brought on record by the respondents along with his reply. The same is reproduced hereinbelow for ready reference:-

“GOVERNMENT OF INDIA
MINISTRY OF INFORMATION TECHNOLOGY
STANDARDISATION, TESTING & QUALITY CERTIFICATION DIRECTORATE

E-mail : Stqchq@Xm.doc.crnet.in

ELECTRONICS NIKETAN

G. CGO COMPLEX, NEW DELHI-110003

..../No. 12(4)2000-PA I.

Dated 12th March 2001

To,

The Director

All STQC Labs under MIT (ERTLs/ETDC/CFR)



Sir,

Sub : Re-structuring of Non-S&T Cadre in STQC Labs – regarding rationalization of Designation of Group 'd' employees and implementation

During analysis of reports after visit of Manpower Review Committee, it has come to notice of STQC HQ that there are total 5 Group 'D' employees (Helper 'B' -3 (2 at ERTL(E) and 1 at ETDC, Jaipur) & Helper 'A' -2 at ERTL(E) working in technical laboratories and accounted wrongly under " S&T" category by labs. Now all these 5 persons are being correctly accounted by STQC HQ. under 'non S&T staff', as they are support staff under Group 'D' category. ETDC Bangalore has correctly shown 1 Helper (2650-4000) under non S&T category. As per recommendations of Manpower Review Committee, Peon/ Helper 'A'/'B' (Group 'D' staff) are recommended to be utilized in any area of lab, whether technical or non-technical to enhance their utilization and are to be shown under non S&T category only.

Presently there are 8 persons working as Group D (including Helper B) in the pay scale of Rs. 2650-4000 as mentioned below. As there is no

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sanctioned posts in the pay scale of Rs. 2650-4000 after cadre structuring of non S&T staff, Competent Authority has approved that the designation of these persons should now be changed to "Group D Grade I' and given pay scale of Rs. 2650-4000 as personal to them against sanctioned post of Group D Grade I (2610-3540) i.e. when these persons resign/ retire in future, posts will automatically fall vacant in the pay scale of Rs. 2610-3540.

In view of above, Competent Authority has approved that ERTL(E), ETDC Bangalore, ETDC Mohali and ETDC, Jaipur may make corrections as shown below accordingly in their Manpower database and in their service & personal records of individual concerned by changing designation of Helper A / Helper B / Helper to 'Group D Grade I' and shown under 'non S&T' category instead of presently under 'technical' category under confirmation to STQC HQ.

<u>Sl N o</u>	<u>Name</u>	<u>Lab.</u>	<u>Present pay scale</u>	<u>Present designation & category</u>	<u>Revised designati on, Pay Scale & Revised Category</u>
1.	Krishan Pal	ETDC Mohali	Rs. 2650-4000	Gr.'D'" (Sweeper)-nonS &T	Gr.'D'Gr.I , Rs. 2650-400 0 (personal to him)

(A)(b)

					non S&T
2.	Sri Krishan	ETDC Mohali	Rs. 2650-4000	Gr.'D'" Gr.I (Peon)-nonS&T	Gr.'D'Gr.I , Rs. 2650-400 0 (personal to him) non S&T
3.	Nirmal Singh	ETDC Mohali	Rs. 2650-4000	Gr.'D'" Gr.I (Chowkidar)-non S&T	Gr.'D'Gr.I , Rs. 2650-400 0 (personal to him) non S&T
4.	Chander Pal	ETDC Mohali	Rs. 2650-4000	Gr.'D'" Gr.I (SCF)-nonS&T	Gr.'D'Gr.I , Rs. 2650-400 0 (personal to him) non S&T
5.	K. Sannalinga- iah	ETDC Bangalor e	Rs. 2650-4000	Helper S&T-nonS&T	Gr.'D'Gr.I , Rs. 2650-400 0 (personal to him) non S&T
6.	Bholanath Chakrabort y	ERTL (E) Kolkata	Rs. 2650-4000	Helper 'B'(S&T)	Gr.'D'Gr.I , Rs. 2650-400 0 (personal to him) non S&T
7.	Ajay Kumar Dhar	ERTL (E) (Kolkata	Rs. 2650-4000	Helper 'B'(S&T)	Gr.'D'Gr.I , Rs. 2650-400 0 (personal to him) non S&T

(D) ✓

8.	Ram Gopal Agarwal	ETDC Jaipur	Rs. 2650-4000	Helper 'B'(S&T)	Gr.'D'Gr.I Rs. 2650-400 0 (personal to him) non S&T
9.	Khokon Chandra Debnath	ERTL(E) Kolkata	Rs. 2610-3450	Helper 'A'(S&T)	Gr. 'D'Gr. I'Rs. 2610-354 0, non-S&T
10	Goutam Ghosh	ERTL (E) Kolkata	Rs. 2610-3450	Helper 'A'(S&T)	Gr. 'D'Gr. I'Rs. 2610-354 0, non-S&T

This is issued as per approval of Competent Authority.

5. The perusal of this re-structuring policy makes it clear that all the five helpers working in different stations and also STQC Headquarters irrespective of the fact whether they are working they in lab or offices were declared as non S&T staff and categorized as such. The order was also passed in pursuance of the same and at Srl. No. 7 the applicant was designated as Helper 'B' categorised as S&T earlier was revised designated as Gr. 'D'Gr. I personnel to him Non-S&T. Now in present O.A. the applicant claim the benefit of promotion on the basis of the fact that he belongs to S&T category as he is working in Environment Laboratory as Helper 'B' to assist the technical officers and as such he is performing a technical job and he must have been designated in S&T category and on the basis thereof he wants promotion to Scientific



Assistant 'A' from the year 2001 in terms of the policy.

6. Therefore, a short question for consideration before this Tribunal is that whether the applicant belongs to S&T category or non-S&T category?

7. The applicant claims the category of S&T on the basis of job he is performing at present.

8. The letter dated 12.3.2001 referred hereinabove makes it abundantly clear that all the five Gr. 'B' employees Helper 'B' who were earlier designated wrongly by different labs were now correctly put by STQC Headquarter under non-S&T staff. He was appointed, as such, in pursuance of this order in the year 2001. That order has not been challenged by the applicant in this Original Application. A relief has been claimed that whatever order whenever passed should be set aside wherein the applicant has been declared non-S&T staff. It is noticed that the order passed on 12.3.2001 he did not challenge the order specifically probably for the delay in preferring the application.

9. As in view of the re-structuring the mistake was correct and all the five Gr. 'B' employees working as Helper 'B' in different laboratories and in Headquarter were designated as Non-S&T staff, hence we are of the view that presently the applicant should be treated as non-S&T category.

The order which has attained finality after lapse of time wherein he was re-designated as non-S&T category the challenge cannot be

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sustainable.

10. Accordingly, the relief 1 which the applicant has claimed in the O.A. cannot be allowed.

11. There is one more important fact to be noticed that is in 2007 selection process was initiated for promotion to the post of Assistant A' but the applicant has not participated in that selection claiming himself to be in category of S&T and in the O.A. he claims that he is not supposed to undergo a trade test of typing which was an essential requirement for promotion to Assistant A.

12. Hence, on this basis too the applicant is not entitled to the relief as claimed by him in the application. The application is devoid of substance and is accordingly dismissed.

(Jaya Das Gupta)
MEMBER(A)

(Vishnu Chandra Gupta)
MEMBER(J)

SP