

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.2440/2015

This the 20th day of December, 2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)

Durgadas Datta, aged about 67 years,
Scientist F (Retd), S/o late S. K. Datta,
R/o C-23, Tarang Apartments,
19, I.P. Extension, Patparganj, Delhi-110092
Retired from National Informatics Centre,
A-Block, CGO Complex, Lodhi Road,
New Delhi-110003.

... Applicant

(By Mr. R. K. Kapoor, Advocate)

Versus

1. Union of India through
Ministry of Information and Technology,
through its Secretary,
A-Block, CGO Complex, Lodhi Road,
New Delhi-110003.
2. The Joint Director (Personnel),
National Informatics Centre,
A-Block, CGO Complex,
Lodhi Road, New Delhi-110003.

... Respondents

(By Ms. Sumedha Sharma, Advocate)

ORDER

Justice L. Narasimha Reddy, Chairman :

The applicant joined the National Informatics Centre, the
2nd respondent herein, as Scientist-C on 01.03.1979. He was

promoted as Scientist-D on 01.01.1984, as Scientist-E on 01.01.1988, and as Scientist-F on 01.07.1993. He became eligible to be considered for promotion as Scientist-G on completion of five years of service, subject to his fulfilling the stipulated conditions. He was interviewed between 1999 and 2008, almost every year, in the context of promotion to the grade of Scientist-G. However, he was not promoted, and ultimately, he retired from service on 31.10.2008. This OA is filed with a prayer to direct the respondents to grant *in situ* promotion from Scientist-F to Scientist-G under the Flexible Complementing Scheme (FCS) on completion of the required length of service, i.e., w.e.f. 01.07.1998, and to confer upon him all the consequential benefits. He has also prayed for grant of damages to compensate the financial loss, frustration, mental agony and loss of reputation.

2. The applicant contends that he had a brilliant career throughout, and at every stage he has been extended the benefit of *in situ* promotion, but at the final stage, the promotion to Scientist-G on *in situ* basis was denied to him on arbitrary and untenable grounds.

3. A detailed counter-affidavit is filed by the respondents. It is stated that the post of Scientist-G is a very senior position, and *in situ* promotion to that post is only on the basis of evaluation as prescribed under the relevant rules. According to them, there exist three stages in deciding the fitness for promotion, namely, verification by the Screening Committee; interview by a Board; and, clearance of the recommendation by the High Level Peer Review Committee. It is also stated that in case the candidate is cleared at all the stages, the recommendations are submitted to the Appointments Committee of the Cabinet (ACC). The respondents stated that the case of the applicant was considered on number of occasions, but he was not found fit for promotion in the process. According to them, once the applicant has retired from service, the question of considering his case for promotion does not arise.

4. We heard Shri R. K. Kapoor, learned counsel for the applicant, and Ms. Sumedha Sharma, learned counsel for the respondents.

5. The upward movement of the applicant in his career up to the level of Scientist-F, was smooth and without

any hindrance. For *in situ* promotion to the post of Scientist-G, five years of residency in Scientist-F is essential. The Rules in this regard were framed in the year 1998, and notified on 09.11.1998. Apart from confidential reports, the other accomplishments of the Scientists become relevant, particularly for promotion to the higher positions. The importance given to merit is evident from the fact that if a candidate is found to be exceptionally meritorious, with all 'outstanding' gradings, the Rules provide for relaxation in the residency period also, up to the extent of one year. The Scientists who are screened and cleared therein, are called for interview, and the performance in the interview is required to be rated on a ten-point scale.

6. The minutes of successive meetings of the screening committee, Interview Board and peer review committee, are filed by the respondents along with the counter affidavit. Though, at some stage he was recommended, in the final analysis, he could not make it. For example, in the selection conducted in the year 2002, ten candidates were considered, and the applicant secured the lowest marks. Only those candidates who secured more than 80% marks were cleared for promotion. In the year 2004, he secured 65 marks, whereas the

minimum stipulated for him, having regard to his residency period, was 70. The performance went far below in the year 2008. He secured lowest, i.e., 50 marks, as against the minimum of 70.

7. Under these circumstances, it cannot be said that the applicant was wrongfully denied promotion.

8. We, therefore, dismiss the OA. There shall be no order as to costs.

(K. N. Shrivastava)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/