

**Central Administrative Tribunal
Principal Bench**

OA No. 2727/2014

This the 08th day of February, 2019

***Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)***

Sh. Aabi Binju, Senior Research Officer,
Aged 55 years,
S/o Late Sh. G.P.Binju,
R/o Flat No.339, Second floor,
Block-B,, Pocket-05, Vivekanand Apartments,
Sector-8, rohini,
New Delhi-110085.

... Applicant

(By Advocate: Sh. S.K.Gupta)

Versus

1. Secretary,
Ministry of Water Resources,
Sharam Shakti Bhawan,
New Delhi-110001.
2. Director,
Govt. of India,
Central Soil & Materials Research Station,
Ministry of Water Resources,
Old Palme Marg, Hauz Khas,
New Delhi-110016.
3. Secretary,
Govt. of India,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-110069. ... Respondents

(By Advocate: Sh. D.S.Mahendru)

: ORDER (ORAL) :**Justice L.Narasimha Reddy, Chairman:**

The applicant submitted various representations in the year 2013 in the context of promotion to the post of Scientist-E. Through letter dated 11.09.2013, the respondents informed the applicant that he held the post of Scientist-D effectively from 07.03.2013, though he was promoted notionally w.e.f. 30.10.1998 and since then he is required to work as Scientist-D for four years to become eligible to be promoted to Scientist-E, he would become eligible to be considered only in the year 2017. Not satisfied with that, the applicant filed OA No.1076/2007 and it was disposed of on 11.10.2011. He contends that once the Tribunal granted consequential relief, the respondents were under obligation to promote him to various posts, subsequent to his promotion to Scientist-D.

2. The respondents filed a reply opposing the OA. It is stated that the applicant would have become eligible for promotion only in the year 2017 for promotion to the post of Scientist-E, and there is absolutely no merits in the OA. The details and the manner in which the vacancies were filled from time to time are furnished. The purport of OM dated 09.11.1998 and the relevant Recruitment Rules is discussed at length.

3. We heard Shri S. K. Gupta, learned counsel for the applicant and Shri D. S. Mahendru, learned counsel for the respondents.

4. This is the 3rd round of litigation for the applicant in the context of his efforts to earn promotion in the organization. OA No.1076/2007 filed by him was disposed of with the following directions:-

“19. Having given our careful and thoughtful considerations to the facts and circumstances of the case and in view of our above discussions and conclusions on three issues, we are of the considered view that the applicants have established their case. Thus, the OA succeeds. The Respondents are directed to convene Screening Committee and Assessment Board for in situ promotion under FCS for each year from 1997 to 2005. If the applicants are found fit for any of those years for promotion, they should be granted in situ promotion under FCS. Resultantly, they will be entitled to all consequential benefits including seniority, and arrears of pay and allowances.

20. In the result, OA is allowed in terms of our above orders, directions and observations. There is no order as to costs.”

5. Stating that the directions were not complied with properly, the applicant filed OA No.733/2012. The following order was passed therein:-

“6. The OA is disposed of finally. Respondents are directed to consider the candidature of the applicant for promotion to the post of CRO and thereafter he will also be considered for promotion on the post of Joint Director. This exercise will be completed for the post of CRO up to the date fixed in the contempt petition which shall be listed on

18.04.2012 and thereafter for the post of Joint Director as will be convenient to the respondents. The matter of promotion of the applicant on the post of Joint Director will be subject to fulfillment of the eligibility criteria as has been laid down by the respondents. Process 'Dasti'."

Respondents contend that the applicant did not earn eligibility for being considered for promotion to the post of Scientist-E since he did not put in the requisite service. In OM dated 09.11.1998, a detailed procedure is prescribed for considering the cases of the Scientists for promotion from one category to the other. The minimum residency period for each of such posts is stipulated. The manner in which the performance of the candidates is assessed is also provided for.

6. In none of the OAs filed by the applicant herein, the purport of DoP&T OM dated 09.11.1998 or the DoP&T proceeding dated 02.07.2014 was examined. The applicant was also making representations in general terms. Promotion to an important post, which is of the cadre of Joint Director, cannot be on the basis of assumptions or presumptions. It is only when the applicant is able to make out a case that he has fulfilled the conditions stipulated for promotion to a particular post, as mentioned in the relevant Recruitment Rules or the official memorandum, that his case can be considered.

7. We, therefore, dispose of the OA, leaving it open to the applicant to make a representation by referring to the relevant DoP&T proceedings dated 02.07.2014 and DoP&T OM dated 09.11.1998. As and when such representation is made, the respondents shall pass appropriate orders therein within a period of three months from the date of receipt of a copy of this order.

(Pradeep Kumar)
Member (A)

(Justice L.Narasimha Reddy)
Chairman

/pj/