

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 2487/2003

This the 12th day of March, 2004

HON'BLE JUSTICE SH. V.S.AGGARWAL, CHAIRMAN
HON'BLE SH. R.K.UPADHYAYA, MEMBER (A)

Sh. M.P.Goel
son of Late Sh. Bichha Lal
162, Kapil Vihar,
Pitam Pura, New Delhi-110034.

(By Advocate: Sh. P.K.Sharma)

Versus

Union of India through

1. The Secretary,
Ministry of Communications and
Information Technology,
Electronic Niketan,
C.G.O.Complex,
Lodi Road,
New Delhi-110003.
2. The Secretary,
Government of India,
Ministry of Finance,
North Block, New Delhi.
3. Director General
Ministry of Communications and
Information Technology,
Department of Information Technology,
National Informatics Centre,
A-Block, CGO Complex,
Lodi Road, New Delhi-110003.

(By Advocate: Sh. M.M.Sudan)

O R D E R (ORAL)

By Justice Sh. V.S.Aggarwal, Chairman

The applicant, by virtue of the present application, seeks to set aside the Office Memorandum of 10.6.2003 in which his name has not been included in the notification of the officers who were promoted to the grade of Scientist-E.

2. After the matter has been heard, it has transpired that it proceeds on admitted facts. We delineate the same. As per the S & T Policy, applicant was called for interview for

18 Agg

promotion to the post of Scientist-E on 17.2.2002. The result was not declared for 13 long months. It was declared sometime on 11.3.2003. But the grievance of the applicant is that he superannuated on 31.12.2002. As per the policy, the promotion is given from 1st January. Applicant contends that he should have been promoted from 1st January, 2002 and this benefit should accrue to him despite the fact that he is superannuated.

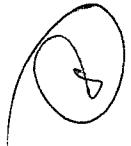
3. The petition has been contested.

4. The respondents contend that as per prevailing S&T Policy, crucial date for consideration for promotion of S&T personnel under the Flexible Complimenting Scheme is 1st January of each year. However, as per the Office Memorandum of 17.7.2002 promotions are made effective from prospective date after the competent authority had approved the names.

5. The short question that comes up for consideration before us is as to whether the plea of the applicant that he should be accorded the benefit of promotion from 1st January, 2002 after he had been superannuated should be granted or not.

6. Every person has a right to be considered and it is taken as a fundamental right, but he has no such right to be promoted. The decision in law is well-settled that even if the name of the person is in the panel in an appropriate case, the appointing authority can decide not to operate the panel. We hasten to add that we are not dwelling into the controversy where some extraneous matters or malafides or similar consideration has crept in.

MS Ag



7. The panel was only approved in the present case in the form of declaration of results on 11.3.2003. By that time, the applicant had already superannuated. No person junior to the applicant has been given any benefit from retrospective date, i.e., before he had superannuated. In that view of the matter, the contention of the applicant so much thought off loses its thrust and significance.

8. As regards the plea that he should be promoted from 1st January, 2002, the same has to be stated to be rejected. We do not intend to approve the policy referred to by the applicant. But even if there is any such policy, still when the results were declared on 11.3.2003 and it was to operate from 1st of January, at best it could be from 1.1.2003 and unfortunately, by that time, the applicant had already superannuated.

9. Net result of the aforesaid would be that the petition is without merit. It must fail and is dismissed.



(R.K. UPADHYAYA)
Member (A)



(V.S. AGGARWAL)
Chairman

'sd'