

Central Administrative Tribunal
Principal Bench

O.A.No.61/2003

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Hon'ble Shri V.K.Majotra, Member(A)
Hon'ble Shri Kuldip Singh, Member(J)

New Delhi, this the 14th day of August, 2003

Shri Mohar Singh Nirala
s/o Srri Daya Ram
Technician Grade VII
Automobile Maintenance Section
Indian Institute of Petroleum
(C.S.I.R.) Mohkampur
Dehradun - 248 005
Uttaranchal. Applicant

(By Advocate: Shri K.N. Bahuguna)

vs.

Director General
Council of Scientific &
Industrial Research
'ANUSANDHAN BHAWAN'
Rafi Marg
New Delhi - 110 001.

Director
Indian Institute of Petroleum
Mohkampur
Dehradun - 248 005
Uttaranchal. Respondents

(By Advocate - None)

O R D E R (Oral)

By Shri V.K.Majotra, Member(A):

None had appeared on behalf of respondents while the case was listed for final disposal on 14.8.2003. None had appeared on their behalf even on several earlier hearings. In this view of the matter we proceed to dispose of the OA after hearing the learned counsel of applicant and considering the material on record.

2. Applicant had been accorded assessment promotion from Group II (1) grade Rs.950-1400 to Group II (2) Rs.1350-2200 w.e.f. 17.11.94 vide Annexure A-8

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dated 17.4.1997. Applicant is aggrieved that vide impugned order dated 4.9.2001 (Annexure A-1) assessment promotion of applicant w.e.f. 17.11.94 has been withdrawn and he has been reverted to the post of Driver.

3. Learned counsel of applicant contended that applicant has been holding the technical post of Driver and performing technical jobs eversince his appointment as Driver since 2.11.1987. He was correctly trade tested and promoted under merit and normal assessment Scheme for the year 1995-96 as technical staff Group II grade and promoted to the next higher grade in Group II on 17.4.1997. He was accorded maintenance training in 1996. As such his assessment promotion vide Annexure A-8 had been in order and as per Rules which could not have been withdrawn with retrospective effect and he could not have been reverted to the post of Driver. Vide Annexure A-2 dated 2.11.1987 applicant was appointed as Driver in the Indian Institute of Petroleum in the grade of of Rs.950-1400. This memorandum does not state whether the post of Driver was classified as Technical or Administrative. Learned counsel of applicant has relied on Annexure A-5 dated 7.12.1982, on the subject of classification of posts in CSIR and its National Laboratories/Institutes. In the schedule to this memorandum post at serial Nos. 182 to 190 are those of Drivers and the following conditions/remarks have been indicated against these as follows:

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<u>"S. No.</u>	<u>Name of the Post</u>	<u>Conditions/Remarks if any</u>
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All the Drivers viz., Heavy Truck Driver, Truck Driver, Van Driver, Jeep Driver etc. should be classified as "Technical" provided they had received demonstrable maintenance training on the engines and have acquired technical skills and experience in repairs and maintenance of motors etc. and were willing to work on the maintenance side when they do not have driving duty. Those who had not so far acquired such training/skill may be given the required practical training for a given period - say 3-4 months - in a laboratory/institute of CSIR where such facilities exist and after satisfactory training, for which they should be given a test, be declared "Technical" subject to the aforesaid condition of working on maintenance side."

4. Applicant has been holding the post of Staff Car Driver as stated by the learned counsel of applicant himself. Memorandum dated 7.12.1982 states in para 2.8.1 that Staff Car Drivers generally speaking may be considered as belonging to the administrative cadre. Where such Drivers have received demonstrable automobile maintenance training and are willing to work on the maintenance side when they do not have driving duty, they can be considered as belonging to the technical cadre and may have promotional opportunities through Group-II grades and thus become eligible for internal assessment, a trade test shall be given which will demonstrate the person's ability in the trade and he shall be available for maintenance work when called upon to do

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so. As per the schedule attached with this memorandum Drivers from serial Nos. 182 to 190 would be classified as Technical, provided they had received demonstrable maintenance training on the engines and have acquired technical skills and experience in repair and maintenance of motors and are willing to work on the maintenance side when they do not have driving duty. Admittedly, applicant underwent practical training during 1996 whereafter he was trade tested and assessed during 1997, whereupon Annexure A-8 dated 17.4.1997 was issued.

5. In view of applicant's appointment vide Annexure A-2 and classification of posts vide Annexure A-5 applicant's post could be classified as technical only after he underwent training during 1996. Even if he had performed odd technical jobs prior to that will not make his post of Staff Car Driver as technical. Respondents had assessed applicant vide Annexure A-8 dated 17.4.1997 for the year 1995-96, he could not have been given benefit of the past service rendered on non-technical side w.e.f. 17.11.1994. Obviously, retrospective promotion to Group II (2) from 17.11.1994 vide Annexure A-8 had been erroneous. Respondents have been in the right to hold that applicant was inducted into technical side w.e.f. 14.6.1996 for which trade test was conducted on 12.6.1996. He could not have been promoted as Group II (2) with retrospective effect from 17.11.1994. We are inclined to agree with respondents that he would be entitled for his assessment promotion to the next

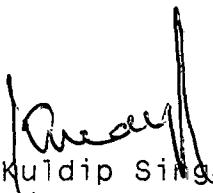
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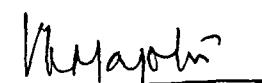
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higher grade of Group II (2) after completion of 7 years residency period from the date of induction, i.e., 14.06.96, as stated in Annexure A-1.

6. Having regard to the above discussion, we do not find any infirmity in the impugned order at Annexure A-1. Accordingly, OA is dismissed, however, without any costs.


(Kuldip Singh)

Member (J)


(V.K. Majotra)

Member (A)

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