

23rd June, 2025
(D/L No. 3)
Court No.4
(AD)

W.P.C.T. 191 of 2024

Sofiqul Islam Chowdhury
Vs.
Union of India & Ors.

Mr. S. K. Datta,
Mr. Barun Chatterjee
...for the Petitioner
Mr. Indrajit Dasgupta,
Ms. Tanusree Ghosh
...for the Respondents

1. The petitioner joined the service in the Directorate of Standardization, Testing and Quality Certification (STQC) on 07.12.1988 as Laboratory Assistant in Group "C". Under the normal channel of promotions, he received his promotion to Laboratory Assistant "B" with effect from 01.04.1992, Laboratory Assistant "C" with effect from 01.04.1995 and Tradesman "E" with effect from 01.04.1998. He was thereafter promoted as Tradesman "F" with effect from 01.04.2004.

2. While in service he had acquired some higher qualifications i.e. NCVT in 1991, a Diploma in Engineering in 2003, B.Tech in 2007 and M.Tech in 2010. Based on acquisition of such higher qualification, he

was claiming benefit of promotion under a Promotion Policy by way of special review on attaining higher qualification. In this connection, he filed an O.A. No. 808 of 2009 before the Central Administrative Tribunal, Kolkata Bench.

3. The respondents took a stand before the Tribunal that under the policy dated 18.07.1983 Group "A" officials were considered for promotion without considering availability of posts. The 1983 Office Memorandum was modified on 09.11.1998 after implementation of the 5th Pay Commission. The O.A. was disposed of by recording the stand of the respondents that new policy had been introduced under which the claim of the petitioner with respect to promotion based on his acquired higher qualification would be considered. Since the petitioner's claim was not considered, the petitioner again filed O.A. No. 831 of 2012, which again was disposed of allowing consideration of the petitioner's claim within a period of 3 months.

4. The petitioner thereafter has been promoted as Scientist "B" with effect from 23.03.2016.

5. The petitioner was not satisfied and filed another O.A. bearing O.A. No. 1469 of 2016 claiming the benefit of promotion with retrospective effect from the date on which he had acquired the qualification. The O.A. was disposed of on 24.02.2017 directing consideration of the petitioner's pending representation dated 11.04.2016 in this regard. The claim of the petitioner was rejected on 18.05.2017. It is this order which is the subject matter of the O.A. No. 1102 of 2017 which has been dismissed by the Tribunal vide order dated 07.05.2024, which order is assailed in the present writ proceedings.
6. The learned Counsel for the petitioner submits that the petitioner by dint of his hard work acquired the qualifications while in service. He thus submits that he is entitled to benefits of the promotional post with effect from the date of acquisitions of the higher qualification. The petitioner cannot be made to suffer on account of delayed consideration by the respondents.
7. The respondents have taken a stand that Group "A", S&T posts were earlier governed

by the policy dated 11.08.1981 notified by the DoE.

8. The policy for officers below Group "A" was later framed under O.M. dated 18.07.1983 as amended from time to time.

9. After the 5th Central Pay Commission was accepted DoPT notified a revised flexible complementing scheme for Group "A", S & T officers on 09.11.1998 bearing O.M. No. 2/41/97-PIC which superseded the earlier policy applicable to S&T personnel. However, no policy was notified for S&T officials below Group "A" level. In absence of any policy, the review for such officials were conducted only after special approval of the Minister on a year to year basis. The petitioner, therefore, cannot claim a right based on any policy in existence for being given the benefit of promotion with effect from the date of acquiring the higher qualification. In compliance with the order passed by the Tribunal the Nodal Ministry, however, took up the issue again. The petitioner's claim was considered and he was promoted to the post of Scientist "B" after obtaining approval from the competent authority. It is under such circumstances

that the petitioner's claim for retrospective benefit of the promotion has been rejected by the impugned order dated 18.05.2017 which reads:

"After obtaining recommendations of ERTLIEI for Special Review under the said policy in respect of Shri S Chowdhury and approval of DOISTOCI, the file was referred Pers. Division, Meity for seeking advice for holding Special Review in respect of Shri Chowdhury in compliance of the orders of Hon'ble CAT, Kolkata as per the said Policy After getting clearance from Pers. Division. Meity being the nodal Administrative Ministry for Below Group A Policy regarding qualification etc respect in respect of Special Review and related issues related for holding Special Review in this case in action was initiate order to comply the order of CAT, Kolkata dated 03.03.2014 after following the required view and approval of competent authority as is required procedure of Screening interview Thereafter he was promoted to the post of Scientist 'B' under (Group A post) w.e.f. 23.03.2016.

It may be mentioned here that the Below Group 'A' S&T Policy of this Department has no provision to give promotion from retrospective date. In order to process the cases of eligible officials, the due procedure as stipulated in the policy is followed and after recommendations of the Committee, the officials are promoted from the prospective date with the approval of the competent authority. Further promotions are made in Government from the prospective date as per instructions issued by Government from time to time.

It is pertinent to mention here that as per the said Policy the officials are eligible for Special Review on attaining higher qualification However, education qualification is not the

sole criteria for promotion, besides qualification official is required to assess and interview along with requisite documents APARS. One page write-up etc by the Committee Review promotions of S&T officials under the said policy are performance oriented. Shri S. Chowdhury was considered and assessed/interviewed by the duly constituted Committees and promoted as Scientist 'B' (Group A posting after obtaining approval of the Hon'ble Minister. Electronics & Information Technology in compliance of the order of Hon'ble CAT, Kolkata. Thus appropriate action has been taken by STOC Directorate for effecting the promotion of Shri S. Chowdhury as Scientist 'B' in terms of the provisions of the Policy for Below Group A 'S&T' officials in consultation with Meity the nodal Ministry".

10. The Tribunal found no reason to interfere with the decision contained in the impugned order dated 18.05.2017. We are also of the view that having regard to the facts and circumstances discussed above, reasons assigned in decision of the authority does not require any interference, much less issuance of any direction for giving retrospectivity to the promotion granted to the petitioner.

11. The writ petition is accordingly dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)