

PETITIONER:
DR. RANJANA AGRAWAL

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 16/01/1996

BENCH:
NANAVATI G.T. (J)
BENCH:
NANAVATI G.T. (J)
RAY, G.N. (J)

CITATION:
1996 SCC (7) 206 JT 1996 (1) 462
1996 SCALE (1)473

ACT:

HEADNOTE:

JUDGMENT:
WITH
CIVIL APPEAL NOS 2104-05/1996
(arising out of SLP(C)Nos.2157-58/1995)
Union of India & Ors.
V.
Dr. Ranjana Agrawal

J U D G M E N T

NANAVATI, J.
Leave granted.

These three appeals arise out of the judgment and order passed by the Principal Bench of the Central Administrative Tribunal in O.A.No.2559/1993 and in Review Application No.186/1994. Dr. Ranjana Agrawal (hereinafter referred to as the 'appellant') has filed one combined appeal whereas Union of India (hereinafter referred to as the 'respondents') has filed two separate appeals - one against the judgment and order passed in the O.A. and the other against the judgment and order passed in the Review Application. The short question that arises in these appeals is whether the Tribunal was right in holding that the assessment made by the Agricultural Scientists Recruitment Board (ASRB) of the work done by the appellant during the relevant period was arbitrary and then directing the respondents to promote the appellant as S-3 Scientist w.e.f. 1.1.1985, as recommendations to that effect were made by the Head of the Department and the Director of the Indian Agricultural Statistics Research Institute, under whom she was working.

The appellant joined the Indian Council of Agricultural Research (ICAR) in 1972 as a Statistical Investigator. She was made Junior Statistician in 1974. Agricultural Research Service (ARS) was constituted w.e.f. 1.10.1975, with the object of giving merit promotion to the Scientists, without their facing competition from others and on the basis of their own performance. The appellant was inducted therein as S-1 Scientist. The ARS Rules provide that the scientist in

ARS is to be assessed on a five yearly basis for considering him for promotion to the next higher grade/giving advance increments on the basis of his/her performance for that period. The appellant was assessed accordingly for promotion for the first five-yearly period 1974-1979; and, on being recommended by the ASRB she was promoted as S-2 Scientist w.e.f. 1.7.1980. She would have become due for consideration for her next promotion as S-3 Scientist on completion of 5 years on 30.6.85. Though, according to the rules, seniority has no relevance for promotion, some Scientists who had joined earlier but were not promoted before their juniors came to be promoted, filed a Writ Petition in the Delhi High Court and as a result of the decision given in that case on 5.3.1987 the appellant and other S-1 Scientists were given promotions as S-2 Scientists w.e.f. 1.7.1976. As a result of the pendency of the said Writ Petition and for certain other reasons, the Assessment Committee of the ASRB had not met in 1986 nor could it meet till 15.7.1992. The appellant and other S-1 Scientists were then called upon to submit their performs for assessment for the period ending on 31st December, 1981 as they had completed five years as S-2 Scientists on 30.6.1981; but, in view of the subsequent developments, some S-2 Scientists had also submitted performs and other information regarding their work for the years 1980 to 1985. The Assessment Committee assessed the work of all those S-2 Scientists and made certain recommendations. The appellant was not recommended either for promotion from 1.7.1982 or for advance increments. The appellant and 4 other Scientists feeling aggrieved by the said assessment made representations to the ICAR but they were rejected on 24.9.1993. Thereafter the appellant was called upon to submit yearly supplementary information regarding her work for the years 1982, 1983 and 1984. The Assessment Committee then met on 27.7.93 and after assessing the work of the appellant recommended one advance increment for the year 1982 and two advance increments for the year 1984. The appellant feeling aggrieved by the earlier result of assessment made on 15.7.1992 and rejection of her representations against the same and also by the assessment made in September, 1993 challenged them before the Tribunal on the ground that the assessment was made in an arbitrary manner on the first occasion and that the Assessment Board was not properly constituted on the second occasion.

From the material placed before it, the Tribunal found that out of five S-2 Scientists, including the appellant, Dr. A.K.Srivastava had submitted his assessment performs for the period 1972 to 1982, Dr. Bathla had submitted two self-assessments -one for the period 1976 to 1981 and the other for the period 1980 to 1985. Dr. Shivtar Singh had filed two self-assessments - one for the period 1976 to 1981 and the other for the period from 1.7.1982 to 31.12.1985 and the appellant had filed her self-assessment for the period 1976 to 1981. The Assessment Committee of the ASRB which met on 15.7.1992 had considered the said material and other relevant information placed before it and had made its recommendations with respect to all those Scientists for the years 1982, 1983 and 1984. The Tribunal also found that for the years 1982, 1983 and 1984 no yearly self-assessment was called for from the appellant. With respect to Dr. A.K.Srivastava the Tribunal held that as he was adjudged an outstanding Scientist on the basis of the assessment of his work for the period 1977 to 1982 he was rightly cleared for promotion to the Grade of Scientist S-3 w.e.f. 1.1.1983. It, therefore, did not find any fault with the assessment made by the said Committee of the work of Dr. A.K.Srivastava. The

Tribunal, however, held that whereas in case of Dr. Bathla and Dr. Shivtar Singh two self-assessments and that too for overlapping periods were permitted to be filed and considered, in case of the appellant her self-assessment for the period 1976 to 1981 only was considered and she was not called upon to submit her yearly assessments for the years 1982, 1983 and 1984. This, according to the Tribunal, amounted to adopting different norms qua the Scientists similarly situated and was also in breach of the rules. Even after holding that the assessment made by the Board was thus vitiated it did not set at naught the promotion/giving of additional increments to other S-2 Scientists but thought it fit to direct the respondents to promote the appellant as S-3 Scientist w.e.f. 1.1.1985.

The contention that the 1993 Board was not properly constituted was not raised before us and it does not appear to have been pressed before the Tribunal. The only contention raised by the appellant before us is that the Tribunal should have directed the respondents to promote the appellant as S-3 Scientist with effect from 1.7.1982 instead of 1.1.1985 as she was recommended for such promotion both by the Head of the Department and also by the Director of the Institute wherein she was working right from the year 1982. On the other hand, what the respondents have contended is that it was not legal and proper for the Tribunal to direct the respondents to promote the appellant w.e.f. 1.1.1985. as at the most the respondents could have been directed to reconsider the case of the appellant in accordance with the rules.

As stated earlier, the ASRB was constituted on 1.10.1975 and the appellant and other similarly situated Scientists were made a part of that service and treated as S-1 Scientists. They became due for consideration for promotion to the next grade of S-2 Scientists on expiry of 5 years in 1980. The appellant was in fact considered and promoted as S-2 Scientist w.e.f. 1.7.1980. The other Scientists were also similarly considered and promoted as S-2 Scientists on or about the same time. They would have become due for consideration for the next promotion to the grade of S-3 Scientists/additional increments on completion of 5 years in 1985. However, the aforesaid decision by the Delhi High Court resulted in their quick promotion as S-2 Scientists w.e.f. 1.7.1976. All these S-2 Scientists, however, could not be considered for further promotion/additional increments earlier than 15.7.1992 in view of the circumstances pointed out above. The Board had called for the assessment performs from these Scientists in March 1992. The appellant rightly submitted her assessment performs for the period 1976 to 1981 but Dr. Bathla and others thought it wiser not only to submit their assessment performs for that period but also for the period 1980 to 1985 as they would have become due for consideration for promotion to the higher grade of S-3 Scientists on the basis of their performs for the 5 years from 1980 to 1985 but for the aforesaid decision of the Delhi High Court and their quick promotion as S-2 Scientists w.e.f. 1.7.1976. The Tribunal was unable to appreciate this action of other S-2 Scientists and proceeded to hold that consideration of the said material was not only discriminatory and arbitrary but also in breach of the rules. The Tribunal rightly observed that the Board should have given the appellant an opportunity to submit her yearly performs for the subsequent period upto December 1984 so as to see that all those Scientists were considered on an equal basis. However, the Tribunal failed to appreciate that though the

representations made by the appellant against the assessment made in September 1992 were rejected, not only the assessment of the appellant but the assessment of all other S-2 Scientists was cancelled by the ICAR as it had come to its notice that the relevant material for considering the appellant for the years 1982, 1983 and 1984 was not before the ASRB. The Tribunal did take note of the fact that the result of the appellant was declared null and void but failed to appreciate that the result of other S-2 Scientists was also declared null and void and whatever promotions or additional increments were given to them were on the basis of fresh consideration by the Board in the year 1993. Those Scientists had applied to the Board to review its decision; and that was done in accordance with the rules. The appellant did not apply for a review probably because she had not submitted her self-assessments for the years 1982, 1983 and 1984. After the result of her assessment was declared null and void, the Board told her to submit her self-assessment performs for the years 1982, 1983 and 1984. She did submit those performs and appeared before the Assessment Committee of the Board when it met again in 1993. When the appellant was again considered in 1993 she was considered on the same basis on which the other S-2 Scientists were considered. In case of Scientists of ICAR promotion to next higher grade is not given on the basis of comparative assessment but by assessment of their own work during the 5 year period in one grade. The procedure adopted by the Board at that time was neither arbitrary nor in breach of the rules. The Tribunal failed to appreciate these relevant aspects of the matter. Therefore, its order deserves to be set aside.

In the result, the appeal filed by the appellant is dismissed and the appeals filed by the respondents are allowed. The order of the Tribunal directing the respondents to give promotion to the appellant as S-3 Scientist w.e.f. 1.1.1985 is set aside. In view of the facts of the case, the parties are directed to bear their own costs.