

SUPREME COURT OF INDIA**Bench: Justices Pamidighantam Sri Narasimha and Sandeep Mehta****Date of Decision: 29th January 2024**

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2024

(Arising out of SLP(Civil) No(s). 8310-8311 of 2020)

**DIRECTOR GENERAL, COUNCIL OF SCIENTIFIC AND INDUSTRIAL
RESEARCH(CSIR) ...APPELLANT(S)****VERSUS****J.K. PRASHAR & ORS. ...RESPONDENT(S)****Legislation and Rules:**Council of Scientific and Industrial Research Administrative Services
(Recruitment & Promotion) Rules, 1982

Article 136 of the Constitution of India

Subject: Appeal against the High Court's decision not to interfere with a previous order, involving the reversal of promotions of respondent nos. 2 and 3 due to non-fulfillment of eligibility criteria under the CSIR Administrative Services Rules.**Headnotes:**

Dispute Over Promotion to Under Secretary – High Court's Reversal of Promotion of Respondent Nos. 2 and 3 Under CSIR Rules – Challenged by Appellant CSIR on Grounds of Eligibility Criteria – High Court Judgment Upheld by Supreme Court [Paras 2, 4-8]

Eligibility for Promotion – Requirement of Performing Duties as Section Officer – Contention Regarding Formal Appointment and Experience

Certificates – High Court Found Respondent Nos. 2 and 3 Ineligible, Accepting Respondent No. 1's Formal Appointment as Section Officer [Paras 5-7]

Merit-Based Promotion Argument – Dismissed by High Court, Focusing on Eligibility Criteria Instead – Supreme Court Agrees, Holding Promotion Denial to Respondent No. 1 as Incorrect [Paras 8, 10]

Dismissal of Appeals – Supreme Court Finds No Ground to Interfere with High Court Judgment – Appeals by CSIR Dismissed [Paras 10-11]

Referred Cases: None.

J U D G M E N T

Mehta, J.

1. Leave granted.
2. The instant appeals under Article 136 of the Constitution of India are directed against the judgment dated 28th May, 2019 passed by the High Court of Punjab and Haryana whereby, the High Court in exercise of review jurisdiction refused to interfere with the Order dated 17th December, 2018 passed in CWP No. 20984/2016. By the said judgment, the High Court had accepted the writ petition filed by respondent no. 1 herein and reversed the promotion of respondent nos. 2 and 3 on the post of Under Secretary on the ground that their promotion was in violation of the Council of Scientific and Industrial Research Administrative Services (Recruitment & Promotion) Rules, 1982 (hereinafter being referred to as 'statutory rules').
3. The appellant-CSIR has questioned the decision of the High Court on the ground that respondent no. 1 was not eligible to be promoted to the post of Under Secretary as he had never performed the duties of a Section Officer

on independent basis and hence, he was not possessed of the eligibility criteria under the Statutory rules.

4. The extant rule of statutory rules is extracted below:-

“Under Secretary/Administrative Officer(Rs. 10,000-32515,200)

Recruitment to this Grade shall be made by promotion, on the basis of merit from amongst Section Officers (General) and Sr. Personal Asstts.(now re-designated as Private Secretaries) who have rendered not less than 8 years of approved service in the grade of Rs. 6500-200-10,500 and on the recommendations of the Departmental Promotional Committee which shall interview the eligible candidates.

- i. Vacancies in this grade occurring in a year shall be filled in the ratio of 2:1 from amongst Section Officers (Gen.) and Sr. Personal Asstts. (now redesignated as Private Secretaries). In the event of non-availability of suitable officers for filling up vacancies earmarked for a Cadre, such unfilled vacancies shall not be filled up from officers of another Cadre; and
- ii. 25% of the Private Secretaries who have completed minimum six years of approved service as Sr. Personal Asstts. (now redesignated as Private Secretaries) be made to work as Section officer (Gen.) for a period of one year before they are considered for promotion to the post of Under Secretary/Administrative Officer.

Note: Governing Body also approved appointments/selections made so far as Sr. Personal Asstts., now re-designated as Private Secretaries to the post of Under Secretary/Administrative Officer (Gr. I) in the scale of Rs. 3000-4500.”

5. The High Court, upon an analysis of the factual and legal scenario found that respondent nos. 2 and 3 were promoted on the basis of certificates issued to them on 1st March, 2011 affirming that they had performed the duties of Section Officer in the year preceding the date of the DPC i.e. 5th March, 2011.
6. So far as case of respondent no. 1 is concerned, the High Court took note of the Order dated 15th March, 2004 whereby, the said respondent was formally appointed as Section Officer, which fact was not denied by the respondents in their counter to the writ petition.
7. During the course of oral submissions (supplemented by written submissions), learned counsel for the appellant has placed on record the

- certificates held by respondent nos. 2 and 3 whereby, they were given the benefit of one year's experience as Section Officers for being promoted to the post of Under Secretary. A perusal of these certificates reflects that services of respondent nos. 2 and 3 were utilised as Section Officers on attachment and there was no formal appointment of either of them as Section Officer. It may be noted that the pertinent plea raised by respondent no. 1 regarding he having been appointed as Section Officer vide Order dated 15th March, 2004 was not disputed by the appellant in its reply before the High Court.
8. Another plea was taken by the appellant before the learned Tribunal that the promotion to the post of Under Secretary was to be done as per merit and that respondent no. 1 was not graded as 'Good' whereas respondent nos. 2 & 3 were graded as 'Very Good'. However, this aspect of the matter need not detain us because the promotion of respondent nos. 2 & 3 was interfered with by the High Court holding them to be ineligible for the post. Thus, there was no impediment for the promotion by selection of respondent No.1 to the post of Under Secretary under the statutory rules. In view of the above facts, we are of the opinion that the action of the appellant in denying promotion to respondent no. 1 upon the post of Under Secretary was rightly reversed by the High Court.
 9. During the pendency of the litigation, respondent no. 1 has superannuated on 31st July, 2019.
 10. In view of the above, we are of the firm view that the impugned judgment rendered by the High Court does not require any interference. However, we make it clear that the present adjudication shall be confined to the case of respondent no. 1 and will not be considered as a precedent.
 11. The appeals are dismissed in the above terms.
 12. Pending application(s), if any, shall stand disposed of.

*Disclaimer: Always compare with the original copy of judgment from the official website.