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**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**O.A. NO. 401/2002**

New Delhi this the <sup>Dec</sup> 4<sup>th</sup> day of November, 2002.

**HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN**

**HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)**

C.K. Haridas,  
S/o Shri C.S. Kanjunni  
R/o 11/224, Dev Nagar,  
Karol Bagh, New Delhi-5

...Applicant

(None appeared)

-versus-

1. Union of India through the  
Secretary to the Government of India,  
Department of Agriculture & Cooperation,  
Ministry of Agriculture, Krishi Bhawan,  
New Delhi.

2. The Secretary to the  
Government of India  
Department of Personnel & Training,  
North Block,  
New Delhi

3. The Secretary  
Union Public Service Commission,  
Shahjahan Road,  
New Delhi

.....Respondents

(By Shri Mohar Singh, Advocate)

**O R D E R**

**JUSTICE V.S. AGGARWAL:-**

Applicant (C.K. Haridas) by virtue of the present application seeks a direction to the respondents to fill up the post of Editor (English) by promotion of the applicant who has already been recommended by the Departmental Promotion Committee from 11.7.2000 with all consequential benefits and to fill up the post of Joint Director (Farm Information) only after revising the recruitment rules for the post providing for



promotion from the feeder grade of Assistant Editor (English) in accordance with the instructions of contained in the Office Memorandum of the Department of Personnel & Training dated 25.5.1998.

2. The grievance of the applicant is against his non-promotion to the post of Editor (English) in the scale of Rs. 10,000-15,200/- in the Directorate of Extension, Department of Agriculture and Cooperation. Presently, the applicant is working as Assistant Editor (English) in the scale of pay of Rs.6500-10500/-. As per the existing recruitment rules, 33-1/3% of the posts of Editor in the Directorate are to be filled by promotion/transfer on deputation failing which by direct recruitment and the remaining 66-2/3% by direct recruitment. The rules provide for 8 years regular service in the grade of Assistant Editor (English) failing which 12 years combined regular service in that grade and in the grade of Sub-Editor (English) for promotion to the post of Editor (English). In 1997, the post of Editor (English) had fallen vacant. The applicant had been considered along with those who applied for the post for transfer on deputation and was appointed in the vacancy referred to above which had been caused when Shri A.N.Rai had proceeded on deputation. Shri A.N.Rai again joined his parent department on repatriation as a result of which, the applicant was reverted to the post of Assistant Editor (English).

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3. The Department of Personnel & Training vide Office Memorandum of 25.5.1998 had directed all the Ministries and departments of the Government of India to amend the recruitment rules in all cases where pre-revised scales have been merged into a single revised scale so as to provide for promotion from the feeder grade to the merged grade. As per the applicant, the posts of Editor (English) and Joint Director (Farm Information) were in the pre-revised scales of pay of Rs.3000-4500/- and Rs.3500-5000/- respectively. They were given the common scale of Rs.10,000-15,200/- with effect from 1.1.1996 on the recommendations of the Fifth Central Pay Commission. Applicant contends that as the post of Editor (English) is in the same scale as Joint Director (Farm Information), the post of Assistant Editor (English) should be automatically included in the feeder grade to the post of Joint Director (Farm Information). Shri A.N.Rai is said to have been appointed as Editor (English) and then to the post of Joint Director (Farm Information). Keeping in view these facts, the abovesaid reliefs are being claimed.

4. In the reply, the respondents while contesting the application pleaded that prior to the instant vacancy when Shri A.N.Rai had proceeded on deputation on 10.1.1997, it was not a regular vacancy and, therefore, the applicant was promoted till such time Shri A.N.Rai returns from deputation. In the

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meanwhile, Smt.S.Bhattacharya, the seniormost Assistant Editor (English) was promoted to the post of Editor (English) on ad hoc basis. In response to the vacancy that had arisen, the applicant was appointed as Editor (English) on the condition that he will be reverted to the post of Assistant Editor (English) as soon as Shri A.N.Rai who is on deputation repatriates to his parent department. Smt.S.Bhattacharya who was officiating on ad hoc basis as Editor (English) was reverted to the post of Assistant Editor (English). On repatriation of Shri A.N.Rai from 1.4.1999, the applicant was reverted to the post of Assistant Editor (English). So far as the regular vacancy in the grade of Editor (English) is concerned, as per rotation roster, it has been pleaded that the same is to be filled by direct recruitment.

5. It is admitted that the post of Joint Director (Farm Information) is being filled by direct recruitment but it is being so done as per the existing rules to the said post. It is also admitted that the pay scales of both the posts of Joint Director (Farm Information) and Editor (English) have been merged but the Assistant Editor (English) does not automatically become the feeder grade to the post of Joint Director (Farm Information) till such time the recruitment rules are amended. So far as amendment to the recruitment rules is concerned, it has been pointed that the exercise in this regard is

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being effected but it is a time consuming process.

6. Perusal of facts reveals that the recruitment rules for the post of Editor (English) provide that 33-1/3% of the posts are to be filled by promotion/transfer on deputation failing which by direct recruitment. It also provides the necessary qualifications which read:-

- "9. Period of probation, if
- i) 2 years for promotee officer.
  - ii) One year for direct recruits.

10. Method of recruitment.

Whether by direct recruitment or by promotion or by deputation/transfer and percentage of vacancies to be filled by various methods.

- i) 33-1/3% by promotion/transfer on deputation failing which by direct recruitment.

- ii) 66-2/3% by direct recruitment.

11. In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer to be made.

Promotion/Transfer on deputation

1. Officers under the Central/State Governments:-

(a) (i) holding analogous posts on a regular basis; or

(ii) with 5 years' regular service in posts in the scale of Rs. 2200-4000 per month or equivalent; or

(iii) with 8 years' regular service in posts in the scale of Rs. 2000-3500 per month or equivalent; and

(b) possessing the educational qualifications and experience prescribed for direct recruits under columns."

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There are separate recruitment rules for the post of Joint Director (Farm Information) and Editor (English) is also one of the feeder posts which can fill up the vacancies meant for the promotion quota. The relevant rules, therefore, read:-

"11. In case of recruitment by promotion/

deputation/transfer, grades from which promotion/deputation/transfer to be made.

Promotion

Editors, Editor (Hindi), Exhibition Officer and Deputy Director (Farm Information Aids) with 3 years' regular service in the respective grade and possessing Bachelor's degree of a recognised University or equivalent.

Transfer on deputation:

Officers under the Central Government/State Governments;

(a) (i) holding analogous posts, or

(ii) with 3 years' service in posts in the scale of Rs.3000-4500 or equivalent;

AND

(b) Possessing the educational qualifications and experience prescribed for direct recruits under column.7.

(Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same organisation/Deptt. shall ordinarily not exceed 3 years)."

7. It is not disputed at either end that the scales of Joint Director (Farm Information) and Editor (English) have been merged. In other words, they are having the same scale. As referred to above, the applicant contends and urges that once the scales have been merged, he should be promoted to the post of Editor (English).

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8. However, the merger of the scales is one thing but till such time the recruitment rules of the said post exist, necessarily all promotions and appointments have to be carried out in terms of the said recruitment rules. Any departure therefrom would be in violation of the recruitment rules and the appointments or promotion will not be valid.

9. Earlier the applicant had been promoted when Shri A.N.Rai proceeded on deputation. In other words, the said promotion was fortuitous. Admittedly in the appointment/promotion order, it was mentioned that the applicant could be reverted as soon as Shri A.N.Rai repatriates from deputation. That in fact happened when Shri A.N.Rai repatriated. The applicant lost the right to be continuing upon the said post. He was reverted to the post of Assistant Editor (English)

10. It is not shown by the applicant that the post of Editor (English) can be filled up by promotion. Respondents have made a specific assertion that it has to be filled up by direct recruitment as per rotation roster. In the absence of the contrary being shown, we hold, therefore, that the applicant on that count cannot seek promotion to the said post.

11. As already pointed above, the right to the applicant would accrue only when the recruitment rules

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are amended and in accordance with the rotation roster as at present, the applicant cannot claim that he had a right to be considered for the post of Editor (English). Consequently, the application must be held to be devoid of any merit. Accordingly the same is dismissed. However, it is directed that necessary steps to amend the recruitment rules in this regard for the two posts, namely Editor (English) and Joint Director (Farm Information) may be taken and preferably this exercise be completed within six months from the date of receipt of a copy of this order. No costs.



(S.A.T. RIZVI)  
MEMBER (A)



(V.S. AGGARWAL)  
CHAIRMAN

/sns/