

11

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1219/2002

New Delhi this the 3rd day of March, 2003.

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

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Dr.S.M.G.Saran
S/o Shri Kamleshwari Prasad
R/o 30-53 A-5-B, Paschim Vihar
New Delhi. ..Applicant

(None for the applicant)

vs.

1. Union of India
Through its Secretry
Ministry of Agriculture
Krishi Bhawan
New Delhi.
2. Director General
Indian Council of Agricultural Research
(ICAR)
Krishi Bhawan
New Delhi.
3. The Chairman
Agriculture Scientists Recruitment Board
Anusandhan Bhawan
Pusa, K.S.Krishna Marg
New Delhi.Respondents

(By Shri V.K.Rao, Advocate)

O R D E R

Justice V.S.Agarwal:-

The applicant had joined the Indian Council of Agricultural Research (for short, "the ICAR") on 1.9.1970 as Senior Computer (Statistics). The respondents had decided to form Agriculture Research Service (for short, "the ARS") and facility was provided to the existing staff of ICAR to be

(Signature)

inducted in the ARS. The relevant requirements were:-

"(i) the employee must be in the service of ICAR on 1.10.1975: and

(ii) must have Master's Degree in certain subjects.

Certain number of posts in the ARS were kept reserved for the employees of ICAR. So far as possessing of Master's Degree in certain subjects was concerned, with respect to employees who did not have the said degree, five years' period was allowed to acquire the same. Accordingly Master's Degree was to be obtained by 1.10.1980. The cases of the employees who fulfilled the eligible requirements were to be considered by the Agricultural Scientists Recruitment Board, (for short, "the ASRB"). There were no rules or guide-lines which were to be followed by the ASRB.

2....The applicant was not having a Master's Degree as on 1.10.1975. However, he acquired the same on 18.10.1979 within the time prescribed. After acquiring the same, he had applied for induction into the ARS. Certain persons junior to the applicant had been inducted. Some of the employees of ARS had filed an application in this Tribunal which was allowed. It was followed by a contempt petition. This Tribunal held that no guide-lines or rules had been prescribed for the

18 Ag

ASRB to consider the cases of induction of ICAR employees into ARS and that the employees were having right to be so inducted.

3. The applicant submitted a representation but in the absence of any favourable action, he preferred OA No.1702/1997. The said application had been decided by this Tribunal on 25.8.2000 directing the respondents to consider the case of the applicant for induction into ARS. The applicant had been inducted into the ARS with effect from 27.3.1995.

4. By virtue of the present application, he seeks quashing of the orders of 5.12.2001 and 19.4.2001 by virtue of which the applicant had been inducted into ARS with effect from 27.3.1995. He claims that he should be inducted from 18.10.1979 and corresponding benefit in promotion and pay should also be awarded.

5. In the reply filed, it has been pointed that the case of the applicant was considered by the Board. Mere possessing of Master's degree does not entitle a person for induction into the ARS. The ASRB was of the opinion that the contributions of the applicant were not found commanding before 27.3.1995. The case of the applicant had also been considered in 1983 and 1986. He was not found fit

18 Ag

for induction in accordance with documents/bio-data furnished before the Committee.

6. Before proceeding further, we deem it necessary to mention that certain other similarly situated persons had earlier filed an application which had been allowed. They had subsequently filed CCP No.65/1993 in TA No.157/1987 which was decided on 19.8.1993. Following directions were issued:-

- » " (1) The evolving of the criteria for selection made by the Selection Committee resulting in non-induction of the petitioners shall be regarded as non-est.
- » (2) The respondents shall place the case of all the eight petitioners before the appropriate Selection for fresh consideration.
- » (3) The Selection Committee shall determine the adequacy of each of the petitioners for induction having regard to the nature of duties which they are required to discharge on their induction.
- » (4) The committee shall take into consideration the educational qualifications of the petitioners and the service records upto 15.9.1983. They shall interview the candidature of all the petitioners, questions being directed to ascertain their adequacy for their induction. The Selection Committee shall take a decision in respect of each of the petitioners on over all consideration of the educational qualifications, their service records and their performance in the interview. It is on that basis that they shall prepare a list of persons whom they select for being inducted and forward the same to the ICAR. The ICAR shall pass orders expeditiously regarding induction of

18 Aug 1993

those who are recommended by the Selection Committee.

(5) The entire process shall be completed within a period of four months from the date of receipt of a copy of this judgement."

Subsequently, the applicant too had filed OA No.1702/1997 which was decided by this Tribunal on 25.8.2000. Therein the applicant had claimed that he had become eligible for induction into ARS from 18.10.1979 and that persons junior to the applicant had since been inducted. The application had been contested. This Tribunal had passed the following order:-

"6. We have given careful consideration to the contentions. No doubt the case suffers from laches. Though the applicant's grievance arose in 1983 when his case was considered and he was found unsuitable and again in 1986 when his case was rejected by the Board, the applicant had not made any grievance against those orders. In order to rebut the contention as to limitation the applicant now seeks to rely upon two letters dated 27.12.96 and 26.6.96 where the Head of the Division had strongly recommended his case. Hence he was entitled for consideration. We are also of the view that the cause of action in this case is not a one time cause of action but it is a continuous one as the applicant is entitled for consideration of his case, more than once.

7. It is not in dispute that the applicant has fulfilled all the qualifications for induction into ARS. It is, however, stated by the learned counsel for the respondents Shri V.K.Rao that the ARS has been disbanded from 31.12.85. This fact, however, has not been mentioned in the counter-affidavit.

8. In the circumstances, we direct the respondents to consider the case of the applicant for induction into ARS if it is not disbanded already, within a period of three months from the date of

l8 Ag e

receipt of a copy of this order. The respondents are directed to pass a speaking order."

Presently as already pointed above, vide the impugned order, the applicant had been inducted into the abovesaid Service from 27.3.1995.

7. It is obvious from the resume of facts that the statement that was made when OA No.1702/1997 had come up hearing that the said Service had been disbanded was obviously not correct because even this Tribunal recorded that this was not a part of the pleadings.

8. Inter-se between the parties in the earlier application which has already been decided that it was not a one time cause of action but it is a continuous one because the applicant has to be considered every time though his case had been rejected in 1983 and 1986. In other words, the applicant necessarily has a right to seek consideration whenever it arises after 1986. There is nothing on the record to show as to why the applicant is not being considered fit before the year 1995 mentioned in the impugned order particularly when it appears that his case had been recommended in this regard. There is nothing on the record to indicate that the case of the applicant had been considered in terms of the decision of this Tribunal in OA No.1702/1997.



-7-

9. Accordingly, we allow the present application and quash the impugned orders and direct that the case of the applicant should be considered afresh from an earlier date than what has been mentioned in the impugned order. No costs.

V.K.Majotra

(V. K. Majotra)
Member (A)

(S. Aggarwal)

(V. S. Aggarwal)
Chairman

/sns/