

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. No. 2374/2002

This the 12th day of September, 2002

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hon'ble Shri V.K. Majotra, Member (A)

1. Dr. D.P. Singh,  
Working as Senior Scientist  
(Crop Protection),  
Directorate of Wheat Research,  
(ICAR), Maharaja Agarsen Marg,  
Karnal, Haryana

(By Advocate: Shri S.M. Garg)

-Applicant

Versus

1. Indian Council of Agricultural Research  
through its Director General,  
Krishi Bhawan, New Delhi-110 012
2. Directorate of Wheat Research,  
(ICAR), Maharaja Agarsen Marg,  
Karnal, Haryana through  
its Director
3. Agricultural Scientists Recruitment  
Board, Krishi Bhawan,  
Krishi Anusandhan Bhawan,  
Pusa, New Delhi through  
Its Secretary
4. Dr. A.K. Sharma,  
Principal Scientist (Plant Pathology),  
Directorate of Wheat Research,  
(ICAR), Maharaja Agrasen Marg,  
Karnal, (Haryana)

-Respondents

ORDER (Oral)

Justice V.S. Aggarwal:

The applicant by virtue of the present application seeks an order that the appointment order dated 13.3.2002 should be quashed and instead the applicant should be appointed to the post of Principal Scientist (Plant Pathology) as a direct recruit.

2. The sum and substance of the applicant's grievance

*MS Ag*

(3)

is that in the recruitment to the above said post, respondent No.4 was selected because his name was at Sl. No.1 of the panel drawn while the applicant's name was at Sl. No. 2. In pursuance of that selection, respondent No.4 had joined as a direct recruit. Subsequently, the respondent No.4 is alleged to have given option retrospectively in the Career Advancement Scheme and it is the claim of the applicant that he has even drawn the arrears.

3. The argument advanced is that once respondent No.4 has exercised the option for the Career Advancement Scheme, he should be taken as a promotee to a post and not as a direct recruit. As a consequence, applicant claims that he should be offered the post referred to in the first paragraph as a direct recruit.

4. After hearing the learned counsel for the applicant, we find that in the peculiar facts what has been urged at the Bar cannot be accepted. Reasons are obvious. Respondent No.4 admittedly joined firstly as a direct recruit to the post and has continued to function therein. He has never resigned. If subsequently, he gives an option towards the Career Advancement Scheme without resigning or leaving the post which he occupied as a direct recruit, in that event, it cannot be taken by any legal fiction that the post filled by direct recruitment would fall vacant. It is between him and the department to ensure as to whether he has drawn the arrears properly or not.

*MSAq*

5. As to the applicant, there is no hesitation to state that there is no merit in the OA and the same is dismissed.

V.K. Majotra

(V.K. Majotra)  
Member (A)

V.S. Aggarwal

(V.S. Aggarwal)  
Chairman

cc.