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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1652/2001

with

T.A. NO.36/99
(C.W. NO.3964/1999)

This the 29th day of November, 2002.

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

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

O.A. NO.1652/2001

1. Dr. Jasvir Singh S/O Jailal Singh,
E-92, Pusa Campus,
New Delhi-12.
2. Dr. B.V.Singh S/O R.B.Verma,
G-6, Pusa Apartment, Sector 15,
Rohini, Delhi-85.
3. Ishwari Singh S/O Govardhan Singh,
723, Krishi Kunj,
New Delhi-12.
4. Sushil Kumar Sharma S/O V.S.Sharma,
602, Krishi Kunj,
New Delhi-12.
5. I.P.Singh S/O Karan Singh,
542 Krishi Kunj,
New Delhi-12.
6. Dr. V.K.Tomar S/O Dhan Singh,
662, Krishi Kunj,
New Delhi-12.
7. Dr. Rajender Singh S/O Mahendra Singh,
525, Krishi Kunj,
New Delhi-12.
8. Dr. Diwakar Bahukhandi S/O D.P.Bahukhandi,
672, Krishi Kunj,
New Delhi-12.
9. Dr. R.P.Pant S/O T.D.Pant,
736, Krishi Kunj,
New Delhi-12. Applicants

(By Shri Vijay Chaudhary, Advocate)

-versus-

1. Union of India
Ministry of Agriculture
through its Secretary,
Krishi Bhawan, New Delhi.
2. Indian Council of Agricultural Research
through its Director General,
Krishi Bhawan, New Delhi.

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3. Indian Agricultural Research Institute
through its Director,
IARI (Pusa), New Delhi. Respondents

(By Shri V.K.Rao, Advocate)

T.A. NO.36/1999 (C.W. NO.3964/1999)

1. ICAR Post Graduate Technical Staff
Forum through its General Secretary
Dr. C.B.Singh S/O Jagdish Prasad,
Technical Officer, Division of Agronomy,
Indian Agricultural Research Institute,
Pusa Road, New Delhi.

2. Vijay Kumar Sharma,
Technical Officer,
Division of MRL, Indian Agricultural
Research Institute,
New Delhi-110001. Applicants

(By Dr. Sumant Bhardwaj, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Agriculture,
Government of India, Krishi Bhawan,
Dr. Rajendra Prasad Road,
New Delhi-110001.

2. Indian Agricultural Research Institute
(Deemed University) through its
Director, Pusa Road,
New Delhi-110012.

3. University Grants Commission
through its Chairperson,
Bahadurshah Zafar Marg,
New Delhi-110002.

4. Secretary, Department of
Agricultural Research & Education (DARE),
Ministry of Agriculture, Krishi Bhawan,
Dr. Rajendra Prasad Road,
New Delhi.

5. Agricultural Scientists Recruitment Board
through its Chairman,
Dr. K.S.Krishnan Marg, Pusa Campus,
New Delhi-110012. Respondents

(By Shri V.K.Rao, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Facts and issues being similar, O.A. No.1652/2001

and T.A. No.36/1999 are being disposed of together.

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2. Applicants are technical personnel in the technical stream of the Indian Council of Agricultural Research (hereinafter referred to as the Council) seeking induction from technical to scientific cadre. The Agricultural Research Services (ARS) Rules, 1975 came into existence on 1.1.1977 but were applied with retrospective effect from 1.10.1975. These rules provided for grades S, S-1, S-2 and S-3 which were later on revised. It is claimed that the rules provide for interchangeability of cadre for absorption of technical category personnel to scientific category. On 20.5.1978 and 18.11.1978 the ICAR (Council) decided to induct the technical category personnel appointed after the cut off date, i.e., 1.10.1975 as Scientists-S provided the recruitment action in their case was initiated prior to the cut off date, i.e., 1.10.1975. In relaxation of rule 23 of the 1975 rules it was decided that such technical personnel who were appointed to the Council's service after 1.10.1975 on the basis of recruitment action initiated prior to that date and were in possession of master's degree, may be considered for induction into ARS in accordance with the prescribed criteria, vide letter dated 13.6.1983. It has been contended that respondents have inducted a large number of employees of technical category into scientific category after the cut off date, i.e., 1.10.1975 in violation of the rules, and that although applicants are similarly situated, they have been discriminated against.

3. The learned counsel of applicants in OA No.1652/2001 stated that respondents have been inducting



technical personnel to scientific category in violation of the provisions of the rules since 1970 and have continued to induct such personnel to scientific category even after applicants joined service in the 1980s. Applicants allege that although the Agricultural Research Services have ceased to be operative w.e.f. 31.12.1985, respondents have continued to induct technical personnel to scientific cadre adopting a pick-and-choose policy. The learned counsel stated that from 1985 applicants' cases for induction into scientific cadre can be decided on the basis of administrative instructions.

4. On the other hand, it has been stated on behalf of respondents that induction of technical personnel into ARS was one-time opportunity extended to the in-service employees at the time of initial constitution of ARS which is non-existent at present. Further, at the time of constitution of ARS w.e.f. 1.10.1975 induction was accorded to the existing employees of the Council holding scientific and technical posts with specific nomenclature such as Senior Research Assistant, Research Assistant etc. and they were not governed by any technical service rules framed by the Council and applicants are not entitled for induction into scientific stream. Technical personnel were inducted into S-0 grade of the scientific cadre at the time of initial constitution of ARS, which is now a dying cadre. Technical and scientific services are two different categories having their own set of rules and regulations. Recruitment action under ARS Rules, 1975 was initiated prior to 1.10.1975 but was continued beyond 1.10.1975 due to some administrative

reasons. As such, relaxation of rule 23 of ARS Rules was resorted to with the approval of President, ICAR and certain cases for induction were decided after 1.10.1975. The learned counsel stated that cases of S/Shri O.P.Khandoori and V.K.Jain were decided in relaxation of rule 23 as recruitment action in their case had started prior to 1.10.1975. Shri Vishnu Hari Gupta was inducted as per orders of the court. Similarly, respondents have drawn a distinction between applicants' cases and those of Shri S.K.Naidu, Mrs. S.Das, Shri A.P.Patnaik etc. who were in service as on 1.10.1975 in the lower grades, but were granted higher scale in pursuance of court's orders and as such became eligible for induction. So far as the case of Shri C.P.S.Solanki is concerned. The learned counsel of respondents explained that the Progeny Testing Bull Station Farm where Shri Solanki was working was transferred from the State Government of Haryana to the Council w.e.f. 1.2.1985 along with the staff. Shri Solanki at that time was holding the post of Statistical Officer in the scale of Rs.940-2000. The screening committee at the time of transfer of the said Station to the Council recommended a post of Scientist S-1 (scale Rs.700-1300) to Shri Solanki. However, the Finance did not agree to the creation of any post in the scientific category. In these circumstances, the staff of Government of Haryana was absorbed in the technical categories. Shri Solanki was offered post of T-6 in scale Rs.700-1300, equivalent to the scale of S-1. Shri Solanki did not accept that post on the ground that he was an M.Sc. (Stat.) and was eligible for a post of S-2 (Rs.1100-1600). Therefore, a second screening committee

keeping in view Shri Solanki's qualifications, recommended his absorption in S-2. Competent authority approved Shri Solanki's induction into S-2 of ARS w.e.f. 1.2.1985 in view of his qualifications and the scale in which he was working.

5. Admittedly, all applicants in OA No.1652/2001 joined technical posts (T-2-3) on or after 11.8.1982. IARI started a new service known as Agricultural Research Service (ARS) w.e.f. 1.10.1975 for the scientific staff of the Council. The rules provide that on the date of constitution of the service, i.e., 1.10.1975, all existing employees of the Council holding scientific and technical posts and satisfying certain conditions as given in the initial constitution of the service, were eligible for induction. All eligible persons were to be screened by the Agricultural Scientists Recruitment Board (ASRB). In relaxation of rule 23 of ARS Rules, 1975 it was decided that such technical personnel who were appointed after 1.10.1975 on the basis of the recruitment action initiated prior to that date and were in possession of master's degree be considered for induction into ARS in accordance with the prescribed criteria, vide letter dated 13.6.1983. Vide order dated 27.3.1992 in T-157/87 (CW 2580/1984) : **Pramod Kumar & Ors. v. Union of India & Ors.**, decided by the Principal Bench of the Tribunal, it was directed, "the competent authority shall reduce into writing the procedure/criteria, which might have been followed in case of induction into ARS of Technical Assistant who were not eligible at the time of initial constitution of the service and apply the same in

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the case of the petitioners as well in consonance with the decision taken in their communication No.8-7/78-Per.IV dated the 13th June, 1983". Admittedly, applicants were appointed in the technical category much after 1.10.1975 and they cannot avail of the extension in the cut off date of 1.10.1975 as recruitment in their case had not been initiated prior to 1.10.1975. Again, the ARS Rules have ceased to operate after 1985. Basically, there is no provision of interchangeability between the technical and scientific categories. Induction into scientific category from technical was a one-time measure under the ARS scheme. After the initial induction technical personnel can compete for ARS on fulfilment of requisite qualifications. They can even avail of age relaxation upto the age of 45 years for appearing in ARS examination. The cases of induction of technical personnel to scientific category after 1.10.1975 have been explained by respondents. Such induction has either been effected as per orders of courts or in the case of personnel who were in service as on 1.10.1975 but had acquired eligibility for induction into scientific grades later on. The case of Shri C.P.S.Solanki has also been satisfactorily explained. Induction of such personnel including Shri Solanki into scientific category is based on peculiar facts and circumstances and applicants are certainly not similarly situated. We have observed the distinguishing features in these cases and we find that applicants are not similarly situated. Presently, there are no provisions of rules which entitle applicants for induction into scientific grades, as claimed by them.

6. In TA-36/1999, the learned counsel of applicants particularly stated that Shri C.P.S.Solanki joined the Council much later than applicants but respondents have inducted him in the grade of S-2 in the ARS on 13.3.1997. The learned counsel stated that 1446 posts in the scientific category are available and whereas the cut off date was extended only till 1.10.1977, Shri Solanki has been inducted several years later and as such, applicants appointed as technical personnel on or before 31.4.1997 should be inducted in the corresponding grades of Scientists. Shri Solanki's induction in S-2 of ARS has already been explained above and was in order in the specific facts and circumstances. Admittedly, applicants were appointed as technical personnel on or before 31.4.1997, i.e., much after the cut off date 1.10.1975 or even the extended cut off date, i.e., 1.10.1977, for induction into scientific grades, particularly when the ARS Rules had ceased to operate. Induction of technical persons into ARS was indeed a one-time measure. "S" grade has been treated as a 'dying cadre', therefore, vacancies in a dying cadre cannot be made into a ground to keep induction open-ended for all times. Applicants were specifically appointed in the technical service of the Council on their own volition and the terms and conditions for them. They have opportunities to compete for ARS on fulfilment of requisite qualifications.



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7. Having regard to the reasons stated and discussion made above, we do not find any merit in OA No.1652/2001 and TA No.36/1999 which are dismissed accordingly. No costs.

V. Majotra

(V. K. Majotra)
Member (A)

V. S. Aggarwal

(V. S. Aggarwal)
Chairman

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