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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2364/2001

New Delhi, this the 8th day of January 2002

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. M.P. SINGH, MEMBER (A)

Dr. V.T. Prabhakaran,
S/o late Shri T. Sankara Menon,
Working as Principal Scientist,
Indian Agricultural Statistics Research Institute
New Delhi-110012.

(By : Applicant in person)

... Applicant

V E R S U S

1. The Union of India
Through the Secretary,
Department of Agricultural Research &
Education,
Krishi Bhawan, New Delhi-110001.
2. The Indian Council of Agricultural Research
Through its Secretary,
Krishi Bhawan, New Delhi-110001.
3. The President, ICAR & Ministry of Agriculture,
Krishi Bhawan, New Delhi-110001.
4. The Indian Agricultural Statistics Research
Institute,
Through its Director,
Library Avenue, PUSA, New Delhi-110012.

... Respondents

(By Advocate: Shri V.K. Rao)

ORDER (oral)

By Mr. M.P. Singh, Member (A) :

The applicant by filing this OA is seeking to declare the office orders dated 15.10.1999, 29.5.2001 and 20.8.2001, which are issued against the ICAR guidelines, as null and void with a direction to the respondents to appoint him as ad-hoc Head, Biometrics Division of IASRI with effect from March 16, 2000.

2. The facts in brief are that the applicant joined ICAR as Statistical Assistant on 22.9.1969.

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He was promoted to various scientific position from time to time and by a direct selection, he was appointed to the post of Principal Scientist in IASRI on 9.5.1996. It is also stated by the applicant that in the light of the judgement of Hon'ble High Court dated 28.1.1992 in W.P. No.1192/84 and judgement of this Tribunal dated 23.8.199 in OA No.1583/1994, the applicant is entitled to become Principal Scientist w.e.f. July, 1986. As per clause 5 of the guidelines for the appointment of Heads of Divisions contained in ICAR letter dated 2.6.192 efforts were to be made by the respondents to complete the selection of a successor well in advance. If for any reasons, selection could not be finalized in time, an interim arrangement can be made by the Director of the Institute, as indicated below :-

5(a) If the incumbent is still in service, he may be allowed to continue for a period not exceeding six months.

(b) If the old incumbent is not available or is not interested in continuing further or is considered unfit or ineligible for further retention for the reasons to be recorded, the senior most Principal Scientist in the discipline, whether in the same Division or in any other Division of the Institute, may be appointed. The date of appointment to the post of Principal Scientist or equivalent grade in ICAR will be the criterion for determining the seniority in the grade. If, however, there are more than one Principal Scientist with the same date of appointment, the person older in age would be considered to be the senior-most Principal Scientist for this purpose.



- (c) If the senior-most Principal Scientist is unwilling or is not found fit for the reasons to be recorded, the next senior-most Principal Scientist identified by the same principles would be considered."

3. The contention of the applicant is that he being the senior-most Principal Scientist in the Division of Biometrics should have been appointed as an interim Head of the division in terms the above guidelines on the expiry of six months period from the date of completion of the tenure of the regular appointee, i.e., with effect from March 16, 2000. According to him, the respondents have violated the aforesaid ICAR guidelines and allowed the old incumbent to continue as Head of Biometrics, indefinitely from the date of completion of tenure, i.e., 15.9.1999 vide order dated 15.10.1999. Based on aforesaid order, the old incumbent worked in ad hoc capacity for more than 20 months as against the permissible limit. He has submitted his representation but the same has been rejected by the respondents. Aggrieved by this, he has filed the present OA claiming the aforesaid relief.

4. Respondents in their reply have stated that respondent No.4 is holding ^{the said} ~~two~~ posts in addition to his regular post and later on gave the charge to the Joint Director. They have also stated that applicant is not senior-most Principal Scientist, as there are five other Principal Scientists above the applicant ^{who} are working in Division of Agricultural Statistics ^{and} and Statistic Genetics. It is also stated

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by the respondents that the ICAR guidelines are neither a statutory provision nor a rule but are only guidelines for smooth functioning of the divisional activities. These guidelines do not preclude the Director who is the Head of the Institute from assuming the interim charge of the Division.

5. Heard both the learned counsel for the rival contesting parties and perused the records.

6. During the course of the argument, applicant submitted that as per the guidelines of ICAR, a senior-most Principal Scientist is to be appointed to the post of Head of the Division from the area covered by that Division. According to him, one Dr. Prajneshu who just completed his tenure of five years is a senior-most Principal Scientist and he is a second senior-most Principal Scientist in the Division of Biometrics. Therefore, he should be appointed to the post of Head of the Division of Biometrics.

7. On the other hand, learned counsel for the respondents drew our attention to para 5 (b) ibid of the guidelines and contended that it is open for the respondents to appoint Head of the Division by considering the senior-most Principal Scientist from other divisions also. However, we find from para 2 which says that the field of selection will be open to the Principle Scientists and Professors (or

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equivalent), in the relevant discipline. The existing incumbent will also be eligible to apply for the re-advertised post of Head of division to take chance with others for a fresh tenure of 5 years. Therefore, the contention of the learned counsel for the respondents that the respondents has the discretion to select a person, ^{who is} senior-most from different division does not appear to be tenable. The learned counsel for the respondents also stated that there are five senior-most Principal Scientists above the applicant in the discipline of agricultural statistic. But according to the applicant, the same division, i.e., Bio Statistic and Statistical Genetics has been redesignated as Biometrics and according to him, he is the senior-most Principal Scientist in that division.

8. However, admitted position is that as an interim arrangement, the senior-most Principal Scientist should be appointed as Head of the division. Although there is nothing basically wrong in taking over the charge of that division by the Director of the Head of the Division ^{as} the senior can always perform the function which are performed by the juniors. But the guidelines for the appointment of the Head of the division ^{and} ~~in~~ the regional stations do not provide for this arrangement and there is no provision for ^{relaxing} ~~prohibiting~~ the guidelines. As far as the material placed before us we do not find that there is any provision for granting relaxation to the guidelines for the interim arrangement to fill

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up the post of Head of the division. ² Even if there is a ~~no~~ provision ^{for relaxation, &} ~~that~~ the Director of the institute is not competent authority to relax the provision of the guidelines.

9. In the circumstances, we are of the considered view that the ends of justice will be duly met, if the respondents are directed to ascertain as to whether the applicant is the second senior-most Principal Scientist in the discipline of Bio Statistic and Statistical Genetics and if he is the ~~second~~ ^{next &} senior-most Principal Scientist after senior-most Principal Scientist Dr. Prajneshu, he should be considered for appointment to the post of Head of the division for the interim period within a period of six weeks. We do so accordingly. ~~In case~~ ^v as and when the respondents have to make a regular appointment to the post of Head of the division of Biometrics, the applicant may also be considered for appointment to the post of Head of the division if otherwise found suitable in terms of the Rules, Instructions and guidelines.

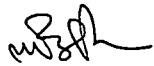
Statistic and Statistical Genetics


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x Deleted and replaced by words "Agriculture Statistics (Biometrics Division)" vide Hon'ble Court's order dt. 15.3.2002 in RAS3/2002 in OA 2364/2001

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10. The present OA is disposed of in the aforesaid terms.


(M.P. SINGH)
MEMBER (A)


(ASHOK AGARWAL)
CHAIRMAN

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