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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1946/1999

New Delhi, this 9th day of ~~March~~, 2004.

Hon'ble Shri Kuldip Singh, Member(J)

Hon'ble Shri M.P.Singh, Member(A)

A.N. Rai

S/o Late K.D.Rai

207/5, Sector I, Pushp Vihar

M.B. Road, New Delhi-110017

.. Applicant

(By Shri S.K.Singh, Advocate - not present)

versus

1. Union of India
Through its Secretary
North Block, New Delhi
 2. Ministry of Personnel, Public Grievance
& Pension, Deptt. of Personnel & Training
North Block, New Delhi 110001
 3. Ministry of Agriculture
Through its Secretary
Department of Agriculture & Cooperation
Krishi Bhavan, New Delhi
 4. Director of Administration
Directorate of Extension
Department of Agriculture & Cooperation
Government of India
Krishi Vistar Bhavan
IASRI Campus, Pusha
Dr. K.S. Krishnan Marg
New Delhi 110012
 5. Union Public Service Commission
Through its Secretary
Dholpur House
New Delhi
- .. Respondents

(By Shri K.K. Patel, Advocate)

ORDER (ORAL)

By Shri Kuldip Singh, M(J)

The applicant in this OA has prayed for directions to the respondents to withdraw the circular for filling the post of Director, Farm Information Units (FIU, for short) by transfer on deputation; to make necessary changes/amendments in the recruitment rules for the post

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of Directors on priority basis and on the guidelines as desired by the DOPT and to consider his representation before initiating any proceedings for recruitment for the post of Director FIU.

2. Facts in brief are that the applicant was initially appointed as Assistant Information Officer, Ministry of Information and Broadcasting wherefrom he moved to the Ministry of Agriculture, Directorate of Extension as Editor (English). He had proceeded to work on higher post outside the cadre on deputation and joined back his parent department, i.e. Directorate of Extension as Editor (English). The applicant claims that there are 3 technical units in the Directorate of Extension, viz. Farm Information Unit, Extension Management Unit and Extension Training Unit. In all the three units, there were 3 posts in senior class one grade prior to the implementation of 5th Pay Commission and these being: (i) Director (ii) Joint Director, and (iii) Editor/Deputy Director/Exhibition Officer in FIU and i) Director ii) Joint Director iii) Senior Extension Officer in Extension Management Unit and Extension Training Unit. Each unit is headed by a Director. He further claims that the Extension Management Unit and Extension Training Unit have a combined inter seniority cadre while the FIU has a separate cadre. The Editor/Deputy Director, Exhibition Officer in FIU, prior to the implementation of the 5th Pay Commission recommendations, were eligible for promotion to the post of Joint Director in the same unit and the Joint

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Director was eligible for promotion to the post of Director FIU and the promotion channels in the aforesaid two other technical units were Senior Extension Officer to Joint Director and Joint Director to the post of Director on the basis of combined seniority. It is further stated that the recruitment rules for the post of Director FIU was revised in the year 1996 and as per the rules, the said post is to be filled through promotion of Joint Director with 4 years of regular service in the grade of Rs.3000-5000 (pre revised) failing which by transfer on deputation and failing both by direct recruitment. However, the 5th Pay Commission merged the two pre-revised pay scales of Rs.3000-5000 (that of Joint Director) and Rs.3000-4500 (that of Editor/Deputy Director/Exhibition Officer) in FIU and that of Senior Extension Officer in Extension Management Unit and Extension Unit. It is also stated that after the merger of the said two pay scales by the 5th Pay Commission, the Department of Personnel and Training vide its office memorandum dated 25.5.1998 directed all the Ministries/Departments to amend and make consequential changes in the existing service rules/recruitment rules. The applicant contends that the Ministry of Agriculture, in violation of the rules and norms, decided to fill up the vacant post of Director lying vacant since May 1998 through transfer on deputation basis whereas the said post is 100% promotion post and is to be filled up through promotion and not by transfer on deputation. If there is no eligible candidate available for promotion in the feeder cadre of

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FIU only then the said post can be filled up by transfer on deputation basis. The applicant claims that when the Ministry had issued a circular to fill up the post of Director FIU, he protested and made a request for withdrawal of the circular. But his representation has not been considered. The decision of the respondents to fill up the post of Director FIU by transfer on deputation basis is stated to be against the rules. Thus the applicant has sought the relief as stated in para-1.

3. The respondents are contesting the OA stating that the applicant is holding the post of Editor (English) and is not working as Joint Director (Farm Information) nor is he holding the requisite qualification and, since the recruitment rules permit the respondents to fill up the post of Director by way of promotion failing which by transfer on deputation, the respondents have taken the action to fill up the post in accordance with the recruitment rules. According to the respondents, there are only two Joint Directors, viz. Shri Y.R. Meena and Dr N.S. Ingale and those two Joint Directors have also not completed the requisite number of years of service to become eligible for consideration to the post of Director. So, the department had moved the UPSC as per rules and the UPSC, after discussions with the eligible officers, recommended Shri S.K. Dalal for appointment to the post and accordingly he had been appointed with effect from 29.9.1999.

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4. The case was on Board for several dates. No one had appeared for the applicant. We have heard Shri K.K. Patel, counsel appearing for the respondents.

5. The main case of the applicant is that by virtue of the merger of the posts of Deputy Director and Editor into one post of Joint Director, now there is only one post and the applicant has become Joint Director equivalent with the pay scale of Rs.10,000-15,200 and is now entitled for the promotion on the post of Director (Farm Information Unit) in the pay scale of Rs.12,000-16,500. Shri Patel appearing for the respondents submitted that the applicant is still holding the post of Editor English and had not been posted as Joint Director (Farm Information) and according to the Recruitment Rules enforce on the date of occurrence of the vacancy, only Joint Director with over 4 years of regular service is eligible for promotion and as such the applicant is not eligible for the post of Joint Director. This statement of the respondents has not been rebutted by filing any rejoinder to this counter. On the contrary, if we peruse the OA itself, the applicant admits that he joined the service as Editor 'English' though he had been working on deputation on some higher post but he has not been formally appointed as Joint Director even after the merger of the pay scales, as alleged. The applicant even in his OA also admits that though the Ministry of Agriculture has issued an Office Memo (Annexure-E) vide which all posts in the pre-revised

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scale of Rs.3000-4500 in the Directorate of Extension stands equivalent to the post of Joint Director for all purposes, but no such order has been issued for the posts which are under the control of Farm Information Unit. That means that the applicant who was working under the Farm Information Unit, his post has not been upgraded to the post of Joint Director and he has not become eligible to be considered for the post of Director by promotion. ^{Thus} we find that the respondents after taking care of all the Recruitment Rules and finding that no candidate is available for promotion had filled up the vacancy by appointing Shri Dalal in consultation with the UPSC. ^{hence} we find that there is no infirmity in the order appointing Shri Dalal and the same does not call for any interference at this stage.

6. In view of the above OA has no merits and the same is dismissed. No costs.

(M. P. Singh)
Member(A)

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(Kuldip Singh)
Member(J)