

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1148/1998

New Delhi, this 11th day of March, 1999

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

11

Shambu Nath Yadav
s/o late Shri B.P. Yadav
92, Krishi Niketan
A-6, Paschim Vihar, New Delhi-110 063 .. Applicant

(By Shri B.B. Raval, Advocate)

versus

1. Director General
ICAR, Krishi Bhavan
New Delhi
2. Director
IASRI, Library Avenue
New Delhi .. Respondents

(By Shri V.K. Rao, Advocate)

ORDER

Hon'ble Shri S.P. Biswas

The applicant is aggrieved by Annexure-A order dated 28.1.98, by which his request for grant of promotions to the post of T-II-3 with effect from 18.2.78 and to the post of T-4 with effect from 1.1.84 has been rejected. Consequently, the applicant has sought for quashing the impugned Annexure-A order and issuance of directions to the respondents to consider giving him seniority with effect from 30.11.74 in the Technical Service and also count the same for the purpose of assessment with all consequential benefits including promotions to the next higher grade of T-II-3 and T-4 alongwith fixation of pay in the higher scale.

q3

2. It is the case of the applicant that he was appointed as Supervisor-cum-Enumerator in the pay scale of Rs.130-300 with effect from 23.1.62 in the Institute of Agricultural Research Statistics and was declared quasi-permanent from January, 1966. Though his services were terminated after 12 years and 11 months, he was however appointed as LDC in the pay scale of Rs.260-400 with effect from 30.11.74. Applicant would base his claim on the plea that though an equivalent post of UDC was available at that time, administration did not absorb him against that post. If he was given UDC's post which was equivalent to Supervisor-cum-Enumerator, the post he was holding earlier, the applicant would have got the benefit of the equivalent post from 30.11.74. Because of respondents' failure, he was absorbed as Supervisor only from 18.2.78 instead of 30.11.74. Applicant further contends that similarly placed persons like him i.e., Shri G.S.Dwivedi, who was declared surplus alongwith the applicant was appointed to an equivalent post of UDC, whereas the applicant was made to face a discriminatory order. He had, therefore, requested for absorption in equivalent post of Rs.130-300 with effect from 30.11.74 or to give him alternatively benefit of technical service for the purpose of assesment to the next higher grade of Rs.425-700. Applicant claims to have sent several representations but they did not produce any encouraging results.

Q

3. Respondents would submit that as per Rule 6.5 of the Technical Services of ICAR which came into effect from 1.10.75, entire service rendered in Grade is to be counted for five-yearly assessment. However, in terms of Rule 4.3 of Technical Services of ICAR, Grade numbers were introduced with effect from 1.10.75 and hence, only the services rendered with effect from 1.10.75 were to be counted for assessment. Since the applicant had worked as supervisor upto 31.11.74, those services cannot be treated as rendered in Grade and hence cannot be counted for the purpose of determining the eligibility for five-yearly assessment. Since the applicant was in Administrative Category during the period from 1.10.75 to 31.12.76, he cannot be treated as existing employee for the benefit of past service. Respondents have also cited the judgement of Hon'ble Supreme Court in the case of Director General, Rice Research Institution, Cuttack & Anr. Vs. Shri Khetra Mohan Das in Civil Appeal No.4729/91 decided on 6.10.94 wherein it has been held that crucial date is 1.10.75 on which technical service came into existence. Since the applicant was not in technical service on the crucial date, the benefit of his past service cannot be extended to him.

4. We have since gone through the pleadings and perused the records. The Technical Service Rules of ICAR came into operation on 1.10.75. The principles that would govern initial appointment of the existing employees have been stipulated in para

5.1 of the said Service Rules. It mentions that "the existing permanent and temporary employees appointed through regularly constituted DPC/Section Committees will be fitted into the grades specified in para 3.1 on 'point to point basis' without any further screening irrespective of their qualifications. However, persons holding positions in the merged grade of Rs.425-700 and possessing qualifications prescribed for category II will be fitted in grade T-II-3 (Rs.425-700)". The crucial date 1.10.75 for fitment in the necessary category aforesaid has to be applied. The existing employees are required to be fitted only in the grade specified in para 3.1 of the Rules on point-to-point basis on the basis of their existing pay on that date. In the case of the applicant, he was working in the administrative wing from 1.10.75 to 31.12.76. It is on account of this plea that applicant was not entitled to be fitted in approved category of the new Rules.

(V)

5. In the case of DG, RRI (supra), the apex court held that no retrospective benefit could be provided to enable the employee for the purpose of operating the benefit of cut-off date i.e. 1.10.75. The apex court, while examining a similar case, set aside the orders of the Cuttack Bench of the Central Administrative Tribunal, wherein the applicant was held to have been appointed in Category II (grade T-II-3) in the pay scale of Rs.425-700 with effect from the date Technical
B

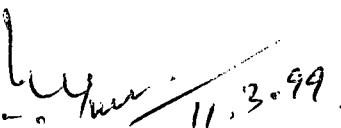
Service Rules came into operation. Applying the above ratio, the applicant would have no case for consideration.

✓

6. Apart from the fact of there being no merit in the case, we also find that the applicant seeks reliefs in terms of giving him seniority with effect from 30.11.74 in technical service as well as consequential benefits like promotion to the next grade of T-II-3 with effect from 18.2.78 and to the grade of T-4 with effect from 1.1.84. He claims to have made repeated representations. It is well settled in law that series of such representations cannot serve the purpose of overcoming the law of limitation. Admittedly, cause of action arose to the applicant in 1978 and 1984 and there is no explanation that could take care of the bar of limitation.

7. The OA deserves to be dismissed being devoid of ^{being hit by} merit as well as ^A limitation. The OA is accordingly dismissed, but without any order as to costs.


(S.P. Biswas)
Member (A)


11.3.99.
(T.N. Bhat)
Member (J)

/gtv/