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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2349/1996

New Delhi this the 23rd day of March, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

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

Harish Chandra Pandey,
Fieldman, D.A.R.L. Field Station,
Panda P.O. &
Distt. Pithoragarh (UP).

... Applicants

(None present for Applicants)

-Versus-

1. Director,
Defence Agricultural Research Laboratory,
Ministry of Defence, Govt. of India,
Panda, Pithoragarh (UP).
2. Director General,
Defence Research & Development Organisation,
Deptt. of Defence Research & Development,
Ministry of Defence, South Block,
New Delhi-110001.
3. Shri Sher Singh,
Technical Assistant,
C/O Director, DARL,
P.O. & Distt. Pithoragarh (UP).
4. Shri H.C. Joshi,
Technical Assistant,
C/O Director, DARL,
P.O. & Distt. Pithoragarh (UP). ... Respondents

(Dr. Mohd. Arif, Scientist-C, DARL, Departmental
Representative)

O R D E R (ORAL)

Shri V. K. Majotra, AM :

The applicant was appointed as Fieldman in the pay scale of Rs.950-1500 w.e.f. 31.10.1988 in Defence Agricultural Research Laboratory (for short, DARL). He has alleged that respondents 3 and 4, namely, Shri Sher Singh and Shri H.C. Joshi were appointed as Fieldman on temporary basis and were illegally promoted as Junior Scientific Assistant Grade-II

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(JSA-II) within one year and three and a half months of their engagement as Fieldman. He has claimed that the regular post of Fieldman held by him was unlawfully re-categorised as Laboratory Assistant (Rs.975-1540) w.e.f. 29.11.1990 treating the post as isolated. The respondents again restructured the staffing pattern of the Laboratory and constituted a Defence Research & Technical Cadre (for short, DRTC) from 26.8.1995 and brought the post of Lab Assistant under this cadre and placed it in Grade-I of category-I by re-designating the post as Technician-A (Rs.950-1500). He is aggrieved that his juniors have been placed as Technician-C (Rs.1320-2040) in an arbitrary and illegal manner. Applicant had earlier on filed O.A. No.469/94 which was dismissed as withdrawn on 20.9.1996 with liberty to file a fresh O.A.

2. According to applicant, respondents 3 and 4 were illegally absorbed in DARL against the existing vacancies of JSA-II w.e.f. 1.1.1988 as Fieldman vide order dated 8.1.1988 (Annexure-3), and thus they were engaged as Fieldman by the aforesaid order purely as casual/temporary arrangement in the eyes of law. They were further promoted to the next higher post of JSA-II (Rs.1320-2040) w.e.f. 15.4.1989 (Annexure-4). The applicant has taken exception to confirmation of respondents 3 and 4 in the post of Fieldman w.e.f. 31.12.1989 whereas the applicant was confirmed in the post of Fieldman from 30.10.1990 vide order dated 15.1.1992. The applicant has averred that whereas he

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possesses post graduate degree in economics with agricultural subjects and also has diploma in agriculture, Shri Sher Singh (respondent No.3) is only an arts graduate and Shri H.C.Joshi (respondent No.4) is merely an intermediate (agriculture). The applicant states to have made various representations. A copy of the representation dated 23.11.1989 is at Annexure-14. the applicant has sought direction to the respondents to promote the applicant in the post of JSA-II (Rs.1320-2040) w.e.f. 15.4.1989 when his juniors respondents 3 and 4 were promoted to that post, with all consequential benefits.

3. As per counter of respondents 1 and 2, the post of Fieldman held by the applicant at the time of his appointment was recategorised as Lab Assistant vide memo dated 29.11.1990 (Annexure-5). As regards engagement of respondents 3 and 4 as Fieldman and their promotion to the post of JSA-II, the respondents have stated that on the basis of a board of officers convened on 15.4.1989 for assessing eligibility of two Fieldmen, viz., S/Shri Sher Singh and H.C.Joshi (respondents 3 and 4 herein) for promotion to the post of JSA-II with reference to their ACRs of preceding three years, they were promoted. They had been appointed as Fieldmen in Maize Project in DARL w.e.f. 10.4.1980 and 18.12.1984 respectively vis-a-vis the applicant who was appointed w.e.f. 31.10.1988 and was on probation for two years w.e.f. 31.10.1988 with no experience in Maize Project. Regarding implementation of DRT Cadre w.e.f. 26.8.1995, the official

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respondents have stated that the applicant's post was re-designated as Technician-A w.e.f. 26.8.1995 vide order dated 6.11.1995 and that of respondent Nos.3 and 4 were re-designated as TA & Technician-C respectively, as per DRTC Recruitment Rules, 1995. The respondents have explained that respondents 3 and 4 who had been appointed in Maize Project were absorbed in DARL PE against the existing vacancies of JSA-II w.e.f. 1.1.1988 as Fieldmen on the basis of recommendations of the board of officers based on their continuous service and not on casual and temporary arrangement basis. They were promoted to the next higher grade of JSA-II w.e.f. 15.4.1989 on the basis of combined service rendered by them in Maize Project/DARL w.e.f. 1.4.1980 and 18.12.1984 respectively and also on the recommendations of DPC-III. The respondents have contended that the applicant has pointed out certain discrepancies in his application dated 16.3.1992 regarding (a) grant of annual increment; (b) submission of ACR in the proforma for Scientists/Technical Cadre instead of proforma meant for Admin./Store Cadre for 1990-91; (c) qualification of Fieldman and Lab Assistant; and (d) giving no intimation regarding re-designation of his post from Fieldman to Lab Assistant. According to the respondents, the necessary replies were provided to the applicant stating that discrepancies in his pay had been removed on 1.10.1992; since the re-designated post was non-Scientific/non-Technical in nature, ACR meant for Admin./Store staff was given to him for completion; re-designation of the post was as

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per Government's decision; and, in his application the applicant had intimated that he had come to know from DO dated 27.3.1991 that the post of Fieldman had been re-designated as Lab Assistant, and hence, his allegation that no information was given to him regarding re-designation was not correct. the respondents claim that necessary reply to his application of 16.3.1992 was also given to him vide letter dated 4.4.1992 (Annexure-7). Under para 9 of DRTC at the time of initial placement the applicant was placed in the cadre, namely, Technician-A. Since he opted for old pay scale, he has still been drawing pay in the scale of Rs.975-1540 instead of Rs.950-1500 and as such his pay scale has not been lowered. The respondents have controverted the averment of the applicant that respondent Shri Sher Singh is only an arts graduate, by stating that he holds post graduate degree from Garhwal University.

4. Respondent No.3 in his counter has reiterated the points made by respondents 1 and 2 in their counter and in addition, pointed out that the applicant has not impleaded S/Shri M.C.Pandey and K.C.Tamta as respondents who are junior to respondent No.3. The applicant has filed a rejoinder particularly stating that DARL is a research organisation having its own scientific, technical and administrative staff borne on the regular strength of the Laboratory. Projects like Maize Project under DARL are described as 'extra temporary establishment' and not 'regular establishment' of DARL and automatic

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transfer from project posts to regular posts on the strength of DARL is not possible. The applicant has also objected to the confirmation of respondents 3 and 4 in the post of Fieldmen w.e.f. 31.12.1989 when they had already been promoted to the post of JSA-II on 15.4.1989 and 27.4.1989 respectively.

5. We have carefully examined the material available on records before us.

6. We find that respondents 3 and 4 were appointed as Fieldmen in Maize Project in DARL w.e.f. 10.4.1980 and 18.12.1984 respectively. The averment of the applicant that they were automatically transferred from Maize Project to DARL without resorting to the regular procedure is not borne out from the records. Annexure-3 dated 8.1.1988 clearly states that respondents 3 and 4 were absorbed in DARL PE against the existing vacancies of JSA-II w.e.f. 1.1.1988 as Fieldman in public interest. It was nowhere mentioned that they had been appointed on a temporary or casual basis. Obviously they were appointed on a regular basis. The respondents have claimed that respondents 3 and 4 had been appointed in Maize Project and were absorbed in DARL PE against the existing vacancies of JSA-II w.e.f. 1.1.1988 as Fieldman on the basis of recommendations of a board of officers, based on their continuous service and not on casual or temporary arrangement basis. Similarly, they were promoted to the next higher post of JSA-II w.e.f. 15.4.1989 on the basis of combined service

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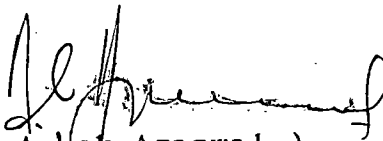
rendered by them in Maize Project and DARL w.e.f. 10.4.1980 and 18.12.1984 respectively, again on the recommendations of DPC-III. We find that respondents 3 and 4 had been working in the Maize Project since 1980 and 1984 respectively. They were performing technical duties. They were taken into DARL on the post of Fieldman on a regular basis against regular posts on the basis of recommendations of a board of officers. Similarly, their promotion to the next higher post of JSA-II was also on a regular basis, of course, giving cognisance to their earlier experience in the Maize Project. The applicant had joined DARL as Fieldman on 31.10.1988 vis-a-vis the respondents 3 and 4 who had been functioning as Fieldman though in the Maize Project several years prior to the applicant. Since we have held the appointment of respondents 3 and 4 as regular and proper w.e.f. 1.1.1988 in DARL PE which is prior to the appointment of the applicant, there is no gainsaying that applicant is junior to them and not that the respondents 3 and 4 are junior to the applicant.

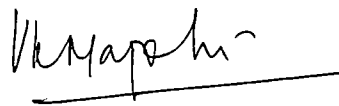
7. The applicant has taken exception to the confirmation of respondents 3 and 4 as Fieldman even though they had already been promoted as JSA-II on 30.12.1989. It is a matter of common experience that the phenomenon of confirmation takes place once in the career and even an incumbent who has been promoted several steps higher than the initial steps, can be confirmed against the initial step several years later and even when he is adorning the higher levels.

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8. In the light of the above discussion and reasons, we do not find any merit in the O.A., which is dismissed accordingly. There shall be no order as to costs.


(Ashok Agarwal)
Chairman


(V. K. Majotra)
Member (A)

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