

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

- 1) O.A. NO.1120/2000
M.A. NO.1417/2000
M.A. NO.1419/2000
- 2) O.A. NO.1129/2000
- 3) O.A. NO.1141/2000

New Delhi this the 8th day of November, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

- 1) O.A. NO.1120/2000
M.A. NO.1417/2000
M.A. NO.1419/2000

1. Aziz Ul Haque S/O Zamin Ul Haque,
R/O Type-II/375, Krishi Kunj,
IARI, Pusa,
New Delhi.
2. Surrender Ram S/O Baleshwar Ram,
R/O I-73, Chiriya Colony,
IRAI, Pusa, New Delhi.
3. Mahesh Mehto S/O Tapeswar Mehto,
R/O I-18, Krishi Kunj,
IARI, Pusa, New Delhi.
4. Ram Rattan Poddar S/O Narsimha Poddar,
R/O I-149, Chiriya Colony,
IARI, Pusa, New Delhi.
5. Hare Krishna Ram S/O Lal Dhari,
R/O I-55, Chiriya Colony,
IARI, Pusa, New Delhi.
6. Bindeshwar Poddar S/O Agam Lal Poddar,
R/O I-805, Krishi Kunj,
IARI, Pusa, New Delhi.
7. Shiv Narayan S/O Sudama Rai,
R/O I-185, Chiriya Colony,
IARI, Pusa, New Delhi.

... Applicants

-versus-

1. Union of India through
Secretary, Ministry of Agriculture,
Krishi Bhawan, New Delhi.
2. I.C.A.R. through its Secretary,
Krishi Bhawan, New Delhi.
3. I.A.R.I. through its Director,
Pusa, New Delhi-12.

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4. Ganesh Rai,
working as SS Grade-II
in Directorate.
5. Daya Nand Verma
working as SS Grade-II
in NRCPB.
6. Hari Charan
working as SS Grade-III
in Directorate.
7. Nanak Chand
working as SS Grade-II
in SS & AC.
8. Ram Bilas Thakur
working as SS Grade-II
in F & LS.

... Respondents

2) O.A. NO.1129/2000

Binda Das S/O Puran Das,
R/O F-297, Budh Nagar,
Inderpuri, New Delhi-12.

... Applicant

-versus-

1. Union of India through
Secretary, Ministry of Agriculture,
Krishi Bhawan, New Delhi.
2. I.C.A.R. through its Secretary,
Krishi Bhawan, New Delhi.
3. I.A.R.I. through its Director,
Pusa, New Delhi-12.
4. Nanak Chand
working as SS Grade-II,
SS&AC, IARI,
Pusa, New Delhi.
5. Ram Bilas Thakur
working as SS Grade-II
F&LS, IARI,
Pusa, New Delhi.

... Respondents

3) O.A. NO.1141/2000

Daya Nand S/O Minty Ram,
R/O H.No.1265, Vill. Alipur,
Delhi-110036.

... Applicant

-versus-

1. Union of India through
Secretary, Ministry of Agriculture,
Krishi Bhawan, New Delhi.

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2. I.C.A.R. through its Secretary,
Krishi Bhawan, New Delhi.
3. I.A.R.I. through its Director,
Pusa, New Delhi-12.
4. Ganesh Rai,
working as SS Grade-II,
in Directorate, IARI,
Pusa, New Delhi.
5. Daya Nand Verma
working as SS Grade-II
in NRCPB, IARI,
Pusa, New Delhi.
6. Hari Charan
working as SS Grade-III
in Directorate, IARI,
Pusa, New Delhi.
7. Nanak Chand
working as SS Grade-II
in SS & AC, IARI,
Pusa, New Delhi.
8. Ram Bilas Thakur
working as SS Grade-II
in F&LS, IARI,
Pusa, New Delhi.

... Respondents

Applicants by Shri Chittaranjan Hati, Advocate

Respondents by Ms. Geetanjali Goel, Advocate

O R D E R (ORAL)

Shri S.A.T.Rizvi, AM :

All the three OAs have been filed by the applicants belonging to the same organisation and impugning the same order dated 6.6.2000. Accordingly, this common order is being passed in respect of these three OAs.

2. In OA No.1120/2000 there are seven applicants and five private respondents; in OA No.1129/2000 there is one applicant and two private respondents, while in OA No.1141/2000 there is one applicant and five private respondents.

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3. All the applicants are working as Supporting Staff (SS) Grade-III, while the private respondents are working either as SS Grade-II or SS Grade-III with the 3rd respondent.

4. The applicants contend that in the seniority lists at Annexures D and E placed on record, they are uniformly senior to the private respondents and should, therefore, have been preferred for the purpose of promotion to T-I grade in terms of the recruitment rules placed on record at Annexure B. These recruitment rules clearly provide that matriculates with five years' experience of working in the respective field are eligible for promotion to T-I grade. Having regard to this stipulation, the applicants are, according to the learned counsel, fully eligible and as mentioned, should get priority over the private respondents, being their seniors.

5. The learned counsel for the respondents has relied on the guidelines issued by the ICAR dated 14.7.1997 which inter alia provide for preparation of one seniority list for all the supporting staff and also stipulate that experience in the relevant field referred to in the aforesaid recruitment rules should be the experience gained after acquiring the qualification of matriculation. According to the learned counsel, by application of these guidelines, the applicants would seem to be junior to the private respondents in that the latter are seniors to the

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applicants in terms of these guidelines. The learned counsel for the applicants fails to give credence to these guidelines by contending that the respondent establishment is yet to act on these guidelines by preparing a common seniority list as stipulated. It is admitted that no promotions have been made in accordance with these guidelines except the one now impugned.

5. Our attention has been drawn to the question of constitutional correctness in issuing the aforesaid guidelines of 14.7.1997. The recruitment rules placed on record have admittedly been framed in accordance with the provisions of Article 309 of the Constitution. These can be amended only by following the prescribed procedure. The respondents have by issuing the aforesaid guidelines sought to amend the recruitment rules in question, without following the proper procedure, by saying that the experience in the relevant field will count from the date of acquiring matriculation qualification. According to us, the respondents have sought to make a material alteration in the recruitment rules by issuing these guidelines and they do not possess the authority to do so without following the proper procedure. The guidelines do not at any place indicate that these will have the effect of modifying the recruitment rules. In this view of the matter, we are inclined to consider the OAs by excluding the said guidelines from our consideration. We will, therefore, rely on the recruitment rules as properly framed by the respondent department.

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6. It is admitted that the two seniority lists placed on record are final seniority lists for purposes of promotion. It is also admitted that in these lists the applicants are senior to the private respondents. We have noted that the said seniority lists have been prepared after issuance of the guidelines dated 14.7.1997 and for this reason these would acquire higher sanctity than otherwise be the case. As a matter of fact, it shows that the respondents themselves have ignored these guidelines, which is just as well because, as we have observed, they do not have the authority to modify the recruitment rules on their own without following the proper procedure.

7. ^{at later} The learned counsel for the respondents has pointed out, that the seniority lists placed on record are prepared to serve a different purpose, namely, that of providing a list from which to promote from one grade to the other and not for any other purpose. We fail to agree because there is no such mention anywhere in the said lists.

8. In the result, the OAs succeed and the respondents are directed to promote the applicants in terms of the recruitment rules without necessarily reverting the private respondents unless it becomes necessary for them to do so. Applicants will be accorded their proper place in the seniority in T-I grade. The promotion will take place in accordance

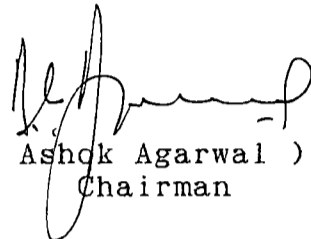
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with the prescribed procedure. The respondents will hold a review DPC for this purpose and will comply within a period of two months from the date of receipt of a copy of this order.

9. The OAs are accordingly allowed. There shall, however, be no order as to costs.



(S.A.T. Rizvi)
Member (A)



(Ashok Agarwal)
Chairman

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