

Central Administrative Tribunal  
Principal Bench

O.A. No. 1406 of 2000

New Delhi, dated this the 15<sup>th</sup> February 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Dr. S.P.S. Raghava,  
S/o late Shri Than Singh,  
Acting Head of the Division,  
Division of Floriculture & Landscaping,  
IARI, Pusa Institute,  
New Delhi-110012.

.. Applicant

(By Advocate: Shri S.K. Gupta)

Versus

1. Union of India through  
the Secretary,  
Ministry of Agriculture  
and Director General,  
Indian Council of Agricultural Research,  
Krishi Bhawan,  
New Delhi-110001.
2. Shri M.L. Choudhary,  
Head of the Division,  
Division of Ornamental Crops,  
Indian Institute of Horticulture Research,  
Hessaraghatta Lake P.O.,  
Bangalore-560089.

.. Respondents

(By Advocate: Shri E.X. Joseph, Sr. Counsel  
with Shri N.S. Dalal for official  
Respondents  
Shri B.S. Mor for pvt. Respondent

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated  
4.8.2000 (Annexure A-4) appointing Respondent No.2  
Shri M.L. Choudhary as Head of Division, Division of  
Floriculture and Landscaping, IARI, New Delhi.

2. Agricultural Scientist Recruitment Board  
(ASRB) advertised the aforesaid post vide  
Advertisement No. 7/99 (Annexure A-1) and invited

29

applications for the same. Applicant who at that point of time was acting as Head of Division, Division of Floriculture and Landscaping, IARI, New Delhi as well as Respondent No.2 applied through proper channel. The application of Respondent No.2 was forwarded by Indian Institute of Horticulture Research, Bangalore where he was working as Head, Division of Ornamental Crops. Selections were to be made on the basis of interview which was held on 4.7.2000. It is not denied that applicant as well as Respondent No.2 were interviewed, and eventually Respondent No.2 was selected and appointed vide order dated 4.8.2000.

3. On behalf of applicant, the ground advanced to challenge the appointment of Respondent No.2 is that he had been holding the post of Head of Division in IIHR, Bangalore, another unit of ICAR since December, 1996, and according to Rules was, therefore, ineligible for consideration for appointment to the aforesaid post of Head of Division, Division of Floriculture and Landscaping, IARI, New Delhi on 4.7.2000, as he had not completed his four years tenure at Bangalore on that date. In this connection reliance has been placed on Para 9 of the guidelines formulated for appointment of Heads of Division and Regional Stations of ICAR Institutes circulated vide ICAR letter dated 2.6.92 (Annexure R-1). These guidelines find place in Chapter 2 of Agricultural Scientific Service Rules of ICAR under

30

the heading 'Appointment of Heads of Division and Regional Stations, and guideline No.9 reads as follows:

"The incumbent will not be permitted to join or apply for another equivalent post within ICAR or outside during the first four years of his term".

4. It is contended that the post of Head of Division, Floriculture and Landscaping, IARI, Delhi is equivalent to that of Head, Division of Ornamental Crops, IIHR, Bangalore where applicant was working earlier, and as he had not completed his four years term in Bangalore on 4.8.2000, he was not eligible for appointment as Head of Division, Floriculture and Landscaping, IARI, New Delhi.

5. In this connection our attention has been invited by official respondents to ICAR Circular dated 14.2.97 (Annexure R-2) consolidating the instructions on the subject of 'Forwarding of applications of ICAR Employees'. Para 2 and of that circular are extracted below:

Applications of the Scientists holding Research Management Posts.

Applications of Scientists holding Research Management positions (RMPS) for another equivalent Research Management Position under the ICAR system may be forwarded after he/she has rendered two years service in the existing Research Management Position held by him/her. However, scientists not holding Research Management Positions may apply any time for equivalent posts involving research management."

31

6. Admittedly the Head of Division is not a Research Management position, because as per Chapter 6 of the Handbook on Agricultural Research Service 2nd Edition printed in October, 1985 by Kapoor Art Press, A-38/3 Mayapuri, New Delhi-110064, Research Management Positions are those which find inclusion in S-4 to S-8 Grade (both inclusion), and Head of Division does not come within that grade.

7. However, as pointed out by respondents in their reply, the duties of Heads of Division are supervisory/managerial in nature, and the duties of Head of Division of Floriculture and Landscaping are:

"To guide, organise and administer the research, extension and post graduate teaching and training activities of the Division of Floriculture and Landscaping, IARI keeping in view the National Research Priorities in the field of Floriculture and Landscaping."

8. Thus as Respondent No.3 was not holding a research management position while working as Head, Division of Ornamental Crops, IIHR, Bangalore, he could, in accordance with para 3 of Circular dated 14.2.1997 (supra), apply for the equivalent post of Head of Division, Division of Floriculture and Landscaping, IARI, New Delhi which though not a research management position, did involve guiding, organising and administering research, i.e., research management.

A

32

9. Applicant contends that the contents of Circular dated 14.2.97 (supra) do not supercede the provisions of Para 9 (supra) which find place in the Agricultural Scientific Service Rules of ICAR, and argues that the said provision has been only made more stringent by the 14.2.97 circular. In this connection it is contended that as the aforementioned para 9 of the guidelines has been incorporated as part of the Indian Agricultural Service Rules, it has to prevail over the circular dated 14.2.97.

10. We are not in agreement with the view that the 14.2.97 (supra) circular has made the provision of para 9 (supra) ~~more~~<sup>more</sup> stringent. While in para 9 (supra), a Head of Division/Regional Station is not permitted to join or apply for another equivalent position with ICAR or outside during the first four year of his tenure, in the 14.2.97 circular, scientists not holding research management positions (admittedly applicant is a scientist who does not hold a research management position) may apply for any time for an equivalent post involving research management. Hence it cannot be said that the provisions of para 9 (supra) have been made were stringent.

11. Coming to the question of the guidelines contained in Circular dated 2.6.92 ~~from~~<sup>forming</sup> part of the Agricultural Scientific Services Rules, and thus prevailing over the 14.2.97 circular, we note that while the circular dated 2.6.92 containing the guidelines has been incorporated in the Agricultural

7

33

Scientific Services Rules, ~~where~~<sup>but</sup> the contents of the circular dated 14.2.97 have not, merely for that reason it would neither be fair nor just to disregard the contents of the circular dated 14.2.97. In our considered opinion applicant while advancing this ground is resorting to a hyper technicality to seek cancellation of the appointment of Respondent No.2 to the post in question, the post on which he himself was acting till the appointment of Respondent No.2 was made. It is not denied that Respondent No.3 fulfills all the eligibility qualifications for the aforesaid post. It is also not denied that he as well as applicant were interviewed for the aforesaid post by the ASRB which is a high powered body of experts, and Respondent No.3 was appointed in preference to applicant and the other candidates. No malafides have been alleged against any member of ASRB. Indeed, if the application of Respondent No.3 was wrongly forwarded by IIHR, Bangalore to ASRB, it is open to respondents to take appropriate action against those at fault, but after satisfying the eligibility qualifications for the aforesaid post and being found the most suitable amongst the candidates who participated in the selection, including applicant, in our view, it would be neither fair nor just to set aside the appointment of Respondent No.3 as Head of Division, Division of Floriculture and Landscaping merely on this ground.

12. The O.A., therefore, warrants no interference and is dismissed. No costs.

A. Vedavalli  
(Dr. A. Vedavalli)

Member (J)

S.R. Adige  
(S.R. Adige)  
Vice Chairman (A)