

Central Administrative Tribunal, Principal Bench

O.A. No.1428/2000

New Delhi this the 22nd day of October, 2001

Hon'ble Mr. M. P. Singh, Member (A)
Hon'ble Mr. Shanker Raju, Member (J)

Shri Amar Nath Rai
S/o Late Shri K.D. Rai,
R/o 207/5, Sector-1, Puspa Vihar,
New Delhi.

.. Applicant
(None present even on the second call)

Versus

1. Union of India
Through Secretary,
Ministry of Agricultural
Krishi Bhawan, New Delhi.
2. Secretary,
Union Public Service Commission,
Shahjahan Road,
New Delhi.

.. Respondents
(By Advocate : Shri K.K. Patel)

ORDER(oral)

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

None is present for the applicant even on the second call. We, therefore, proceed to dispose of the matter in terms of Rule 15 of CAT (Procedure) Rule, 1987.

2. The applicant has filed this OA under section 19 of the Administrative Tribunal's Act, 1985 and has sought relief by praying for direction to the respondents to consider him for the post of Director, Farm Information, Directorate of Extension, Department of Agriculture and Co-operation, Ministry of Agriculture.

3. The brief facts of the case, as stated by the applicant, are that he was holding the post of Editor from 1985 to 26.9.1988. Thereafter he was

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selected as Principal Information Officer and worked on deputation in the University Grant Commission, New Delhi from 28.9.1988 to 4.7.1994. In 1994, two posts of Joint Directors, Farm Information (hereinafter called 'JDFI' in short) fell vacant, out of which one was to be filled by direct recruitment through UPSC and other by promotion. One Ms. Shukla Hazra, Editor (E), senior colleague of the applicant, made a representation to the respondents for promotion to the vacant post of JDFI. She was promoted against one of the posts of JDFI on ad hoc basis in November, 1994 and later on regularised with effect from 3.4.1995. She retired on superannuation on 31.7.1995. According to the applicant, he being senior-most in the department, was entitled for promotion to the said vacant post. He made representations to the respondents, but there was no response from the respondents. He, therefore, filed OA No.426/96 in the Tribunal. Tribunal vide its order dated 6.12.1999 passed the following orders:-

"In the light of the above discussion the OA is allowed. The respondents are directed to fill up the vacancy on the retirement of the promotee through the promotion quota. On the selection of the promotee the appointment of Dr. N.S. Ingale, Senior Extension Officer made vide order dated 30.09.96 subject to outcome of this OA will come to an end. Necessary action will be taken within a period of three months from the date of receipt of the copy of the order no order as to cost."

4. According to the applicant, the above directions given by the Tribunal imply that the respondents ought to have given promotion to him, if found fit w.e.f. 1.8.1995 with all consequential benefits. However, the respondents promoted to him to the post of Joint Director





on 10.7.2000. Thereafter, the applicant filed CP No.117/2000, which was dismissed by the Tribunal. It is further stated by the applicant that on 13.7.2000 the respondents have sent the case of one Shri Y.R. Meena, who is junior to the applicant, to UPSC for promotion to the post of Director (Farm Information). Aggrieved by this, he has filed the present OA claiming the aforesaid relief.

5. The respondents in their reply have stated that the post of Director (Farm Information Unit) (hereinafter called 'FIU' in short) is in the pay scale of Rs.12000-16500 and as per the recruitment rules in vogue on the date of occurrence of vacancy, the post was required to be filled by promotion failing which by transfer on deputation. A Joint Director with four years regular service is eligible for promotion to the post of Director (FIU). The applicant is not eligible for promotion to the post of Director (FIU) as he has been promoted to the post of JDFI only in July, 2000. The post of Director (FIU) was circulated/advertised on 12.6.1998 for filling up the said post by way of transfer on deputation. In pursuance of the circular, one Shri S.K. Dalal was found eligible and recommended for appointment to the post of Director. He was, accordingly, appointed on 29.9.1999.

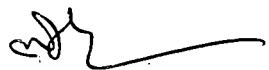
6. The applicant who was working as Editor since 1985 was aggrieved by non promotion to the post of JDFI. The vacancy meant for promotee was filled up by applicant's senior Ms. Shukla Hazra on ad hoc basis. Thereafter she was appointed on regular basis w.e.f. 3.4.1995 and she



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retired on superannuation on 30.7.1995. The applicant had also preferred OA No.1946/1999 challenging the respondent's order dated 14.3.1996 by which the department was filling up the post of Director (FI) vide order dated 18.8.1999. That OA is still pending before the Tribunal. In the meanwhile, the applicant has filed the present OA claiming his promotion to the post of Director (FI). According to the respondents, Shri Y.R. Meena is holding the post of Joint Director w.e.f. 18.12.1995 whereas the applicant has been appointed to the post of Joint Director w.e.f. 10.7.2000. Therefore, Shri Y.R. Meena is the only eligible candidate for promotion to the post of Director (FI) and, accordingly, a proposal has been sent to the Commission to consider his promotion to the post of Director (FI). Since the applicant has not put in four years service in the grade of JDFI, he is not eligible for consideration for the promotion to the post of Director (FI). In view of the above submissions, the present OA is devoid of merit and deserves to be dismissed.

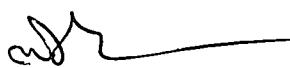
7. During the course of the arguments, learned counsel for the respondents stated that OA 1946/1999 filed by the applicant has since been dismissed by the Tribunal. Since the applicant had not put in four years service in the grade of JDFI, as required under the Recruitment Rules, he was not eligible for promotion to the post of Director. The only candidate eligible for promotion to the post of Director (FI) was Shri Y.R. Meena and a proposal was accordingly sent to the UPSC for considering him for promotion. The UPSC has made selection and recommended the name of Shri Y.R. Meena for being



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appointed to the post of Director (FI). Shri Meena has since been appointed to the post of Director (FI) & the said post has already been filled up.

8. The question for consideration before us is whether the applicant in terms of the Recruitment Rules is eligible for promotion to the post of Director. As per Recruitment Rules, a Joint Director with four years service is eligible for promotion to the post of Director. From the records placed before us, we find that the applicant was appointed to the post of Joint Director only in July, 2000 and, therefore, he has not completed four years service in the said grade and hence he is not eligible for consideration to the post of Director. The contention of the applicant that he ought to have been promoted to the post of Joint Director w.e.f. 1.8.1995, i.e., from the date the vacancy arose in that grade as per direction of the Tribunal in OA No.426/1996 is not correct and is, therefore, rejected. It may be seen from the judgement of the Tribunal dated 6.12.1999 in OA No.426/1996 (para 3 above) ^{that} no such direction was given by the Tribunal. Moreover, a person can be promoted only after his suitability has been assessed and he is found fit for promotion by the DPC. In this case, he was considered by the DPC for promotion to the post of Joint Director in pursuance of the direction of the Tribunal dated 6.12.1999 and recommended for promotion to the said post. He was accordingly promoted to the post of Joint Director in July 2000, i.e., prospectively. Since the applicant has not completed four years service in the grade of Joint Director as required under the Rules, he is not eligible



for promotion to the post of Director and has rightly been not considered for promotion to the post of Director by the respondents.

9. For the reasons stated above, the present OA is devoid of merit and is accordingly dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)

M.P. Singh

(M.P. Singh)
Member (A)

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