

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. 1555/2000

New Delhi this the 31st day of September, 2001.

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)  
Hon'ble Shri M.P. Singh, Member(A).

I.S. RAJPUROHIT  
S/o SH VIJAI SINGH RAJPUROHIT  
SUPDT (A&A)/JAO, IARI,  
PUSA INSTITUTE  
NEW DELHI-110012

APPLICANT

(None present)

VERSUS

1. DIRECTOR (IARI), Pusa, New Delhi-12.

2. DIRECTOR GENERAL & SECRETARY (ICAR)  
INDIAN COUNCIL OF AGRIL. RESEARCH  
(MINISTRY OF AGRICULTURE)  
KRISHI BHAWAN, New Delhi

3. G.C. Sharma,  
Joint Director (Admn.)  
Indian Agril. Research Institute,  
Pusa, New Delhi-12

4. Sh. M.M. Lal, JAO, Now AF&AO  
IARI, Pusa, New Delhi-12

Respondents

5. Sh. Satya Pal, JAO, Now AF&AO,  
IARI, Pusa, New Delhi-12

6. Sh. Hans Raj, JAO now AF&AO,  
IARI, Pusa, New Delhi-12

7. Sh. Surender Kumar, JAO, Now AF&AO,  
IARI, New Delhi-12

8. Sh. Suresh Kumar, JAO Now AF&AO  
IARI, Pusa, New Delhi-12

(None present)

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

The applicant has impugned Office Order dated 9.4.1999. By this order, the respondents have made certain promotions of the administrative staff to the posts mentioned against each of them. The applicant's name has not figured in this promotion order.

2. The applicant has submitted that on 9.4.1999, the DPC was held but he was ignored for promotion whereas the post of Assistant Finance and Accounts Officer (AF&AO) was 100% by seniority and he was the senior most person in the list. According to him, the DPC held in April, 1999 had not followed the yearwise break-up of vacancies of previous year, that is 1998. He has also submitted that the DPC had not been held in accordance with the Rules and should be totally disregarded. He has also alleged that when the DPC was held, certain adverse entries against which he had made several representations had been taken into account and he had been deliberately ignored for promotion to post of AF&AO.

3. Another ground taken by the applicant is that when the DPC had promoted persons whose names were not even in the seniority list, they had deliberately postponed the DPC in 1999. He has, therefore, prayed that the impugned promotion order may be declared as illegal, null and void, mala fide and arbitrary, with a direction to the respondents to consider his case based on seniority from the date of occurrence of the vacancy.

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4. We note that none has been appearing for the applicant on several dates when the case has been listed. On 23.8.2001, it has been recorded that "we give one more opportunity to be present and be heard". It was also made clear that if on the next date the applicant does not appear, it shall be presumed that he does not wish to be heard. Today, when the case has been listed at Serial No.6, neither of the parties are present. In the circumstances, we have perused the pleadings on record and are disposing of this matter on merits.

5. The respondents in their reply have taken a preliminary objection that the O.A. is barred by the principles of constructive res judicata as the applicant had filed earlier O.A. 1319/1999 claiming substantially the same reliefs as have been claimed in the present O.A. They have submitted that in the earlier O.A. the applicant had claimed that the adverse entries as per Memo dated 19.3.1999 be declared as illegal, null and void as also the promotion order dated 9.4.1999, which is the same impugned order in the present application. The respondents have stated that O.A. 1319/99 was disposed of by Tribunal's order dated 20.1.2000 with a direction to the respondents to decide the representation of the applicant dated 17.4.1999 by a speaking and reasoned order within one month. Accordingly, the respondents have stated that they have disposed of the representation of the applicant by a speaking, detail and reasoned order dated 23.2.2000. In this order, they have taken a decision to retain the adverse remarks which were communicated to the applicant. In the circumstances, they have submitted that the applicant is claiming the same

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relief, that is, quashing the promotion order while he has not made any prayer for setting aside the respondents' order dated 23.2.2000.

6. The applicant has stated in paragraph 7 of the O.A. that he had previously filed O.A. 1319/99 in which he had also joined together the subject matter in issue in the present O.A. He has submitted that that relief was not granted.

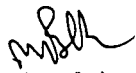
7. On the merits of the case, the respondents have submitted that there were eight posts of JAO which were upgraded as AF&AO and made available on 22.10.1998. They have submitted that the applicant had not submitted his ACRs for the period 1995-96, 1996-97 and 1997-98 and, therefore, the DPC could not consider his case. The DPC was again held on 9.4.1990 after the ACRs of the applicant became available and the DPC had considered his case but had not recommended him.


8. We note from the reply given by the respondents that the applicant was considered by the DPC held on 9.4.1999 and his contention to the contrary cannot, therefore, be accepted. It is also relevant to note that the promotion to the post of AF&AO is not 100% by promotion but is based on the criteria of seniority-cum-fitness. In the circumstances of the case, we do not find any good grounds to interfere in the matter as the applicant has been considered by the DPC. In terms of the previous order of the Tribunal in OA 1319/99, the representation of the applicant has been considered by the respondents and disposed of by order dated 23.2.2000. In that order, the respondents have taken a decision not to

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expunge the adverse remarks in the applicant's ACRs against which he had made the representations. That order has not been challenged by the applicant in the present O.A.

9. It is settled law that the applicant has only a right for consideration for promotion and not a right for promotion unless he fulfils the conditions laid down in the relevant recruitment rules and guidelines and is found fit by the DPC. His case has been considered by the duly constituted DPC. The contention of the applicant that he has not been considered by the DPC cannot, therefore, be accepted as nothing has been placed on record to show to the contrary. In the facts and circumstances of the case, we find no merits in this application and it is accordingly dismissed. No order as to costs.

  
(M.P. Singh)  
Member(A)

  
(Smt. Lakshmi Swaminathan)  
Vice Chairman(J)

'SRD'