

91

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 75/89

New Delhi this 25th Day of March 1994

The Hon'ble Mr. J.P. Sharma, Member (J)
The Hon'ble Mr. B.K. Singh, Member (A)

Shri Madan Lal Taneja,
Son of Shri Jivan Dass Taneja,
Assistant Entomologist,
Plant Quarantine & Fumigation Station 1-B,
Court Road,
Amritsar . under
Directorate of Plant Protection,
Quarantine and Storage,
Faridabad
Resident of Koti No. 28,
Krishna Square II,
Amritsar. Applicant

(By Advocate Shri VSR.Krishna)

Versus

1. The Secretary to the Govt. of India,
Dept. of Agriculture & Cooperation,
Ministry of Agriculture,
Krishi Bhavan,
New Delhi-110 001.
2. The Plant Protection Adviser to the
Government of India,
Directorate of Plant Protection,
Quarantine and Storage,
N.H. IV, Faridabad.
3. Shri R.S. Sharma,
Assistant Locust Entomologist,
Locust Office,
Barmer, Rajasthan.
4. Shri A.K. Sexena,
Assistant Plant Pathologist,
Dte. of Plant Protection
Quarantine and Storage
N.H. IV, Faridabad, Haryana
5. Shri D.P. Singh,
Assistant Plant Pathologist,
Dte. of Plant Protection
Quarantine and Storage,
N.H. IV, Faridabad.
6. Shri Prahlad Singh,
Assistant Plant Pathologist,
Plant Quarantine and Fumigation
Station, Haji Bunder Road,
Sewri, Bombay-400 015.
7. Shri R.D. Vashist,
Assistant Plant Pathologist,
Plant Quarantine and Fumigation Station,
Haji Bunder Road,
Sewri, Bombay-400 015.

8. Shri V.K. Sharma,
Assistant Entomologist Plant
Quarantine and Fumigation Station,
Haji Bunder Road,
Sewri, Bombay-400 015.

9. Shri J.P. Singh,
Assistant Entomologist Plant
Quarantine and Fumigation Station,
Palam Airport,
New Delhi-110 010. Respondents
(By Advocate Nbené)

O R D E R

Hon'ble Mr. J.P. Sharma, Member (J)

The applicant joined as Plant Quarantine Inspector on 30.7.1963 in the Department of Agriculture and Cooperation, Ministry of Agriculture and was promoted as Sr. Technical Assistant (E) on adhoc basis on 5.8.1977. However, he was regularised on an equivalent post of Sr. Technical Assistant (E) to the post of Locust Technical Officer on 23.2.1982. The applicant was promoted on adhoc basis as Assistant Plant Pathologist on 29.10.1984/1.11.1984. The category of post in the grade of STA (E), LTO and TASG are equivalent and are of the same grade and scale of pay. The services of the applicant were governed at that time by the Directorate of Plant Protection Quarantine Storage Class I and Class II Technical Posts (Recruitment) Rules, 1968. The incumbents working as Locuts Technical Officer and Technical Assistant Selection Grade (SG) which is also termed as Tech. Assistant Grade I with 5 years service in the grade are eligible for promotion to Group 'B' post, Assistant Entomologist/Assistant Plant Pathologist, Assistant Locust Entomologist Plant Protection Officer (Plant Pathologist) and plant Protection Officer (Entomologist) under 10% promotion quota.

2. The grievance of the applicant is that in spite of the ~~various~~ representation on 27.3.1985 to the Plant Protection Adviser for his regularization to the post of Assistant Plant Pathologist, the applicant was informed by the memo dated 9.4.1985 that since he has not put in five years of regular service as Locust Technical Officer so his promotion cannot be regularised on the post of APP. Subsequently, the applicant approached the Secretary (A&C) for the Ministry of Agriculture (Annexure 6) for regularisation of his promotion against the post of Assistant Plant (Pathologist). Till the filing of this application, the applicant did not receive any reply. He was subsequently promoted on regular post as Assistant Entomologist with effect from 29.3.1988. His grievance, therefore, is that he has been deprived of about $3\frac{1}{2}$ years adhoc service rendered on the post of Assistant Plant (Pathology) since 1.11.1984, as two posts are having different seniority lists. His grievance is also that he has been superseded by 7 persons who are junior to him. The applicant has again approached the Secretary (A&C) by making a representation for regularisation of his service from 1.11.1984 against the original post of Assistant Plant (Pathology). He, therefore, filed this application in January 1989 and he prayed for the grant of the following reliefs:

1. That the applicant should be promoted on regular post as Assistant Plant (Pathologist) with effect from 1.11.1984 when he was appointed on ad hoc basis;

2. The supersession of the applicant by 7 senior Officers be retrieved as per the placement of the applicant in July 1984 and Feeder Cadre as Locust Technical Officer;
3. The ACRs of all the promotees officer be scrutinised.
4. That there were only four persons to be considered in the promotee quota in 1954 and the applicant was also eligible for promotion as per seniority, educational qualification, 5 years service in the grade of belonging to the feeder cadre of LTO and TA (SG) as was required under the recruitment rules of 1968.
3. A notice was issued to the respondents who contested the application and opposed the grant of the relief prayed for. It is stated that promotion on ad hoc basis was given to the applicant as he did not render the requisite length of regular five years service for regular promotion under the recruitment rules of 1968. The post of STA (E) is not a feeder post for promotion to the 5 categories of Group 'B' Gazetted post in the recruitment rules of 1968. The applicant held the feeder grade post of LTO with effect from 2.5.1982 and completed the requisite length of five years service in the grade on 21.5.1987. The revised recruitment rules were notified in November 1987 and the non-gazetted posts of STA (E), LTO, TA (SG), STA (Herb) and STA (PP) were merged into a single cadre and re-designated as Assistant Plant Protection Officer. Thereafter the categories of STA(E), STA(H), STA (PP) were included in the categories of Feeder Post alongwith LTO and TA (SG). The applicant was regularly promoted to the post of Assistant Entomologist

on the recommendation of the DPC with effect from 29.3.1988. The DPC at that time did not place the applicant in the panel given for promotion to the post of APP held by him on adhoc basis. Thus, according to the respondents, the applicant has no case.

4. The applicant has also filed the rejoinder and he has reiterated the same facts he has averred in the original application.

5. The respondent No. 8 Shri V.K. Sharma and the respondent No. 5 Shri D.P. Singh respectively, Assistant Entomologists has also filed separate reply and opposed the grant of the relief to the applicant. They have taken almost the same stand. The respondents No. 8 also filed the original application 101/86 which was decided by the Tribunal order dated 29.2.1987. The Tribunal in that order directed the revision of the seniority but the seniority of other respondents in that case and their promotion would not be disturbed. The promotion order dated 20.7.1984 was also held to be valid. In that case the respondents were also directed to convene the review DPC to consider the case of Shri V.K. Sharma for selection to Group 'B' i.e. Sr. Technical Assistant Entomologist etc. Shri D.P. Singh, the Respondent No. 5 also filed the reply with the same averments. He has further averred that the order of adhoc promotion to the applicant dated 29.10.1984 (Annexure III) is illegal and has been obtained under the influence as the same is in contravention of the rules. The applicant by virtue of Joint Secretary and Member of the Departmental Council for a long time had given rapport with the Members of the DPC and the Appointing

-: 6 :-

Authority and so he was able to influence the authority for his personal favour.

6. We have heard the learned counsel for the applicant and none appear for the respondents and perused the record. The grievance of the applicant starts on his promotion to the post of Assistant Plant (Pathologist) by the order of 29.10.1984. His contention is that his promotion on adhoc basis be regularised. However, in the aforesaid order it is clearly laid down that he has been given promotion on adhoc basis for a period of one year or till the post is filled up on regular basis whichever is earlier. The applicant has been also informed by the memo dated 9.4.1985 that he was not eligible for promotion to the post of Assistant Plant Pathologist as he has not rendered five years regular service in the grade of Locust Technical Officer. In the representation made by the applicant on 27.3.1985 requested the respondents to hold DPC so as to give the applicant regular promotion. At that time the applicant had completed about 3 years period of regular service in the post held by him as TA (Selection Grade) and LTO respectively. However, five years of regular service was required in the feeding cadre while the applicant in 1984 has not completed this continuous of service on regular basis. However, STA (Entomologist) is not in the feeder cadre for promotion to the four categories of Class II Gazetted posts. The applicant prior to March 1982 held the post of STA (E) which is not the post in the Feeder Cadre for promotion under the recruitment rules of 1968. It was only in November 1987 that the recruitment rules were amended and when the

DPC was constituted on the basis of 1987 recruitment rules the applicant was given promotion as Assistant Entomologist and was not recommended by the DPC for the post of Assistant Plant Pathologist which the applicant holding on adhoc basis. It is the settled law that any service rendered on ad hoc basis cannot be counted as a regular service because it was a selection post and the applicant alongwith the others have to be considered in accordance with the recruitment rules by the regularly constituted DPC. Merely because the applicant was given ad hoc promotion on the basis of seniority-cum-fitness would not surpass the DPC and the rules cannot be relaxed in this case. Thus, the applicant was duly considered by DPC in 1988 on the basis of merit-cum-seniority i.e. Selection basis as the Group 'B' post have been classified as Selection basis. Regarding the supersession of certain juniors for a post which is to be filled up by selection method there is comparative assessment^{of} merit of the persons in the field, and in that event if the juniors have better grading and have been judged on a comparative merit as better then the applicant, then in such a case the question of supersession of the applicant is meaningless. Again the Government has issued another notification on 25.2.1989 by which the old rules of 1968 as amended in 1987 has been replaced by the recruitment rules of 1988. Thus, the old five categories of posts of Ae, APP, ALE, PPO(E) and PPO(PP) stand abolished with effect from 25.2.1989.

7. The learned counsel has also referred to the judgement in the case of Shri V.K. Sharma both filed in O.A. and R.A. does not give any benefit to the applicant. The applicant was not eligible for regular promotion under

-: 8 :-

the recruitment rules of 1968 as he did not render the requisite five years of regular service in the feeder grade post of LTO. When the applicant has got a benefit by interchanging of post, from STA (Entomology) on a regular post of LTO, then the channels of further promotion have been governed according to the recruitment rules and he was rightly regularised as Assistant Entomologist with effect from 13.1.1988.

8. The application, therefore, is totally devoid of merit and dismissed.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)

Mittal