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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 231/88  
T.A. No.

1988.

DATE OF DECISION 13.7.1988

Dr. U.S.Kaicker, Petitioner

Shri B.S.Bindra, Advocate for the Petitioner(s)

Versus

Union of India, through Respondent  
President, I.C.A.R. and Secretary  
Dept. of Agriculture Research and Education & Ors.  
Shri R.S.Dalal, Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. P.K. Kartha, Vice Chairman (Judicial).

The Hon'ble Mr. S.P. Mukerji, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement *no*

*S.P.M.*  
( S.P. Mukerji )  
Administrative Member

*P.K.K.*  
( P.K. Kartha )  
Vice Chairman (Judl.)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:  
PRINCIPAL BENCH: NEW DELHI

Regn. No. OA-231/88

Date of Decision: 13.7.88

Dr. U.S.Kaicker

.... Applicant.

Versus

Union of India, through  
President, I.C.A.R. and  
Secretary, Department of  
Agriculture Research and  
Education and Others.

.... Respondents.

For applicant:

.... Shri B.S.Bindra,  
Advocate.

For respondents:

.... Shri R.S.Dalal,  
Advocate.

CORAM: Hon'ble Mr. P.K. Kartha, Vice Chairman (Judl.)  
Hon'ble Mr. S.P. Mukerji, Administrative Member.

JUDGEMENT

(Judgement of the Bench delivered by  
Mr. P.K. Kartha, Vice Chairman (Judl.)

The applicant has filed this application under Section 19 of the Administrative Tribunal Act praying that the appointment of Dr. Brijendra Singh, respondent No.3 to the post of the Head of Division of Floriculture and Landscaping with effect from 28.1.1988, be quashed and that the applicant should be appointed to the same post.

2. The Division of Floriculture and Landscaping was established by Indian Agricultural Research Institute (IARI) on 2.4.1983 as part of the sixth plan proposals of the institute. The Director of institute transferred five posts of scientists from the then existing division of Vegetable crops and Floriculture to the new Division.

3. Accordingly, five scientists including the applicant, Dr. Brijendra Singh (R-3) and Dr. S.R.Dohare (R-4) were transferred to the new Division. The applicant was holding Scientist 3 post (S-3) and respondents 3 and 4 were only holding Scientist 2 post (S-2). As the applicant was holding S-3 post, he was assigned the current charge of the Head of the Division till the appointment of a regular Head of the

Division by I.C.A.R. The respondents No.1 and 2 have stated in the counter affidavit filed by them that the then Director of the Institute (Dr.H.K. Jain) did not recommend the appointment of the applicant as Head of the Division. It was decided to get the post of Scientist S-3 (Horticulture) advertised and select a suitable <sup>first</sup> candidate for appointment as the Head of the new Division. The post which was advertised was reserved for a candidate belonging to a Scheduled Caste community. Dr. S.R.Dohare, (R-4) who belongs to the <sup>SC</sup> community was selected and he was appointed as the Head of the Division for three years on rotational basis with effect from 1.3.1985.

4. The respondents have also pointed out that pending the appointment of a regular Head of division, the applicant was asked to hold the charge of the Division from April, 1983 to 28.2.1985. It has been contended that during this period, he faced lots of problems with regard to formulation of research projects and that his overall performance was not satisfactory. It is alleged that he lacked in the work relating to organisation, management, teaching, research work and extension education, all of which were essential to function as the Head of the Division. It has been submitted that Dr.Dohare (R-4) was a fullfledged faculty member and therefore, he was appointed as the Head of the Division. Likewise, Dr. Brijendra Singh (R-3) was appointed on 28.1.1988 as the Head of the Division on rotational basis for a period of three years after the term of Dr.Dohare(R-4) expired.

5. The contention of the applicant is that he is senior to both Dr.Dohare and Dr. Brijendra Singh and on that ground he ought to have been appointed as the Head of the Division in preference to them.

6. There is no doubt that the applicant is senior to Dr. Dohare and Dr. Brijendra Singh. However, the respondents have pointed out that seniority is not the only criterion

for appointment to the post of Head of Division. The <sup>Dr</sup> criteri<sup>is</sup> his suitability-cum-merit. There is also no inter-se seniority among the scientists for the purpose of promotion.

7. The salient features of the relevant guidelines are as follows: The post of Heads of Divisions in the institutes shall be filled by rotation from amongst the Professors in the Division and other senior scientists in the scale of pay of Rs.1500-200 or Rs.1800-2000. If a S-3 scientist or above is available, only he should become the Head of Division. The appointment of a S-3 will be subject to his records being found <sup>or</sup> at least very good. The Head of Division shall be responsible for the work relating to organisation and management of teaching and research work and the extension education in his Division. The proposal for appointment will be formulated by the Directors of the Institute and sent to the Council for consideration. It should contain a report on the performance and professional ability of each of the eligible scientists. Recommendations of the Director for appointment may also be made. The proposal will be examined by the Deputy Director General in the I.C.A.R. who will submit his recommendations to the Director General for consideration. The Director General will take a final decision. In case the candidate recommended for fresh appointment is not <sup>the</sup> senior-most, approval of the President I.C.A.R. will be taken for his appointment.

8. In the instant case the respondents have contended that the appointment of Dr.Dohare and Brijendra Singh were made strictly in accordance with the relevant guidelines and that the applicant was not found suitable for the same. Dr. Brijendra Singh was appointed to the post as his performance as a Senior Scientist had been exceedingly good compared to that of the applicant.

9. We have gone through the records of the case and have heard the learned Counsel for both the parties. The learned Counsel for the applicant contended that the applicant is being deprived of the status attached to the post of Head of the Division. However, the learned Counsel for the respondents contended that though the applicant was also considered for appointment, he was not found suitable. During the hearing, the respondents <sup>filed</sup> have placed before us the relevant from which it is clear that the name of the applicant was also considered alongwith Dr. Brijendra Singh for appointment as Head of the Division. We are satisfied that Dr. Brijendra Singh was appointed to the post having regard to his better service records and overall performance.

10. In the light of the above, we see no merit in the application and the same is dismissed, with no order as to costs.

*S.M.*  
 ( S.P. Mukerji )  
 Administrative Member

*Parwath*  
 13/7/88  
 ( P.K. Kartha )  
 Vice Chairman (Jud1.)