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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No. 2418/1990

New Delhi, dated the 6th December, 1994

Hon'ble Shri N.V. Krishnan, Vice Chairman (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Dr. Shyam Singh,

Scientist 2 (Agronomy)

Central Institute for Research

Buffaloes,

Sirsa Road,

Hisar (Haryana)

... Applicant

None for the applicant.

V/s

1. Indian Council of Agricultural Research through its Secy.,
Krishi Bhawan, Raji Marg, New Delhi
2. Central Institute for Research on Buffaloes,
Sirsa Road, Hisar (Haryana)
through its Director.

... Respondents

(By Advocate Shri V.K.Rao, proxy counsel
for Shri A.K.Sikri, counsel for the respondents)

ORDER (ORAL)

(Hon'ble Shri N.V. Krishnan, Vice Chairman (A))

The applicant is a Scientist in the Central Institute for Research on Buffaloes under the I.C.A.R. His grievance, as mentioned in para 1 of the O.A., is that in accordance with the scheme being implemented by the respondents, the applicant was due for promotion from the grade of Scientist S-I to Scientist S-II w.e.f. 1.7.1981. However he was promoted only on 1-5-1986 in Scientist S-II grade. In the circumstances, he has sought to set-aside the order dated 15/17-10-90 (Ann.K-2) page 64 of the paper book
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by which his presentation for promotion from 1-7-1981,

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has been rejected and a direction be issued to the respondents that the petitioner be given promotion from 1.7.1981 on the basis of work performed by him from 1981 to 1986 alongwith consequential benefits. The main ground of the applicant is in terms Rule 19 of Agricultural Research Scientist Rules, 1975 merit promotion should ^{be} granted to him after he completed five years of service as Scientist-I to which he was appointed first on 1-7-1975. The applicant ^{has} mentioned in the O.A. that ^a departmental enquiry has been held against him meanwhile. Though the Enquiry officer exonerated him, the Disciplinary Authority imposed punishment by an order dated 12-4-1984 reducing his pay by one stage from Rs 900/- to Rs 860/- in the scale of Rs 700-1300 for a period of two years w.e.f. 1-5-84. The applicant contends that the withholding of the promotion itself is one of the penalties as the respondents have already imposed ^{/reduction of pay} the punishment of ^{to} they could not have resorted/imposing another penalty i.e. withholding the promotion

2. The respondents have filed a reply contesting this claim. In para 2 of the reply they have stated as follows:-

" The assessment of the Applicant for the period ending 31.12.1980 was duly carried out by the Agricultural Scientists' Recruitment Board in accordance with the prescribed procedure on the 3.10.1988. On the basis of the assessment for the period ending 31.12.1980, the applicant was recommended neither promotion

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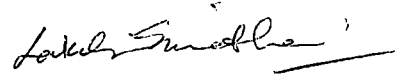
ner advance increments. The Respondents have issued further instructions that in a case where a Scientist is recommended neither for promotion ner advance increments as also a Scientists^(Sec) he is eligible for reconsideration every year until he is recommended for promotion. Accordingly, the reassessment of the Applicant for the period ending 31st December, 1981 was also carried out by the Board. For this purpose supplementary information in regard to his research work furnished by the Applicant in the prescribed preforma was also taken into account. On the basis of that assessment, the recommendations of the Board remained unchanged. On this further assessment likewise for the period ending 31.12.1982, the Applicant was recommended promotion which would have normally accrued to him w.e.f. 1.1.1983. In this connection, the Department of Personnel have issued instructions that in a case where the departmental proceedings have ended with the imposition of a minor penalty namely, censure, recovery of the pecuniary loss to the Government, withholding of increment of pay and withholding of promotion, the recommendations of the DPC in favour of the employee will not be given effect to. But the case of the employee concerned for promotion, confirmation may be considered by the next DPC when it meets after the conclusion of the departmental proceedings. If the findings of the DPC are in favour of the employee, he may be promoted to his turn if the penalty is that of censure or recovery of pecuniary loss caused to the Govt., by negligence or breach of orders. In the case of the employee who have been awarded the minor penalty of 'withholding of increments' or 'withstanding of promotion', promotion can be made only after the expiry of the penalty.

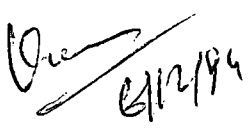
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Since the applicant was found guilty of the charge as a result of disciplinary proceeding carried out against him, a penalty of reduction by one stage from Rs 900/- to Rs 860/- in the pay scale of Rs 700-1300 for a period of two years w.e.f. 1.5.1984 was imposed on him. The period of operation of penalty came to an end on 30th April, 1986. In view of the instructions of Department of Personnel, referred to above, the applicant could not be granted the benefit of promotion during the period of operation of penalty and as such he was granted promotion from the date following the completion of the period of operation of the penalty i.e. 1.5.1986. The date of promotion was decided after due consideration of the facts and circumstances of the case as also the instructions issued by the Department of Personnel on the subject as stated above and that the contention of the Applicant that the order was issued without applying mind, is baseless. He has been granted promotion w.e.f. 1.5.1986 appropriately keeping in view the letter and spirit of the instructions issued by the Department of Personnel."

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3. It is seen that the penalty of reduction in pay was effective from 1.5.1984 for a period of two years and not from 1.5.1989 as stated by the applicant. In para 4 J of the O.A. the contention of the applicant is that this amounts to second penalty. This is entirely without any basis. It has been held by the Supreme Court that when an employee is suffering a penalty he can-not be granted any promotion (see 1992 SCC(L&S) 995 (UOI v. B.Krishnan)). Hence the respondents did not grant him promotion so long as the penalty was in force. In this view of the matter we find no merit in this O.A, and accordingly it is dismissed.


(Lakshmi Swaminathan)
Member (J)


(N.V. Krishnan)
Vice Chairman (A)

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