

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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OA.No.2704/90

Date of Decision:18.12.1992.

Shri A.K. Dogra

Applicant

versus

Director General, I.C.A.R.
and others

Respondents

Shri J.K. Bali

Counsel for the applicant

Shri Manoj Chatterjee

Counsel for the respondents

CORAM:

The Hon'ble Mr. P.K. KARTHA, Vice Chairman(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, Member(A)

1. Whether Reporters of local papers may be
allowed to see the Judgement? *Yes*
2. To be referred to the Reporter, or not? *Yes*

J U D G E M E N T

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

This OA has been filed by Shri A.K. Dogra, a Scientist Grade 'S¹' at Indian Agricultural Research Institute, New Delhi, challenging the impugned order dated 9/15.11.1989, issued by the Director(Per.), Indian Council of Agricultural Research Institute, New Delhi 110 012, rejecting his representation for assessment of promotion from Grade 'S' to Grade 'S1' for the years 1972 to 1977.

2. The applicant joined Indian Agricultural Research Institute (I.A.R.I) as a Research Assistant on 11.3.1970. In October 1975, a new service called Agricultural *bw*

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Research Services (ARS) was constituted. All the existing qualified employees of the Council in the grade of Rs.425-700, Rs.550-750 and Rs.550-900 were eligible for induction into Grade 'S' (Rs.550-900) of the newly constituted service. To protect the interests of those employees who did not have the required qualifications, some posts were to be kept vacant for five years, so that, those acquiring these qualifications later, may also be accommodated. The applicant acquired the requisite qualification equivalent to BE on 1.2.77 and thus became eligible for induction to ARS. His representation for induction to Grade 'S' ^{by} was rejected vide letter dated 20/21.11.1979, on the ground that by a subsequent letter dated 30.10.1979, issued by the ICAR, a Master's Degree has been prescribed for induction into ARS rather than a Bachelor's Degree. The applicant kept on representing and ultimately ICAR issued an office order on 9.4.87, notifying the applicant's induction to Grade 'S' of ARS with effect from 1.10.1977. However, according to him, an irreparable damage was caused, as from the year 1977 to 1987, he was treated as a Technical Assistant, which adversely affected his promotion to Grade S1. The result of his interview with the ARS Board in December, 1987, for the assessment of the year 1977 was not intimated to him. He was advised to apply for a review, but he requested the respondents to consider him first for the full year period ending 31.12.1977. Vide letter dated 7/8.12.1989, he was informed that the Board did not recommend him during the assessment for Grade S1 for the period from 31.12.1977 to 31.12.1981 and he was recommended only after reassessment for the period ending 31.12.1982 and was promoted from 1st July, 1983. The applicant states that he was never assessed for promotion for the period ending 31-12-1977 and was never called upon for consideration of his reassessment every year i.e. from 1978 onwards till the period ending December, 1981. During the period 1.10.1977 to 1.10.1987, he was part of the Technical cadre and was ^{by}

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assigned duties pertaining to that cadre. Thus, he was put in invidious position of being assessed for advancement in the Scientist cadre on the basis of duties performed in the Technical cadre. The applicant prays that the respondents be directed to promote him to Grade 'S1' of the ARS from the date his juniors were so promoted with all consequential benefits, including arrears.

3. The respondents have stated that the applicant has already been assessed in Grade 'S' for the year ending 31.12.1977 onwards, upto the period ending 31.12.1981, but was recommended neither for promotion nor for advance increments. He was only recommended for promotion from Grade 'S' to Grade 'S1' on the basis of his assessment for the period ending 31.12.1982 and this grade has been granted to him w.e.f. 1.7.1983. The applicant was holding a technical post on a regular basis at the time of the introduction of the ARS and in the first phase, he was not found suitable for induction into ARS. He acquired the requisite qualifications equivalent to B.E. in Engineering on 1.2.1977 and was thus inducted into ARS on 1.10.1977. In case of Scientist Grade 'S', the eligibility for promotion or advance increment had to be considered every year and the first assessment was for the period ending 31.12.1977. In case of non-selection, he was eligible for reconsideration every year, until he was cleared for promotion. Such re-assessment had to be carried out for the period ending 1978, 1979, 1980, 1981, 1982 and 1983. Since, he had been appointed to the service retrospectively, the exercise of assessment/re-assessment for all these periods, would take a long time. Hence, the assessment for all those years was carried out by the Agricultural Scientist's Recruitment Board simultaneously on 8.12.1987. Separate assessment forms for

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each year were submitted by the applicant and he was assessed with reference to the contributions and achievements in relation to the requirement of the jobs and duties assigned to him. The applicant was recommended promotion to the next higher grade of S1 on the basis of his assessment for the period ending 31.12.1982. The assessment for the earlier periods were intimated to him on 25.7.85. The applicant was given a chance to represent against the assessment but he did not avail of this opportunity. Under the prevailing rules, he can apply for review for a period of two years i.e. 1980 and 1981 only, but the Board has not received any review application in this regard.

4. We have gone through the records of the case and heard the learned counsel for both parties. The learned counsel for the applicant has drawn our attention to two communications, namely, D.O. letter dated November 24, 1988 from Secretary, I.C.A.R. to Chairman, A.S.R.B., which shows clearly that the Board did not carry out systematic assessment on annual basis from 1977 to 1981. The respondents have also stated in their counter that "obviously the exercise on assessment/reassessment for all these periods would take a number of years before it is completed. In the interest of the petitioner and the economy of the administrative expenditure in carrying out assessment/reassessment year after year, the assessment of the petitioner for all those years was carried out by the Agriculture Scientists Recruitment Board simultaneously on 6.12.87". Our attention has also been drawn to the judgement delivered by another Bench of this Tribunal in a similar case of Shri P.B. Varde dated 10.7.92, wherein, the system of assessment has been discussed in detail and it was held that the assessment was perverse in nature and the respondents were directed to constitute a fresh Assessment Committee to reassess the applicant for 5 yearly

^ and May 30,
1989 from Shri
N.S.Randhawa
to Chairman,
A.S.R.B.

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period ending December 1984. However, in that case, the applicant had already applied for the review, which was carried out and resulted in 'no change' in the assessment. In this case, neither the annual assessment has been carried out systematically nor a review application has been filed by the applicant. Another fact to be taken into consideration is that, for no fault of his, the applicant was inducted in the ARS in May 1986 and it was only after a series of representations that an order notifying his induction w.e.f. 1.10.77 was issued on 9.4.87.

5. In the conspectus of the above facts and circumstances of the case, we dispose of the application with the following orders and directions:-

1. The respondents are directed to constitute a fresh Assessment Committee to reassess the applicant for each year for the periods from 31.12.1977 to 31.12.81.
2. As the applicant had worked as Technical Assistant and not in the Scientist cadre, his performance should be adjudged in terms of the duties actually assigned to him, and for this purpose, the competent experts shall be included in the Assessment Board.
3. Suitable opportunity should be given to the applicant to explain his case to the Board including his self assessment on the basis of criteria fixed for promotion.
4. The assessments are to be made not only for promotion to Grade-I, but for grant of advance increments also.
5. In case, the applicant is found suitable for promotion he shall be considered for promotion to S-I grade w.e.f. the relevant year of assessment.

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6. The respondents are directed to comply with the above directions, expeditiously and preferably, within a period of three months from the date of receipt of this order.
7. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 18/12/92
MEMBER(A)

P.K. Kartha
18/12/92
(P.K. KARTHA)
VICE CHAIRMAN(J)

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