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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1227/2004

New Delhi, this the 6th day of December, 2004

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Malhotra, Member (A)**

M.S. Vashisht
S/o Shri Daya Kishan
R/o A-6, Krishi Niketan
Paschim Vihar
New Delhi - 110 064. ... Applicant

(By Advocate: Shri L.R. Khatana)

Versus

1. Union of India
Through Secretary to the Govt. of India
Department of Agricultural Research & Education
Krishi Bhavan,
New Delhi - 110 001.
2. Indian Council of Agricultural Research
(through its Director General)
Krishi Bhavan
New Delhi - 110 001.
3. Director
National Centre for Agricultural Economics & Policy
Research,
Library Avenue
Pusa,
New Delhi - 110 012.
4. Shri Narendra Kumar
(presently working as Assistant Administrative Officer)
National Centre for Agricultural Economics & Policy
Research, Library Avenue
Pusa, New Delhi - 110 012. ... Respondents

**(By Advocate: Sh. Jainendra Maldaniyar for M/s Sikri & Co.
for Respondents No.1 to 3. None for R-4.).**

O R D E R

By Mr. Justice V.S. Aggarwal:

Applicant is working as Assistant in the National Centre for Agricultural Economics and Policy Research. It is a constituent unit of the Indian Council of Agricultural Research (for short



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ICAR). The next promotional grade for the applicant is the post of Assistant Administrative Officer (for short 'AAO'). The promotions and appointments to the post of Assistant Administrative Officer in the above said Institute are governed by the provisions of the recruitment rules that have been framed. As per the provisions of the said rules, the applicant became eligible for consideration on 30.6.2001. The Assistant Administrative Officer is a Group 'B' non-selection post. As per the recruitment rules, it can be filled up:

- a) 75% by promotion,
- b) 25% by Limited Departmental Competitive Examination confined to Supdt.(Admn.)/Sr. Steno. having three years regular service or 5 years combined regular service in the grade of Assistant & Supdt.(Admn.)/P.A. & Sr. Steno. or 5 years regular service in the grade of Assistant/PA in the scale of Rs.5500-9000 as on the closing date notified for receipt of application for examination, at the respective Instt.
- c) Failing (a) and (b) above by deputation from the ICAR Institutes/Hqrs. From amongst and officials eligible as per 10(a)below. The deputation will be for a period not exceeding 3 years.
- d) Failing (a), (b) and (c) above by Direct recruitment in accordance to the qualifications prescribed under Col.6 above by Interview at the concerned Institute level."

2. The applicant contends that the said post was filled up in the year 1994 on deputation basis and Respondent No.4, who was a Superintendent in IASRI – another Institute under the ICAR, was appointed on deputation basis from 15.2.1994.

3. The precise grievance raised is that the private respondent No.4 is being allowed to continue on deputation contrary to the rules and he cannot usurp the rights of the persons who are in the

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channel of promotion. By virtue of the present application, the applicant seeks a declaration that the continued usurpation/occupation of the post of Assistant Administrative Officer by Respondent No.4 is de hors the rules and instructions and, therefore, void, ab initio and non est in the eyes of law. He seeks a direction to repatriate Respondent No.4 to his parent department.

4. This relief is being claimed asserting that in accordance with recruitment rules to which we have referred to above, the post can be filled up only by promotion, failing which by deputation, from amongst the officials working in Indian Council of Agricultural Research Institutes/Hdqrs. and thereafter even when that method also fails, by direct recruitment in accordance with the qualifications prescribed.

5. Respondents have filed their reply. They plead that Respondent No.4 was taken on deputation in 1994. Respondent No.3's Centre was started in 1992-1993. Respondent No.4 was also absorbed in the said Centre after a proper Departmental Promotion Committee meeting and as per the procedure, rules and in public interest.

6. In the rejoinder filed, the applicant insists that there is no provision in the recruitment rules for absorption of Respondent No.4. The contention that Respondent No.4 was absorbed in 1994 is misleading and misconceived.

7. We have heard the parties' counsel and have seen the relevant record.

8. We have already reproduced above the relevant extracts of the Recruitment Rules pertaining to the post of Assistant

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Administrative Officer. It can be filled up first by 75% by promotion and 25% by Litimied Departmental Competitive Examination confined to certain categories. Only when these two methods fail, it can be filled up by deputation from Indian Council for Agricultural Research Institution/Headquarters and when that method also fails, they can adopt direct recruitment.

9. Admittedly, Respondent No.4 had joined on deputation. Thus, it is contended that he cannot continue for more than ten years as such usurping the rights of the applicant who is eligible for consideration for promotion.

10. If the matter had ended here, there was a little difficulty but we asked the learned counsel for official respondents to produce the relevant file of the Department. He had produced the same. It reveals that after Respondent No.4 had been taken on deputation which fact is not disputed at either end, he made request for his permanent absorption and thereafter, a DPC meeting took place. Respondent No.4 was absorbed against the post of Assistant Administrative Officer with effect from 15.2.1994, i.e., the date when he was appointed on deputation. Therefore, the contention raised that he could not continue inadvertently as deputationist, must fail.

11. At this stage, therefore, this was the only relief that was claimed and it cannot be granted keeping in view the facts narrated above.

12. We hasten to add that we are not expressing any opinion in regard to the fact that Respondent No.4 could be permanently absorbed or not.

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13. Subject to what has been recorded above, the Original Application must fail and is dismissed.

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(S.K. Malhotra)
Member (A)

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(V.S. Aggarwal)
Chairman

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