

Central Administrative Tribunal
Principal Bench, New Delhi.

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O.A.No. 1775/93

New Delhi this the 11th Day of March, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Sh. K. Annakesavan,
S/o late Sh. M. Kannu,
R/o D-1/43, Bharathi Nagar,
Opp. Lodhi Estate,
New Delhi-110003.

Petitioner

(By advocate Sh. J.P. Verghese)

versus

1. The Union of India
through the Secretary,
Dept. of Agriculture
and Cooperation,
Krishi Bhawan,
New Delhi.

2. The Secretary,
Dept. of Personnel &
Training, North Block,
New Delhi.

Respondents

(By advocate Sh. K.C. Mittal)

ORDER

delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

This O.A. has been filed by Shri K. Annakesavan, who is working as Chief Director(Cooperation) in the Department of Agriculture and Cooperation, Govt. of India, New Delhi, challenging the impugned order dated 7.5.1993 passed by Department of Personnel & Training, rejecting the request of the applicant to consider him for the post of Joint Secretary/equivalent post(Commissioner (Coopn.)).

2. The applicant has been working as Chief Director(Cooperation) in the Ministry of Agriculture and claims to be working as technical head, assigned with the responsibility of advising Divisional Head and the higher officers on technical matters in respect of cooperatives. Though he complains about his

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late promotion to the post of Dy. Chief Director, he was promoted to the post of a Chief Director on the completion of his two years as Deputy Chief Director as against the three years stipulated in the recruitment rules. He claims that he should have been given this post of Chief Director w.e.f. 1.2.1988 when he became eligible for the post by virtue of the exemption given by the Department of Personnel and Training. However, his request for such prospective promotion was rejected. He alleges that his delayed promotion as Chief Director has marred the chances of his promotion as Joint Secretary/ equivalent post. The following reliefs have been sought:

- "(i) The applicant should be given promotion/ appointment to the post of Chief Director (Coopn.) in the Deptt. of Agriculture & Coopn. from from the date when it fell vacant or at least from the date when he was declared eligible for selection to the post by the Deptt. of Personnel & Training.
- (ii) The Deptt. of Personnel & Training may be directed to reconsider its decision to empanel the applicant for the post of Jt. Secretary/ equivalent post (Commissioner (Coopn)) keeping in view his long stagnation as Director and also for refusal in giving him promotion from the date when he was declared eligible by the Deptt. of Personnel & Trg. and also taking into consideration the fact that the post of Chief Director was kept vacant for more than 4 years.
- (iii) The irregular order issued by the Jt. Secretary (C&C) regarding work distribution in the cooperation Dvn. depriving the applicant from his assigned work only to humiliate him, may be cancelled and rescinded.
- (iv) The case of the petitioner be allowed in favour of the applicant against the Respondent and/or to pass any order direction including consequential relief/benefits as considered proper by the Hon'ble Tribunal."

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3. In the counter filed by the respondents, the main averments are these. The representations received from the applicant had been considered in the light of the existing policy of the Government in regard to empanelment of officers belonging to various services to hold posts at the level of Joint Secretary/ equivalent at the Centre. The applicant is a holder of an isolated post in the Department of Agriculture and Cooperation. He does not belong to any of the Organised Services eligible for empanelment and was due to superannuate within a period of one year. Even in the case of Organised Services, it is provided that they should be drawing the scale of Rs.5900-6700. The applicant was in the pay scale of Rs.4500-5700. As regards payment to any other post, this cannot be done as no other equivalent post is available in the Cooperation Division of the Department. As regards his complaint regarding late promotion to the post of Chief Director(Cooperation), he became eligible for such promotion on completion of three years regular service as Dy. Chief Director on 1.12.1990 only. The post of Chief Director was lying vacant as a policy to make recruitment through the U.P.S.C. was under consideration and the post was re-circulated when the Commission did not recommend any suitable candidate. No retrospective promotion can be given in the post of Chief Director as for such post selection has to be made by the U.P.S.C.

4. We have gone through the records of the case and heard the learned counsel for the parties. The learned counsel for the applicant has argued that even if the applicant cannot be considered for the post of Secretary, he should be considered for equivalent post. He also mentions that in the

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past there was a proposal of up-grading the post of Chief Director to that of the Commissioner and that such up-gradation could be considered in case of the applicant also. The learned counsel for the Respondents drew our attention to the Central Staffing Scheme. Para 8 of the Scheme provides that at the level of posts of Joint Secretary and equivalent, the Civil Services Board finalises the panel for submission to the ACC. Para 6 of the Scheme provides that for the post of Joint Secretary, officers should be drawing pay in the scale of Rs. 5900-6700 and must have worked for 17 years in Group A service. in their respective parent cadre/service.

Para 5 provides that all posts of the rank of Under Secretary and above in the Government of India may be filled on tenure deputation from the All India Services and the participating Group A Services of the Central Government, excluding such posts of Under Secretary and Deputy Secretary as are filled at CSS officers. Obviously, the applicant was not eligible to be considered, under the Central Staffing Scheme for the post of Chief Director or equivalent.

As regards the post of Commissioner(cooperation), It is contended by the learned counsel for the applicant that this upgradation was considered sometimes credit back in the cooperation department and though approval was received for such upgradation the post was not filled up. If such up-gradation has been considered in the past, the respondents shall sympathetically consider the case of the applicant also. The O.A. is disposed of with the above observations. No costs.

/sds/

(B.N.Dhondiyal)
Member(A)

(S.K.Dhaon)
Vice Chairman.