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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No.827 of 1993

Date of Decision 25 May 93

Dr.Chandi C.MajiApplicant.

Versus

Director General, Indian Council of
Agricultural Research, Krishi Bhawan & others

.....Respondents.

CORAM:

Hon'ble Mr.N.V.Krishnan, Vice-Chairman(A)
Hon'ble Mr.C.J.Roy, Member(J)

For the applicant: Shri B.B.Rawal, Counsel.

JUDGMENT

(By Hon'ble Mr.N.V.Krishnan, Vice-Chairman(A).)

The applicant is employed as Director (Officiating) in the National Centre of Agricultural Economics and Policy Research. This institution is under the control of India Council of Agricultural Research, ICARI, for short.

2. Admittedly, action is being taken to recruit a suitable candidate on a regular basis to ~~hold~~ the post now held on an officiating basis by the applicant. The recruitment is to be done by the Chairman, Agricultural Scientists Recruitment Board-respondent no.2, ASRB for short. The applicant is a candidate for consideration. The fourth respondent's name has been sponsored by the first respondent- The Director General of the ICARI- for consideration for regular selection to the above post. In this connection, the first respondent has sent the impugned letter dated 22.1.93 (Annexure-A) to the Secretary of the ASRB intimating that the ICARI has no objection to Dr. Dayanatha Jha, the fourth respondent, being considered as a candidate for the post of Director, National Centre of Agricultural Economics and Policy Research, if he is considered by the ASRB as a highly qualified Indian Scientist. It

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is also stated therein that in case he is recommended for appointment by the ASRB, his appointment will be dealt under Rule 11(5) of the Agricultural Research Service.

3. The applicant states that the second respondent cannot consider the application of the fourth respondent for various reasons and hence the following reliefs have been sought in this O.A.:-

- i) To quash the 'No objection Certificate' by the respondent-ICAR to the Secretary ASRB for consideration of the candidature of respondent no.4 for the regular selection to the post of Director,NCAP as advertised, being violative of the statutory rules i.e. ICAR Agricultural Scientists Recruitment Rules and also the application for the same being incomplete for want of his service records not available from USA and on account of false and incorrect submissions made by him in his application.
- ii) Direct the respondents to terminate his services, even on a short-term purely adhoc basis in view of condition No.(x) of the offer of appointment;
- iii) Direct the respondents to regularise the appointment of the applicant as Director,NCAP on which he is officiating for the last two years.)

4. When we heard the learned counsel for the applicant, we felt that, *prima facie*, this application appeared to be premature because selection has to yet take place and none can predict the outcome of selection. For all one knows, the second respondent might, as well, disqualify the fourth respondent from consideration on the grounds urged by the applicant. We, therefore, heard the learned counsel of the applicant on the maintainability of this application at length.

5. Shri B.B.Rawal, the learned counsel for the applicant urged that the irregularities in sponsoring the name of the fourth respondent are so glaring and are so much in violation of the rules and regulations that the intervention of this Tribunal at this juncture itself is warranted.

6. The candidature of the fourth respondent is challenged by the applicant on the following important grounds:-

- i) The date of birth of the fourth respondent being 10.3.40, he was already more than 52 years of age when he submitted his application in this connection (Annexure-A7) on 21.9.92. According to the Annexure -A6- notice of the ASRB, the age limit for outsiders is 50 years, while there is no such age limit for officials of the ICARI.
- ii) It is contended that the fourth respondent is not a regular employee of the ICARI. Annexure-A5- Memorandum dated 12.2.92, issued by the first respondent is only an offer to the fourth respondent for an adhoc shortterm appointment under Rule 15(5) of the ARS as Principal Scientist. Therefore, though the fourth respondent is presently working as Principal Scientist, he cannot get the benefit of age concession specified in paragraph I (vi) of Annexure-A6-notice, because he is not a regular employee.
- iii) The applicant being the Officiating Director had occasion to see, in his official capacity the application submitted by the fourth respondent (Annexure-A7), because it was to be forwarded by him. He noticed that there were shortcomings in the application. He, therefore, sent it to the second respondent on 28.9.92 (Annexure-A9) and stated as follows:-

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"I am sending herewith an application of Dr. Jha who is working as a Principal Scientist on purely adhoc and short term basis at the National Centre of Agril. Econ. and Policy Research, New Delhi with the following observations:

1. It appears from the offer of appointment of Dr. Jha that his appointment is purely adhoc and short term under Rule 15(c) of the ARS as Pr. Scientist for a period of 2 years effective from 12.6.92 at the ICAR.
2. According to his date of birth i.e. 10.3.40 his present age is 52 years and 6 months. Since he has been appointed on a purely adhoc basis for a short term with a condition precedent that he shall have no claim for regular appointment in ARS and his appointment will stand terminated after a period of 2 years (vide copy of offer of appointment enclosed) perhaps Dr. Jha cannot be considered an in-service candidate enjoying purely a supernumerary position and may not be entitled to age relaxation admissible to the in-service candidates of the Council for purpose of eligibility for application for ICAR posts. This may kindly be examined.
3. The service record of Dr. Jha is not available in the Centre and hence it is not possible to verify the service particulars mentioned by him.
4. In view of the position mentioned above it is also not possible to furnish the certificate regarding his suitability for appointment of the post applied for as desired at Column.17 of the application form and hence this Column is left unsigned."

iv) It is alleged that facts have been

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suppressed or incorrect information has been furnished in the Annexure-A7 application in regard to certain details, particulars of which have been given in para 4.9 of the application, inasmuch as there are inconsistencies between the information given in Annexure-A7 application and the application given earlier from USA for securing the present job or, the information given against one entry is inconsistent with that given in another entry. It is not necessary to go into the details of all these discrepancies, except one. The applicant points out that Column 21 of the application form seeks information about the major contribution of the applicant during his professional career and, inter alia, seeks information about the research papers published. It is alleged that the particulars given in this regard are not correct as some of the publications are not research papers.

7. The learned counsel has produced for our perusal the Book 'Agricultural Research Service', a publication of the ICARI 1985-ARS, for short. Chapter 3 contains the service rules for the ARS of the ICAR. These rules (ARS Rules, for short) have been framed by the Governing Body of the ICAR in exercise of the powers conferred by Rule 38 of the Rules of the ICAR-ICAR Rules, for short. ARS Rules 11(5) and 15(5) read as follows:-

"11. Future maintenance of the service.
(5)- The Director-General, ICAR, may in consultation with the Board

"Board and with the approval of the Controlling Authority, invite any highly qualified Indian Scientist who is not an employee of the Council for an appointment in the service."

15. Powers of the Controlling Authority

Without prejudice to the generality of the powers conferred on it, the Controlling Authority shall be competent-

(5) to fill any vacancy in any grade of the service by temporary appointment of a qualified scientist from outside the Council for a period not exceeding 2 years at a time, provided that

(a) the total number of vacancies so filled shall not exceed at any time 5 per cent of the authorised strength of the service;

(b) no such appointment shall be made except in consultation with the Board."

The learned counsel for the applicant states that the fourth respondent has already been appointed as Principal Scientist under the aforesaid Rule 15(5), and, therefore, he cannot now be considered for appointment again under Rule 11(5) for the post of Director as stated in the impugned Annexure-A letter.

8. He submits that in view of all these serious irregularities, the Tribunal itself should quash the patently illegal letter dated 22.1.93(Annexure-A) issued in favour of the fourth respondent so that a proper selection may be held.

9. We have carefully considered the arguments advanced by the learned counsel and perused the record.

10. In addition to the ARS Rules produced by the learned counsel, we have also referred to the ICAR Rules. The ICAR Rules do not indicate how they have been framed. Probably, they have been framed and adopted by the ICAR, which is stated to be a

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society registered under the Societies Registration Act, 1960, for the management and regulation of its business and activities. The salient features of the ICAR Rules are as follows:-

- i) The President of ICAR is the Minister Incharge of the portfolio of Agriculture in the Union Cabinet.
- ii) The Agricultural Scientists' Recruitment Board (ASRB) is the Board constituted under Rule 25. This Board will have a whole time Chairman and the other members are appointed by the President of ICAR with the approval of the Government of India.
- iii) The Chairman and the members of the Board hold office for a term of six years or upto the age of 65 years, whichever is earlier.
- iv) They can be removed only in accordance with the provisions of Rule 25(c)(i) which reads as follows:-

"25(c)(i) Subject to the provisions mentioned herein below, the Chairman or any other member of the ASRB shall only be removed from his office by order of President, ICAR on ground of misbehaviour after a high powered Committee of three members nominated by the Governing Body, on reference being made to it by the President, has, on enquiry, held in accordance with the principle of natural justice, reported that the Chairman or such other member, as the case may be, ought on any such grounds to be removed.

Notwithstanding anything mentioned above, the President may by order remove from office the Chairman or any other member of the ASRB, if the Chairman or such other Member, as the case may be:-

- (a) is adjudged as insolvent; or
- (b) engages during his term of office in any paid employment outside the duties of his office; or
- (c) is in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body."

- v) The Governing Body referred to in Rule 25(c)(i) is constituted under Rule 35 and consists of a large number of important officials and non-officials and is a broad based body.

11. The salient features of the ICAR Rules given above are sufficient to show that the ASRB (respondent no.2) is a high powered authority. The apprehension of the learned counsel that this Recruitment Board is under the control of the first respondent-Director General, ICAR or that he can exercise undue influence on the ASRB to get the fourth respondent selected, willy nilly, is devoid of any basis.

12. May be, the applicant's grievance against nomination of the fourth respondent vide the impugned letter dated 22.1.93 (Annexure-A), ^{a is genuine.} May be, the fourth respondent suffers from disqualification, and has also furnished incorrect information. We are of the view that, the second respondent, which is the Selecting Agency, would, in the normal course, screen the particulars of all candidates to find out whether they satisfy the eligibility conditions or whether they suffer from disqualification. The learned counsel for the applicant argued that Annexure-A letter dated 22.1.93 of the respondent forecloses this issue and it is not now open to the second respondent to question the candidature of the fourth respondent. We do not wish to express any view on this assertion because this is also a matter for the second respondent to decide. There is nothing on record to apprehend that the second respondent ASRB will not discharge the duties cast upon it under law, without fear and favour and in accordance with law.

13. For these reasons, we are of the view that this application is premature. As on date of this O.A., the applicant had no grievance as no final order has been passed in regard to the selection. The applicant will have a grievance only, in case the matter, is considered by the second respondent and he is not satisfied with the result of the selection. We, therefore,

find that this application is not tenable and is accordingly dismissed. We make it clear that this will not stand in the way of the applicant submitting, if so advised, a representation to the second respondent or to any departmental authority, in respect of the grievance ventilated by him in this O.A.

(C.J. ROY)
MEMBER (J)

25 May 93

(N.V. KRISHANAN)
VICE CHAIRMAN (A)

25 May 93

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