

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 920 of 1998

Dated : This the 26th day of February, 2004

HON'BLE MR. JUSTICE S.R.SINGH, V.C.
HON'BLE MR. D.R.TIWARI, MEMBER-A

Moti Lal, Working as Assistant under Director
Indian Grassland & Fodder Research Institute,
Jhansi, R/O H.No.: C-8, I.G.F.R.I. Campus, Jhansi.

...Applicant.

Counsel for the Applicant : Shri A.D.Prakash and
Shri A.K.Dave

VERSUS

1. Director, IGFRI (Indian Grassland & Fodder Research Institute) Jhansi.
2. Sr. Administrative Officer, IGFRI, Jhansi.
3. Indian Council of Agricultural Research, Through its Secretary, Krishi Bhawan, New Delhi.
4. Shri P.S.Morkam, Asstt., IGFRI, Jhansi U.P.
5. Shri S.C.Sachdeva, Asstt. IGFRI, Jhansi U.P.
6. Shri M.G.S.Pillai, Asstt. IGFRI, Jhansi U.P.
7. Shri Matadin Verma Asstt., IGFRI, Jhansi U.P.
8. Shri P.L.Tiwari, Asstt., IGFRI, Jhansi U.P.
9. Shri Ashok Kumar Tiwari, Asstt. I.G.F.R.I., U.P.

....Respondents.

Counsel for the Respondents : Shri B.B.Sirohi

O R D E R

By Hon'ble Mr. Justice S.R.Singh, V.C.

The applicant was initially appointed as Junior Clerk in Indian Grassland & Fodder Research Institute, Jhansi (in short I.G.F.R.I.) w.e.f. 04.11.1971 and was later promoted in the next higher grade to the post of Senior Clerk w.e.f. 25.4.1977 in I.G.F.R.I. The services of the applicant were subsequently transferred to National Research Centre for Agroforestry (NRCA), Jhansi w.e.f. 31.8.1988. Both those units, ~~they~~ were albeit separate units, but they were controlled and governed by the Indian Council of Agricultural Research, Krishi Bhawan, New Delhi, which is the apex body constituted under the provisions

of I.C.A.R. Act. The applicant was placed under suspension by Director, National Research Centre for Agroforestry, Jhansi vide Director NRCA's Order No. F.Vig.1/93 dated 16.03.1993. The order of suspension, however, came to be revoked with immediate effect vide order dated 05.12.1995(Annexure-A-5). On suspension being revoked by order dated 05.12.1995, the applicant was reinstated and promoted to resume his duties with immediate effect. He was, however, ordered by competent authority to be posted in I.G.F.R.I., Jhansi alongwith his post which stood transferred to I.G.F.R.I., Jhansi. The copy of the order dated 05.12.1995 revoking the suspension of the applicant by Clause(c) of Sub-rule(5) of Rule 10 of the CCS(CCA) Rule 1965 was forwarded to the Director, N.R.C.A., Jhansi w.e.f. following note:

" It has been ordered by the Competent Authority that Shri Moti Lal, Assistant should be posted in IGFRI, Jhansi after reinstatement alongwith his post which stands transferred to IGFRI, Jhansi. A copy of the order meant for Shri Moti Lal, Assistant, NRCA, Jhansi is also sent herewith which may please be delivered to him after obtaining his dated signatures."

Consequential order of transfer of the applicant alongwith his post was issued vide office order dated 06.12.1995(Annexure-A-6). The applicant was relieved from NRCAF, Jhansi w.e.f. 22.12.1995 and reported for his duties at I.G.F.R.I., Jhansi. On the next day i.e. 23.12.1995, the dispute herein relates to Inter-se-seniority of the applicant viz the other Assistants of the Institute namely I.G.F.R.I. The applicant was shown at Serial No.13 in the provisional seniority list of Assistant at the Institute as on 30.9.1996, was circulated vide letter dated 10.10.1996. The date of his regular appointment was mentioned in the provisional seniority list was shown as 30.3.1991 yet he has been shown Junior to Assistant, whose regular appointment date is between 06.9.1991 and 29.10.1994. The applicant prefers representation, which did not find favour with the Senior Administrative Officer and the applicant was accordingly

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informed by letter dated 02/03.6.1997 (Annexure-A-I), which reads as under:

"as per rules in case of transfer not strictly in public interest, the transferred official will be placed below all officers/officials appointed regularly to the grade on the date of absorption (vide chapter "SENIORITY" para 3.5 of Swamy's complete Manual on Establishment and Administration)."

The seniority list of Assistant^{was} was circulated earlier, thus, maintained vide impugned order dated 02/3.6.1997. Para 3.5 of Swamy's Complete Manual on Establishment and Administration referred to in the impugned order (Annexure-A-I) reads as under:

" in case of transfer not strictly in public interest, the transferred official will be placed below all officers/officials appointed regularly to the grade on the date of absorption."

The provision relied^{on} by the respondents^{in the} impugned order does not apply in the present case. The transfer order dated 05.12.1995 and 16.12.1995 (Annexure-A5 and A6) nowhere provide that the transfer of the applicant was "not strictly in public interest". In any case, the applicant was transferred from NRCA to IGRRI alongwith his post and the applicant had, in fact, been initially appointed in IGRRI, Jhansi where he has been repatriated pursuant to the order dated 05.12.1995 and 16.12.1995. ~~para 3.5~~ therefore, the applicant cannot be deprived of his services rendered by him from 04.11.1971 ~~between~~ 23.12.1995.

2. In the circumstances, therefore, the O.A. succeeds and is allowed. The impugned order dated 02/3.6.1997 (Annexure-A-I) is quashed. The respondents directed to determine his seniority w.e.f. 30.3.1991.

3. There will be no order as to costs.

Dfca
Member-A

Brijesh/-
B.B.

RCV
Vice-Chairman