

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

HON'BLE MR. JUSTICE A.K. Gaur, MEMBER (J)
HON'BLE MRS. MANJULIKA GAUTAM, MEMBER (A).

Original Application Number. 426 OF 2004.

ALLAHABAD this the 9 day of January, 2009.

Tripal Singh Son of Sri Lochan Prasad
Aged about 45 years, resident of 109,
Ashok Bihar, Sanjay Nagar, Bareilly.

.....Applicant.

V E R S U S

1. Union of India, through the Secretary for Agriculture/ACAR Ministry of Agriculture, Govt. of India, Krishi Bhawan, New Delhi.
2. The Director General, Indian Council for Agriculture Research Krishi Bhawan, New Delhi.
3. The Director, Indian Veterinary Research Institute, (IVRI) Izatnagar, Bareilly.
4. Shri S.B. Singh (T-6)
5. Shri Dhananjay Sahi (T-6)
6. Smt. Veena Singh (T-6)
7. Sri Rakesh Pandey (T-6)
8. Shri Ram Prasad (T-6)
9. Shri Pratap Bhan Pandey (T-6)
10. Shri Balhari Yadav (T-6)
11. Dr. Km. N.Z. Sidiq (T-6)
12. Shri Avneesh Kumar (T-6)
13. Sri B.S. Gahlazot (T-6)
14. Sri Ajay Shukla (T-6)
15. Sri Surendra Nath (T-6)

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16. Sri R.P. Tripathi (T-6)

17. Sri A.K. Rawat (T-6)

Through Director (IVRI) Izatnagar (Bareilly)
All working in IVRI Izatnagar, Bareilly.

.....Respondents

Advocate for the applicant: Sri Pankaj Mishra.

Advocate for the Respondents : Sri B.B. Sirohi.

O R D E R

Delivered by Mrs. Manjulika Gautam, Member-A :-

The applicant was appointed on 22.5.1985 as Dairy Farm Superintendent in the office of respondent No.3, which is technically known as T-4. Subsequently, he was confirmed on the post of Dairy Farm Superintendent. In the seniority list of T-4 officers, issued by the Department on 1.2.1993 the name of the applicant was shown to be senior most in T-4 grade. There is a provision for promotion on the basis of 05 yearly assessments of Technical persons in the next higher grade i.e. T-5, T-6, T-7, T-8, and T-9. According to Technical Service Rules, which came into force w.e.f. 1.10.1975, there is 5 yearly system of assessment of eligible cases, which are to be put up before the Assessment Committee. As per the composition of assessment committee, the Chairman of Committee is a person out side the Institute nominated by the Chairman, ASRB and he is supported by the internal members of the institute nominated by the Director. While considering every case, the Committee has to follow certain guidelines and prescribed norms for assessment as prescribed in the Rules. The Committee has to consider ACRs of last 05 years the material furnished by the personnel in their assessment forms,

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recommendations of Reporting/Reviewing Officer etc. as contained in ICAR's letter letter No.7-13/85 -per III dated 2.6.89. The 'Bench Mark' criteria prescribed for T-5 grade is consistently three 'Good' reports and for T-6 three 'Very Good' reports. There is no concept of inter-se-seniority amongst Technical personnel for the purpose of promotion as per Rule 12 of Technical Service Rules. It is also clear that unless the Assessment Committee recommends, a person based on the grading of annual assessment report, no person can be promoted.

2. Though, the applicant was entitled to be promoted from T-4 to T-5 on 27.5.90 i.e. after completion of five years, but he was given promotion only on 1.1.95 i.e. five years after his promotion was due. The applicant claimed that he was communicated adverse remarks for the year 1983-89 and 1989-90 and after representation they were accordingly expunged; whereas adverse remarks for the year 1993-99 were communicated to him vide letter dated 1.1.2000; against which he represented on 2.3.2000, but the same has not been decided as yet. The case of the applicant was put up before the Assessment Committee meeting for consideration for the period from 1985 to 1990, but the committee did not recommend his case either for promotion or for advance increment as he did not fulfill the Bench Mark criteria.

3. The case of the applicant for promotion from T-5 to T-6 under 33.3% quota was also considered alongwith several other employees as he belongs to reserved category. He was not recommended for promotion by DPC as it was clarified vide letter dated 8.9.1987 that



the minimum period of service in grade T-5 for promotion is five years. The applicant has claimed the following main relief(s) :-

"(i) To issue suitable order by way of certiorari quashing the orders dated 25.9.2003, 9.10.2003 and 9.8.2001 shown as Annexure-A-1A and A-1 issued by the respondent No.2 and on behalf of respondent No.3, illegally unlawfully, arbitrarily against law of natural justice and against violation of policies of reservation as enshrined in Constitution of India and the applicant be given all the consequential benefits arrears with 18% penal interest.

(ii) Issue suitable order/direction by way of mandamus commanding the respondents to consider the promotion of the applicant right from T-4 to T-6 as per reservation policy and as per law rules and policies of Govt. of India and ICAR issued from time to time. The applicant was given the promotion from T-4 to T-5 very late and his juniors were given the promotion much earlier than the applicants. The delay in promotions be regularized and arrears of pay and allowances be paid with 18% penal interest.

(iii) Issue suitable order or direction by way of mandamus directing the respondents to stop the harassment of the applicant by false allegations."

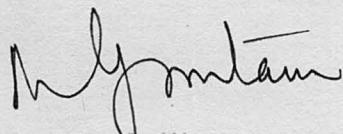
4. Having heard the parties counsel and perused the records on file. It is clear that the applicant's case was considered by the Assessment Committee as per the Rules and his promotion was not recommended on the basis of ACRs grading, which did not come up to the required 'Bench Mark'. Counsel for the applicant has laid great stress on the fact that entries which have adverse affect on the promotion should be communicated, so that the person concerned has a right to represent. He has cited several rulings in this respect particularly the Apex Court judgment of Dev Dutt vs. Union of India and Others (2008 (3) ESC 433 (SC) .

5. The respondents in their counter affidavit have clarified the prevailing Rules in the Organization, which are clearly laid down. It is also stated categorically that the case of the applicant was put up

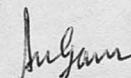


before the Assessment Committee, but in absence of recommendations for promotion, the applicant could not be promoted. The adverse entry awarded to the applicant from time to time were communicated to him and after his representation the decision was taken in every case, therefore, there was no intention to violate the rule in any way or to deny justice to the applicant. The respondents have also filed AAR Resume of the applicant as Annexure-CA-1, which reflects that by and large his grading was 'Average'. No case has also been made out to prove that discrimination was made in the case of the applicant, as compared to other candidates who competed for selection.

5. We are of the considered opinion that the case of the applicant was handled as per Rules of promotion of the Origination and, therefore, there is no case made out for interference in the matter. The OA is accordingly dismissed. No order as to costs.



(Mrs. Manjulika Gautam)
Member (A)



(A.K. Gaur)
Member (J)

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