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Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

Original Application No.1503 of 2005

Allahabad this the 20th day of February, 2008

Hon'ble Mr. Justice A.K. Yog, Member-J
Hon'ble Mr. K.S. Menon, Member-A

Harish Kumar Agarwal,
Son of Shri Ram Gopal Agarwal,
Resident of C-12, I.G.F.R.I. Colony,
Gwalior Road, Jhansi.

...Applicant

By Advocate : Shri Amit Kumar

Versus

1. Union of India, through Secretary, Ministry of Agriculture, Government of India, New Delhi.
2. Secretary, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.
3. Director, Indian Grassland and Fodder, Research Institute, Gwalior Road, Jhansi.
4. Sr. Administrative Officer (AQC Indian Grassland and Fodder Research Institute, Gwalior Road, Jhansi.

...Respondents.

By Advocate : Shri Manoj Kumar

O R D E R

By Hon'ble Mr. Justice A.K. Yog, J.M. :

Heard learned counsel for the parties and perused the pleadings, we know that the parties have not brought on record haphazardly by means of several counter affidavit, rejoinder affidavit, supplementary-counters, Supplementary rejoinders, Amendment Application etc. Documents filed by respective parties in respect of which

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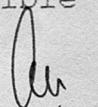
there is no dispute alongwith various compilations filed on either side, have been taken into account.

2. Harish Kumar Agarwal, the applicant before us was admittedly selected in May 1989 on the post of Technical Assistant of T-II-3 Cat (II) in pursuance to the selection proceedings held on the basis of advertisement M.I.G. F.I.R.-3/89, annexed to the OA and when he entered in the service, he possessed requisite B.Sc. Degree s, including Chemistry, the applicant had completed his Post Graduation course and passed Master's Degree (M.A.) with Economics (with statistics and Research Methodology on his subjects) on 14.6.2003 on the basis of permission given by the respondents on 12.9.2000.

3. According to the applicant, he became eligible for being promoted in Category-III Grade-6 on completing minimum five years service in said category-II since his Master's Degree (in Economics) was always considered a subject in 'relevant field' and that the respondents, in not making him available the requisite assessment for being considered for promotion, in question, at relevant time i.e. 1.1.2005 is illegally denying him 'rights' vested in law. This is, however, not acceptable to the respondents.

4. The respondents, filed the Counter and denied the contentions raised by the applicant in the OA, inter-alia amongst other, preliminary pleading that though the applicant had completed five years (requisite minimum service in Category-II) but he did not possess Master's Degree in a subject 'relevant to the field' as required under rules.

5. We are of the view that the decision of this OA squarely rests upon the answer to the question whether the applicant, who possessed Master's Degree in the subject of 'Economics' was eligible for being considered



for promotion over a post of Category-III Grade T-6 on the relevant date (i.e. 1.1.2005).

6. Posts falling under Group I under title 'Field/ farm Technicians' are given in ICAR Hand Book of Technical service, relevant extract is Annexure-SRA-6. There are two Groups- Group-I Filed/Farm Technicians and Group II- 'Laboratory Technicians', Group I includes apart from several posts, posts of designated as - Farm Superintendent, Dairy Farm Superintendent, Farm Manager, Dairy Cattle Manager, Assistant Farm Superintendent, Junior Garden Superintendent, Assistant Manager, Field Officer, Field Supervisor, Horticultural Supervisor, etc, which shows that the posts in this group are those where duties are of administrative/Managerial responsibility as distinct to the 'duty' attached to the posts enumerated in Group II 'Laboratory Technicians'.

7. It is not in dispute as noted above that the applicant had already completed five years service in Category -II and he was ignored/deprived from consideration for promotion only on the ground that he did not possess Master's Degree in relevant field as required under the Rules. The only contentions issue is whether Master's Degree in the Rules at the relevant time i.e. 2005.

8. For this Purpose, learned counsel for the applicant referred to the office memorandum dated 24.2.2006, Annexure-SRA-4. Correctness of this document is not in dispute. Para 3, of the said Memorandum/Circular clearly states that the 'merit promotion' in accordance with the qualifications amended vide annexure, shall take effect from or after the date of issue of these instructions. Henceforth, vacant posts in the above groups were not to be filled. Related activities may be outsourced in the light of instructions

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contained in Para-8 of GIMF OM No.7(2)/ECORD/2005 dated 23.11.2005 and other instructions/guidelines issued by Govt./ICAR from time to time....." Relevant extract other circular prescribing minimum qualification reads :-

Group I- Field/Farm Technicians

CATEGORY I	
.....
CATEGORY II	
.....
CATEGORY III	
Master's degree in the relevant field or equivalent qualifications from a recognized university	Master's degree in Agriculture or any other branch of Science/Social Science relevant to agriculture or equivalent qualification from a recognized university

9. To appreciate the rival contention of the parties, he may also referred to the circular dated 20.1.2005 (Annexure-CA-1 sworn by Mannu Lal). The relevant extracts, reads : -

From this it follows that for career advancement through merit promotion, the relevancy of the qualification should, in fairness, be seen in this context. In other words, a person appointed in Cat.II on the basis of Bachelor's degree in a subject should be held to be eligible for promotion to T-6 grade in Cat.III on acquiring Master's degree in the same subject/area. For example, if an employee has been appointed in Cat-II against a post of Computer, with essential qualification as Bachelor's Degree in Computer Science, such employee should possess Master's Degree in Computer Science only for being eligible for promotion to T-6 grade. If such an employee possess/acquire Master's Degree to Sociology, Economics or in any other subject, such a degree should not be treated as in the 'Relevant Field' for category-III. Relevancy of Master's degree should be decided with specific reference to the essential qualification prescribed for the post against which an employee was appointed/promoted in Cat.II. In nutshell, Master's degree for merit promotion in Category-III should be in the same subject which was the minimum and relevant prescribed qualification for the post against which an employee was appointed/promoted in Category-II.

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10. The respondents have failed to show us anything from the relevant rules prescribing minimum qualification which may have restricted the consideration of Master's Degree in the subject in which one has done his graduation only. Otherwise also a circular cannot given over-ride 'minimum qualification' prescribed through the 'rules'.

11. On behalf of the respondents, reference is made to the circular/letter dated 3.2.2000 (Annexure-CA-3), relevant extracts of which reads: -

"(ii) The provisions relating to Category barrier for assessment promotions from T-3 grade of Category II to T-6 grade of Cat. II has been revised as under:-

"(a)

(b) The T-5 Technical personnel who do not possess the essential qualifications as for direct recruitment prescribed hereinafter under this order for Cat. III shall be eligible for assessment promotion to T-6 grade after such technical personnel are possessing the qualifications prescribed under this order for direct recruitment to Category-II (T-3). However, such Technical personnel in T-5 grade who do not possess the qualifications prescribed under this order for direct recruitment to Category II (T-3) shall not be eligible for further assessment promotion to Category III of the Technical Services.

(iv) The minimum essential qualifications for direct recruitment of technical personnel in Category I, II and III at the entry grades thereto would be as per the following model qualifications irrespective of the functional group.

(a)

(b)

(c) Category III, master's degree in the relevant field or equivalent qualifications from a recognized university. Based upon the above minimum essential model qualifications prescribed for different categories, the specific qualifications covering the relevant fields, location-specific requirements of the posts as well as the desirable specialization wherever required in case of posts of different functional groups should be finalized

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in case of direct recruitment in consultation with the concerned subject-matter divisions".

12. Learned counsel for the applicant does not dispute the correctness of the said notification and qualification contained in Annexure-CA-3. According to the applicant several persons holding Master's Degree in Economics were treated eligible and treating them qualified, promotion in Category-III was given. In support of his contention, he refers to Para 21 of the rejoinder affidavit. Said Para-21, for convenience, is reproduced below: -

"21. That there are so many technical in the different institute of I.C.A.R. have granted the promotions to T-5 to T-6 inspite of they have not acquired the post graduation degree in some facility as in graduation. There are some names of technical which is the knowledge of applicant who has been promoted.

Sl. NO.	Name of employee	Name of Institution	Graduation degree	Post graduate degree
1.	Shri Atul Kumar Saxena T-5 to T- 6 (Annexure CA 2)	Indian Grassland and Fodder Research Institute Jhansi 284003 U.P	B. Com Commerce, graduate	M.A. Economic
2.	Shri Indrapal	Central Institute For Research on Goats Makhdoom, Mathura 281122 (UP)	B.Sc (Science Graduate)	M.A. Economic
3	Shri Nar Singh	Indian Institute of Sugar Cane Research Lucknow, 226002- UP	B.Sc Agriculture	M.A. Economic
4	Shri Sanjay Pandey	National Research Centre for Soyabean Indore-	B.Sc Agriculture	M.A. Economic

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5	Shri Charan Singh	National Research Centre for Soyabean Indore- 452017 (MP)	B.Sc Agriculture	M.A. Economic
6	Shri M.L Jagid	Central Sheep and Wool Research Institute, Aulkaanagar District (Raj), 304501	B.A.	M.A. Economic

13. The afore quoted Para has been replied by the respondents vide Para 17 of the supplementary counter affidavit, which reads : -

"17. That in reply to the contents of paragraph 21 of the rejoinder affidavit it is stated that the petitioner has given the details of six nos. of Technical employees, who have been promoted to T-6 post. They are employed in different institutes accept the employee at Sl. NO. 1. The facts and other relevant information in each case is being collected from all the concerned institutes. The position would be placed before the Hon'ble Court at the time of hearing of the matter. If any case of erroneous promotion is detected, remedial action shall be taken to rectify the mistake. However, in the 1st instance, fact of each case have to be seen, whether the named employee were considered for promotion after 5 years of service or after 10 years of service as per the revised Technical Service Rules amended w.e.f. 3.2.2000.....As regard the name of Shri Atul Saxena, T-6 at Sl. NO.1, as shown by the petitioner, it is to submit that Shri Atul Kumar Saxena had been appointed on the post of T-II-3(Cat-II) against the essential qualification required Bachelors degree in Agriculture/or with Economic vide Institute's notification, AO No. IGFRI 3/87. He has the Master's degree in the subject "Economics" & Bachelor's degree in commerce having allied subject in Economics. He is classified in the functional group "Field & Farm" at Sl. NO. 33 vide circular NO. F-7 (6)/Tech. Adj./91-Rectt. Dated 25.9.1991. As he was appointed against a post whose job requirement needed a graduate in Economic, Masters degree in Economics would be undoubtedly 'relevant' for promotion in his case but not in the case of the applicant".

14. Perusal of the para 17 of the supplementary counter affidavit nowhere satisfactorily explains by giving the details of the 'nature of duty' attached to the post given to Atul Saxena and those post on which the

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applicant was to be promoted. It is not denied that Atul Kumar was promoted while he has Master's Degree in Economics. The only explanation, though vague and stretched is that Atul Kumar was appointed against the post and considering the duties in respect thereof, Master's Degree (in Economics) was considered sufficient. The respondents have made no effort to give details of the duties pertaining to the post of Atul Saxena and that claimed by the applicant. Therefore it stands proved on record that the respondents have treated MA (Economics) in the past as a subject 'relevant to the field'.

15. It is true that qualifications were amended on the basis of office memorandum circular dated 24.2.2006 and the same were not available to the applicant as his case for promotion came up for consideration in the year 2005. The said circular, however, render valuable assistance to the 'qualifications' prescribed in 2005; phrase 'relevant field' as mentioned in the qualification prescribed vide circular dated 24.2.2006 i.e. 'Master's Degree' in Agriculture and any other branch of science/social science relevant to agriculture. It is to be seen as to whether MA (Economics) is a subject of 'Social Science' and relevant to agriculture.

16. Oxford Dictionary, Tenth Edition, page 1362 defines the word Social Science as- "scientific study of human society and social relationships a subject within this field, such as Economics or Polities". Apart from the above definition of Social Sciences given in the Oxford Dictionary, it is a matter of common knowledge that 'Agricultural Economics' is a 'well known' expanding field. No one can deny, in a country like India, where more than 70% population thrives on agriculture, that it is very important subject/issue whereupon entire economy of this Nation depends and all the 'Societies are intractably linked to it.

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17. The applicant has filed statement synopsis relating to his MA (Economics) project/Annexure SRA-3 which shows that project undertaken by him related to 'Sociology, the scientific study of human social relations or group life. Other disciplines within the social sciences-including economics, political science, anthropology and psychology are also concerned with topics that fall within the scope of human society'.

18. In view of the discussions made above, this OA deserves to be allowed. The applicant is entitled to the relief claimed.

19. Consequently we direct the respondents to consider the case of the applicant (on the basis of 'Assessment Form' filed by the applicant) for promotion from Category-II to Category-III Grade T-6. We direct the respondents to provide 'Assessment Form', if required and also not already provided and also accept the same and consider the case of the applicant treating him as eligible for promotion to Category-III post on the basis of MA (Economics) Master Degree treating him to be eligible w.e.f. 1.1.2005 and extend all benefits/privileged as treating him in category -III T-6 just before his juniors in Category-II post, if any already promoted. The respondents shall ~~not~~ consider and finalize promotion in question within a period of two

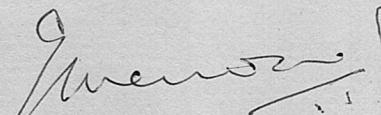
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months from the date of receipt of Assessment Form. It is made clear that no advantage shall accrue to persons in category -II on the basis of this judgment, if such person did not approach the Tribunal/Court at the relevant time. It is made clear that the applicant shall not claim difference of arrears but he shall be entitled to his seniority etc. with effect from the date he was entitled for promotion-seniority, other consequences for the purpose of post retiral benefits etc.

20. The OA stands allowed.

21. No order as to costs.


Member-A
Member-J

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