

**Central Administrative Tribunal
Ernakulam Bench**

OA No.180/00389/2020

Wednesday, this the 31st day of March, 2021

C O R A M

Hon'ble Mr.P.Madhavan, Judicial Member

Hon'ble Mr.K.V.Eapen, Administrative Member

C.K.Sukumaran, age 59 years,
S/o Late Kochu,
Assistant, Central Institute of Fisheries Technology
Willingdon Island, Matsyapuri P.O.,
Kochi-682 029.
Residing at Type III/18, CIFT Quarters,
Perumannur P.O., Ernakulam-682 015.

Applicant

(Advocate: M/s Kaleeswaram Raj & Associates))

Versus

1. Union of India represented by
its Secretary, Department of Agriculture,
Co-operation and Farmers' Welfare,
Ministry of Agriculture, Krishi Bhavan,
Rajendra Prasad Road, New Delhi-110 001.
2. Indian Council of Agricultural Research
represented by its Secretary/Director General,
Krishi Bhavan, Rajendra Prasad Road,
New Delhi-110 001.
3. Central Institute of Fisheries Technology-ICAR
represented by its Director, CIFT Junction,
Willingdon Island, Matsyapuri P.O.,
Kochi-682 019.
4. The Director
ICAR-Central Institute of Fisheries Technology,
CIFT Junction, Willingdon Island, Matsyapuri P.O.,
Kochi-682 029, Ernakulam District.
5. The Senior Administrative Officer
ICAR- Central Institute of Fisheries Technology,
CIFT Junction, Matsyapuri P.O., Willingdon Island,
Cochin-682 029, Ernakulam District.

6. V.K.Raji
 Assistant
 ICAR-Central Institute of Fisheries Technology
 CIFT Junction, Matsyapuri P.O., Willingdon Island
 Cochin-682 029, Ernakulam District. Respondents

Advocate:

Mr. T.C.Krishna, Sr.PCGC for R1
 Mr. P.Santhosh Kumar for R2 to 5

The OA having been heard on 29th March, 2021, this Tribunal delivered the following order on 31st March, 2021:

O R D E R

By P.Madhavan, Judicial Member

This is an OA filed seeking the following reliefs:

- (i) *Set aside Annexure A9 as unjust, illegal and arbitrary.*
- (ii) *Set aside Annexures A1, A3, A4, A5 and A7 to the extent to which they post the applicant at the Veraval Research Centre of ICAR – Veraval and not at the CIFT Headquarters, Cochin as unjust, illegal and arbitrary.*
- (iii) *Declare that the order dated 10.8.2020 issued promoting V.K.Raji to the post of Assistant Administrative Officer at the Veraval Research Centre ICAR Veraval is unjust, illegal and arbitrary and liable to be set aside.*
- (iv) *Declare that the applicant is entitled to continue in the post of Assistant Administrative Officer at CIFT Headquarters, Cochin.*
- (v) *Direct the respondents to promote the applicant to the post of Assistant Administrative Officer by retaining him at CIFT Headquarters, Cochin.*
- (vi) *Direct the respondents refraining the 5th respondent or any other juniors joining the post of Assistant Administrative Officer at the Veraval Research Centre of ICAR-Veraval.*

2. In short, the applicant is working in the post of Assistant with the Central Institute of Fisheries Technology, Ernakulam and he was promoted to the post of Assistant Administrative Officer as per Annexure A1 order. As per the said order, he was posted at Veraval Research Centre of ICAR. The said order was issued on 23.3.2020 when the nation wide lock down was in force due to Covid-19 pandemic. Then the applicant sought for permission from the respondent authorities to

continue at CIFT, Kochi. He was initially permitted to continue at Kochi but the authorities fixed various dates for joining at Veraval. Thereafter, the applicant could not join at the Veraval Centre within the prescribed date due to non-availability of transportation facilities. The respondents reverted him as per Annexure A9 order. According to the applicant, the post of AAO is not fixed to any Centre. The same can be shifted in accordance with the availability of eligible persons. The applicant could have been posted at the Headquarters itself. There was no administrative exigency or public interest involved in posting the applicant at Veraval Centre. Now the respondents have appointed 6th respondent to the said post. According to the applicant, the action of the respondents is highly arbitrary and illegal and liable to be set aside.

3. The respondents entered appearance and filed a detailed reply. According to them, the non-scientific posts of any ICAR Institute are sanctioned by ICAR, New Delhi and employees will be shifted on the basis of workload of research activities of an Institute. The person who was working as AAO at Veraval Research Centre of CIFT retired in February 2020. Veraval Research Centre is having many activities like conducting training classes, undertaking contract research, field exhibitions etc., for the benefit of the fisheries sector in general and fishermen community in particular. When the post became vacant, one Aleyamma was promoted as AAO and posted at Veraval as per order dated 16.3.2020. But she declined to accept the offer and it was cancelled. Subsequently the said position was offered to Sri C.K.Sukumaran (the applicant herein) being the next senior most Assistant, as per Annexure A1 order dated 23.3.2020. The applicant had accepted the offer and submitted his willingness to join at Veraval. He requested to permit him for reporting at CIFT Headquarters due to Covid pandemic on 2.4.2020. Considering the pandemic situation, he was permitted to work at CIFT Headquarters and

directed him to join at Veraval as soon as the situation became normal. Since Covid-19 unlock period started and flights were operating, the office had asked the applicant to report at Veraval on or before 30.6.2020. The applicant, instead of reporting at Veraval, again requested to extend the period for joining at Veraval. Though the flights were in operation to Diu, the period to join at Veraval was extended upto 31.7.2020 on humanitarian grounds. But again the applicant had submitted a request on 30.7.2020 in the evening for extension of time to join at Veraval. Considering the Veraval Centre's official work, it was decided not to extend the joining period further and the offer given to him as AAO was withdrawn. As per the terms and conditions of the offer of appointment issued to the applicant, he was reverted to the post of Assistant and he was debarred for promotion for one year as per Annexure A9 order dated 3.8.2020.

4. According to the respondents, there exist administrative exigency and public interest in posting him at Veraval. Even though the authorities had taken a lenient view and permitted him to continue at Kochi and gave him joining time till 31.7.2020, the applicant was not ready to join there. This does not mean that there is no necessity of posting an AAO at Veraval. According to the respondents, the authority has discretionary power to transfer an employee on promotion even though he is on the verge of retirement within 2 years. Veraval Centre is an important Centre for SIFT and is generating revenue by undertaking contract research, fish processing technology etc. To execute all these activities, Veraval Centre requires an administrative staff of an officer cadre. After the withdrawal of the offer to the applicant, the post was offered to one V.K.Raji, the 6th respondent herein and she had accepted the offer and joined duty on 3.9.2020. A true copy of the order appointing the respondent No.6 and her joining duty etc are produced as Annexures R4 (a), (b) and (c). There is no merit in the contentions raised by the

applicant.

5. We have heard the counsel for the applicant and the counsel appearing for the respondents as well in this case. On a perusal of Annexure A1, it can be seen that the applicant was promoted and posted as Administrative Officer and it categorically stated that the promotion will take effect from the date of his joining the duties of Assistant Administrative Officer at Veraval Research Centre of ICAR-SIFT Veraval. It is also clearly mentioned that the applicant was already granted financial upgradation under MACP Scheme and he is not eligible further benefit of fixation of pay. Even though applicant was granted extension of time upto 31.7.2020 on various grounds, he did not care to join at the place of posting and continued to stay at Cochin. He has never declined to accept the promotion but at the same time he did not join at the place of transfer as offered by the respondents. The respondents had issued Annexure A9 order withdrawing the offer of promotion given to the applicant as per order dated 3.8.2020. We do not find any illegality or arbitrariness in the action of the respondents in this case. The respondents have clearly stated the importance of the post in their reply and submitted that the person who was working as AAO at Veraval had retired in February 2020 and it was in that post the applicant was promoted and posted. He declined the promotion by not joining there and the said post was given to the next senior person Raji R6. The applicant came up with the OA only after the appointment of respondent No.6 in the vacant post. There is no reason to interfere with the order passed by the respondents as Annexures A1 to A9 in this case. We find no merit in the OA.

Accordingly, the OA stands dismissed. No order as to costs.

(K.V.Eapen)
Administrative Member
aa.

(P.Madhavan)
Judicial Member

Annexures filed by the applicant:

Annexure A1: Copy of the order No.F2-1/2020/Estt dated 23.3.2020 issued by the Senior Administrative Officer to the applicant.

Annexure A2: Copy of letter dated 2.4.2020 submitted by the applicant to the 4th respondent.

Annexure A3: Copy of the office order No.F.No.2-1/2020-Estt dated 2.4.2020 issued by the Senior Administrative Officer.

Annexure A4: Copy of the office order No.F.2-1/2020/Estt dated 16.4.2020 issued by the Assistant Administrative Officer.

Annexure A5: True copy of the note issued to the applicant on 23.6.2020.

Annexure A6: Copy of the letter dated 25.6.2020 submitted by the applicant to the 4th respondent.

Annexure A7: Copy of the note issued by the Senior Administrative Officer to the applicant on 30.6.2020.

Annexure A8: Copy of the letter dated 30.7.2020 submitted by the applicant to the 4th respondent.

Annexure A9: Copy of the office order No.F.7B/85-Estt dated 3.8.2020 issued by the Senior Administrative Officer.

Annexure A10: True copy of the guidelines for intra institutional transfer.

Annexures filed by the respondents:

Annexure R4(a): True copy of the office memorandum No.F2-1/2020-Estt dated 5.8.2020.

Annexure R4(b): True copy of letter dated 20.8.2020.

Annexure R4(c) : True copy of letter dated 3.9.2020 by the 6th respondent.