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(Reserved)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Dated, Allahabad, this 13th day of March, 2001

CORAM : Hon'ble Mr. Rafiq Uddin, Member(J)
Hon'ble S. Biswas, Member(A)

original Application No. 1663/92

Surendra Kumar Johri
Son of Late Lal Banadur Johri
at present working as Sanitary Inspector,
Indian Veterinary Research Institute,
Izatnagar, Bareilly

..... Applicant

Counsel for the applicant : Shri R.M. Saggi
Shri R.C. Pathak

V E R S U S

1. Union of India through the
Director General, Indian Counsel of
Agricultural Research, Krishi Bhavan, New Delhi
2. Director,
Indian Veterinary Research Institute,
Izatnagar, District- Bareilly

.... Respondents

Counsel for the Respondents: Shri J.N. Tiwari

O R D E R

(Reserved)

(Order by Hon'ble Mr. Rafiq Uddin, Member(J))

The applicant seeks direction to be issued to the Respondents for suspending the operation of the retirement notices dated 30.1.1991 and 19.9.1992 annexed as Annexure 1 and 1-A to this O.A. respectively and to treat the applicant to continue in service as Sanitary Inspector till 31.1.1995. The applicant also seeks direction that the post of Sanitary Inspector be placed in the technical category and to allow the applicant all benefits of technical category. The applicant has also sought quashing of the impugned retirement notices.

The Indian Counsel of Agriculture Research, New Delhi (Respondent No.1) is a registered body under the Society Registration Act. The Indian Veterinary Research

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Institute, Izatnagar, Bareilly (Respondent No.2) is one of the Research Institutes which is directly under the control of Respondent No.1. However, when the applicant was appointed Sanitary Inspector in the office of the Respondent No.2 on 7.1.1960 the Respondent No.2 was directly under the control of Government of India. Later on with effect from 1.4.1966 the administrative control of Respondent No.2 and various other Research Institutes throughout India came under the direct administrative control of Respondent No.1. The Respondent No.1 after taking over the administrative control of Respondent No.2 with effect from 1.4.1996 framed its own Recruitment Rules for various categories of the employees working there. Under the Rules employees working under Respondent No.2 have been categorised in 5 categories namely- (1) Scientific, (2) Technical, (3) Administrative, (4) Auxiliary and (5) Supporting.

The case of the applicant is that he was appointed to the post of Sanitary Inspector and the post of Sanitary Inspector has been placed under the category of Auxiliary. The grievance of the applicant is that by virtue of nature of duties, qualification, training, the post of Sanitary Inspector should have been categorised as Technical. It is contended that the Sanitary Inspector has to perform various multifarious type of duties like supervision of entire sanitation works of the Institute like maintenance of Sokage pits, spetic tanks, drains, supervising the water supply, Sewerage system management and its operation. The applicant claims that a Sanitary Inspector has to perform the duties of cleaning the Laboratory and to keep them disinfected for the purpose of research etc. The duties of Rabbits control programme organised by the Veterinary Public Health Division of the Institute are also performed

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by Sanitary Inspectors. It is further contended that the nature of job of the applicant is of highly technical nature and consequently his post should have been categorised under the technical category.

The applicant has also stated that the Service Rules for the Auxiliary category personnel were framed by the Respondent No.2 only in the year 1981 which also shows that the Respondent No.2 could not decide the nature and category of the post of Sanitary Inspector till 1981. It is further pleaded that X-Ray Technical Assistant and Laboratory Technician who work in the human hospital, have been categorised in the technical category and as such the Respondents have discriminated the Sanitary Inspectors and have treated them in different manner in violation of provision of Article 14 and 16 of the Constitution of India.

The applicant has also mentioned that in case the applicant's post of Sanitary Inspector is placed into the Technical category, he will be entitled for promotion to the next higher grade after 5 yearly assessment and he will also retire after attaining the age of 60 years and he is being denied by aforesaid avenues being in Auxiliary category.

The Respondents have denied the claim of the applicant by stating that since the applicant does not perform any service in support of research and education the post of Sanitary Inspector has not been categorised as Technical post. The post of Sanitary Inspector which exists in Central Government Departments has also been classified as non-technical. It is also pointed out that a post cannot be re-classified into a Technical post merely because it requires skill. It is further stated that the post of Sanitary Inspector has been

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classified on the basis of report of Study Expert Committee and recommendation of Working Group.

We have heard the Learned Counsel for the parties and perused the records.

It has been contended by the Learned Counsel for the Respondents that research work is the main activity in the Respondent No.2. It has also pointed out that a Sanitary Inspector does not perform any technical work and only performs the duties of auxiliary service requires for normal working of cleaning of drainage and sanitation. Learned Counsel for the Respondents has also stated that classification and duties of posts has been made on the basis of recommendation of Expert Committee approved by the Cabinet. It has also pointed out that the proposal was forwarded by the Respondent No.1 for abolition of auxiliary category as a whole and the various institutes were requested to furnish the requisite information in this regard. The matter was placed before the Governing body in its meeting held on 31.12.1990. After considering the matter the Governing Body decided that the Auxiliary category should not be abolished. It has also been brought to our notice that the matter in support of reclassification of Auxiliary category has been referred to the Arbitration which will communicate its decision in due course of time.

It is worth mentioning that the job of classification of post of including technical, auxiliary etc. and allocation of duties to them can very well be performed by a body having special knowledge of particular subject. It is upto to such Expert Body who considers its aspect and nature of duties performed by various posts while determining their categories.

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The applicant and other concerned persons should approach and place their cases before such Expert Committee for their grievances. A Court can interfere only when a clear case of discrimination is made out against the decision of Expert Body.

In the present case we have been told about the criteria for categorisation of various posts contained in the Manual of Administrative Instruction (Para I). Technical and Auxiliary posts have been defined as under:-

"Para 1.2 Technical : Technical posts include all posts the incumbents of which are performing technical service in support of research and education whether in the Laboratory, workshop or field, or in areas like Library, documentation, publication and agricultural communication. The minimum scale of pay of technical posts is Rs.260-430.

Para 1.4. Auxiliary : Auxiliary posts include all posts, the incumbents of which are engaged in providing medical, paramedical, transport, security and other similar services to the organisation. The minimum scale of pay of Auxiliary posts is Rs.260-350."

Now, the verbal meaning of word "Auxiliary" is secondary or supplementary whereas the word "Technical" means knowledge about a particular subject or belonging to the specialised knowledge of a subject. There is no dispute that research in Veterinary science is the main activity in the Institute (as per Reference No.2). In other words research in Veterinary science is the particular subject in which research is carried out in the Institute. It has been rightly contended by the Learned Counsel for the Respondents that the incumbents who perform technical service in support of research and education of Veterinary Science have been classified having technical post whereas the incumbents who are engaged providing medical, paramedical, transport, security and other civil services for normal working of the organisation have been categories holding the Auxiliary posts. These persons actually are not engaged in the duties which directly support or help the

research and education of a Veterinary science. Even according to the applicant's own version nature of duties performs by a Sanitary Inspector are duties of cleaning the Laboratory and to keep them disinfected for the purpose of research work etc. or the duties of Rabbinic control programme organised by the Veterinary Public Health Division of the Institute do not indicate that duties of a Sanitary Inspector are of technical nature. As a matter of fact the nature of duties of a Sanitary Inspector^{/is} mainly to help in the normal and smooth working of the organisation and do not involve direct support in the research work in the Veterinary science. In our considered view, therefore, the post of Sanitary Inspector has been correctly categorised as Auxiliary post in the light of nature of work performs by a Sanitary Inspector and defined in the Administrative Instruction cited above.

As stated above the categorisation of the post has been made on the basis of an Expert Committee and Working Group. It has not been disputed on behalf of the Respondents that such reports were submitted by the Expert Committee and Working Group in this context.

Since the applicant is holding the post of Auxiliary hence he is not entitled to any benefit of the post of technical category and cannot claim his age of retirement of 60 years. Therefore, there is no illegality in the retirement notices dated - 30.1.1991 and 19.9.1992 (Annexure 1 and 1-A). The

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applicant is also not entitled for a direction to the Respondents to place the post of Sanitary Inspector to the technical category. In view of what has been stated above we do not find any merit in this O.A. and the same is dismissed.

There will be no order as to cost.

S. B. S.
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Ravi Vaidya
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In The Central Administrative Tribunal

ALLAHABAD BENCH

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Applicant (s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

Notes of the Registry	Orders of the Tribunal
	<p><u>6-11-2000</u> Hon. Mr. Rafiquddin J.M. Hon. Mr. S. Biswas, A.M.</p> <p>No sitting after lunch. Adjourned to 16-10-2000 for hearing.</p> <p>Boe A</p> <p><u>16.10.00</u> Hon. Mr. Rafiq Uddin, J.M. Hon. Mr. S. Biswas, A.M.</p> <p>Sr R.C. Pathak, counsel for the applicant. None for the respondents. Arguments heard Order reserved.</p> <p>S/ AM. Dm</p>