

CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
ALLAHABAD BENCH, ALLAHABAD

Dated: Allahabad, the 18th December, 2000

Coram: Hon'ble Mr. Justice R. R. K. Trivedi, VC
Hon'ble Mr. S. Dayal, A.M.

Original Application No. 1718 of 1993

Sri Bhoorey Khan, aged about 45 yrs,
son of Sri Lal Khan,
r/o Village Peer Bahora,
P.O. Izat Nagar, Bareilly,
Presently, he is working as a
Driver on Adhoc Basis under
kind control with the Director (IVRI),
Izat Nagar, Bareilly.
(By Advocate Sri K.P. Singh) Applicant

Versus

1. Union of India, through the Secretary for Agriculture, Ministry of Agriculture, Government of India, Krishi Bhawan, New Delhi.
2. Indian Council of Agriculture Research (I.C.A.R.) through its Secretary (I.C.A.R.), Krishi Bhawan, New Delhi.
3. The Director, Indian Veterinary Research Institution, (IVRI), Izat Nagar, Bareilly (UP).

. Respondents.

(By Advocate Sri Rakesh Tiwari
and Sri N.P. Singh)

O_R_D_E_R

(By Hon'ble Mr. S. Dayal, A.M.)

This application has been filed under Section 19 of the Administrative Tribunals Act, 1976 for setting aside the order dated 5.11.1993, reverting the applicant from the post of Driver to the post of Mazdoor. A prayer has been made to regularise the services of the applicant

without applying the new recruitment rules for the post of Driver. The applicant claimed that he was selected as Driver on the basis of procedure prescribed for regular selection and appointed as Driver on ad hoc basis on 19.1.1987 merely because Recruitment Rules were under modification. He fulfilled all the qualifications under the old rules. However, the new rules, which were notified vide counsel's letter dated 29.8.1986 were sent to the Institute on 4.9.1986. Some of the Drivers including the applicant, who were appointed on ad hoc basis did not fulfil either the requirement of 3 years' experience or the requirement of age limit of 18-25 years were, therefore, reverted or terminated. The applicant was reverted to the post of Grade-I Mazdoor by the order dated 5.11.93. Thus, ~~other~~ order gave rise to this application.

2. We have heard the argument of learned counsels for the parties. We also considered the pleadings on record.

3. We find justification in the claim of the applicant that he was selected after applying full and rigorous procedures of selection for regular recruitment, although he was appointed on ad hoc basis due to the proposed modification in Recruitment Rules against the post, for which interview was held on 5.8.1986. The appointment of the applicant was made on 19.1.1987.

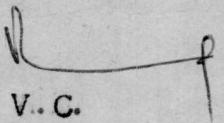
4. We find it to be a fact that the applicant was eligible under old Recruitment Rules, which were notified by Indian Council of Agriculture Research letter dated 7.7.1971. The applicant, however, did not

fulfil the qualification of experience of driving vehicle at least for 3 years at the time he was inducted in the service on 19.1.1987. The Director of Indian Veterinary Research Institute had sent a detailed proposal to the Indian Council of Agriculture Research on 13.9.1992, proposing that the applicant along with others may be considered by the Council for continuous appointment on regular basis by granting them one time relaxation. It is also mentioned that out of 12 adhoc appointees, cases of three Drivers, who fulfil the essential qualifications as per Recruitment Rules, have been regularised from the date of their initial appointment on ad hoc basis. The proposal was, however, not accepted by the Indian Council of Agriculture Research and, consequently, the applicant was ordered to be reverted by an order dated 5.11.1993 to the post of Grade-I Mazdoor. Thus, the applicant remained in service from 19.1.1987 to 5.11.1993, a period of more than six years. Even if the initial appointment of the applicant on ad hoc basis was made, although the applicant did not have 3 years' experience as per new Recruitment Rules, it is quite clear that at the time the order of reversion was passed, the applicant had more than six years' experience. Under the circumstances, the order dated 5.11.1993 is clearly bad in law, because the applicant did fulfil the required qualifications when the proposal for his regularisation was made. The order dated 5.11.1993 is, therefore, set aside. The Respondents are directed to consider regularisation of services of the applicant on the post of Driver in Veterinary Research Institute with effect from the date

he completed experience of 3 years of service required vide new Recruitment Rules. The compliance of this direction shall be made within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.



A. M.



V. C.

Nath/