

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 19th day of MAY 2004.

Original Application no. 593 of 1993.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman
Hon'ble Mr. S.K. Hajra, Administrative Member

Noni Ram, S/o Sri Phaguni Ram,
R/o A-341/3, Avas Vikas, Rajendra Nagar,
Bareilly.

... Applicant

By Adv : Sri R.C. Pathak

V E R S U S

1. The Director, Indian Veterinary Research Institute
Izatnagar, Bareilly.

2. Indian Council of Agriculture Research through
Director General, Krishi Bhawan,
NEW DELHI.

... Respondents

By Adv : Sri D.P. Tripathi
Sri J.N. Tiwari
Sri B.B. Sirbhi

O R D E R

Justice S.R. Singh, Vice-Chairman.

The applicant herein seeks the quashment of order dated 17.6.1992 passed by the IVRI coupled with direction to the respondents to place the petitioner in Category 2 of the Technical Service with effect from his initial appointment with all consequential benefits.

2. In the OA it is pleaded that in a similar case, the Cuttack Bench of this Tribunal granted relief to the applicants vide order dated 31.08.1999. It is alleged in the OA that the applicant has wrongly been placed in Category I and his wrong placement in Category I prejudiciously

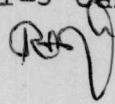
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affects his right of placement in Category II and his right to be promoted to T/4 and T/5.

3. A perusal of impugned order dated 17.06.1992 would indicate that the applicant's claim raised vide application dated 30.01.1992 for placement in Category II of Technical Assistant at the time of initial appointment w.e.f. 16.06.1996 has been rejected. Since post held by him was created in Category I as T/2 in the pay scale of Rs. 330-560 (pre revised) and the mere fact that he was having higher qualification would not bestow any right for his placement in Category T/2 under the provision of TSR. The judgment of Cuttack Bench of the Tribunal has been set aside by the Hon'ble Supreme Court vide judgment dated 06.10.1994 rendered in Civil Appeal no. 4729/91. In-fact this OA was earlier allowed on the basis of the judgment of Cuttack Bench, but on review application the order passed by this Tribunal was recalled and the OA restored to its original number for decision afresh.

4. The points involved in this case are concluded/ settled against the applicant in view of the judgment of the Apex Court in Civil Appeal no. 4729/91. The applicant therein was included into Category-1, T/2 in the pay scale of Rs. 330-560. The Hon'ble Supreme Court has repelled the contention that if any person of Category I which is in the lowest grade cannot on the basis that he is possessed of the qualifications for Category II, be authmetically promoted to the grade of T-II-3 of Category II and in that view of the matter the applicant's claim for being placed in Category II grade T-II-3 cannot be accepted.



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5. Accordingly the OA fails and is dismissed with
no order as to costs.

Samuel K. Haynes
Member (A)

RHQ
Vice-Chairman

/pc/