

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 21ST DAY OF AUGUST, 2002

Original Application No.773 Of 2002

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Subhash Chandras Saxena, Son of  
Late Shri Arjun Singh Saxena,  
Resident of L.I.C 417, B.D.A  
Teebari Nath Complex, National Road  
Bareilly.

... Applicant

(By Adv: Shri M.K.Mishra)

Versus

1. The Union of India through the  
Secretary, Ministry of  
Agriculture, Krishi Bhawan,  
New Delhi.
2. The Secretary Director  
Indian Council of Agricultural  
Research, krishi Bhawan,  
New Delhi.
3. The Director Indian Veterinary  
Research Institute, Izat Nagar  
Bareilly.
4. The Chief Administrative Officer  
Indian Veterinary Research Institute  
Izat Nagar, Bareilly.

... Respondents

(By Adv: shri B.B.Sirohi.)

O R D E R (Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has  
prayed for a direction to the respondents to promote  
the applicant from the date he was found due <sup>for promotion</sup> in the  
department with all consequential benefits including  
arrears of salary.

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The facts of the case are that applicant joined Indian Veterinary Research Institute, Izat Nagar (hereinafter referred as I.V.R.I) as Laboratory Assistant Grade T-1 on 17.5.1978. He continued in service till 1981 when his services were terminated by order dated 12.5.1981. The order of termination was challenged by applicant in Labour court which was registered as Industrial Dispute No.20/87 before the Central Govt. Industrial Tribunal, Kanpur. The Industrial Tribunal accepted the claim of the applicant and gave an award on 31.5.1988 to the following effect:

"Thus, from the discussions, I hold that the action of the management of Indian Veterinary Research Institute, Izat Nagar Bareilly, in terminating services of Sri Subhash Chandra Saxena w.e.f 12.5.1981 is not legal and justified. The result is that the workmen is entitled to be reinstated in service with 50% backwages subject to submission of an (sic) to the effect that he was not employed anywhere during the period when he was out of employment."

The aforesaid award was challenged before Hon'ble High court in writ petition No.22651/88. After hearing parties writ petition was dismissed on 29.9.1993. the Hon'ble High court concluded that the award issued by the Labour court does not suffer from any infirmity or illegality, <sup>as</sup> <sup>the</sup> result is that the award is held to be valid and cannot be set aside in the writ petition. The writ petition <sup>was</sup> ~~was~~ accordingly dismissed. The applicant was reinstated in pursuance of the award of the Industrial Tribunal in 1994.



After the applicant was reinstated he raised claim regarding his promotion as his juniors were promoted during the period 1981-1994 when applicant was out of job. When the applicant was not promoted he filed an OA in this Tribunal which was registered as OA No.780/01. The OA was disposed of finally by order dated 9.7.01 by the following order:

"We consider it appropriate in the interest of justice to direct the respondents to dispose of the representation of the applicant dated 25.4.2000 by a reasoned and speaking order within a period of 3 months from the date of communication of this order alongwith a copy of the representation from the applicant."

In pursuance of the order dated <sup>at 9-7-2001</sup> ~~29.1.02~~ and the representation of the applicant has been rejected, aggrieved by which this OA has been filed. In the impugned order dated 29.1.02 in the penultimate paragraph the conclusion has been stated as under:

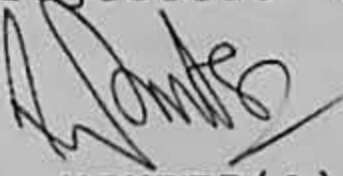
"The order of the Labour court has been complied with and he has been reinstated and back wages has been paid to him accordingly but he cannot be promoted unless he is found fit by Assessment Committee. His representation is disposed of accordingly."

The award given by the Industrial Tribunal has already been quoted above. From perusal of which it is clear that though applicant was reinstated with 50% of the backwages and he got the continuity in service but award is absolutely silent about the consequential benefits during the period 1981 to 1994 namely promotion etc during the period of service which could have normally accrued to the applicant. ~~The award of~~

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The award of the Tribunal has been confirmed by High court and it has been held that it <sup>did not</sup> ~~has~~ not suffered from any illegality. In the impugned order it has been found that as the rules require that for promotion to the next grade five years service is necessary which the applicant has not rendered, he cannot be considered for promotion. The Assessment Committee considered the claim of the applicant and found him unsuitable on the ground that as he did not work between 13.5.1981 to 22.1.1994, he had not gained the eligibility of five years of qualifying service. Reinstatement does not mean rendering actual service in that grade. It has also been said that promotion is not a right of an employee and he can be only considered if he is found eligible for the same. The Assessment Committee did not recommend his promotion as there was no achievement in service earned by him. We do not find any error of law in the impugned order dated 29.1.02, <sup>in</sup> ~~is~~ rejecting the claim of the applicant. He could only claim promotion in accordance with the provisions contained in the rules and <sup>as he</sup> ~~he~~ failed to fulfil the eligibility criterion provided in rules, his claim of promotion has rightly been rejected.

For the reasons stated above, we do not find any error in the <sup>order</sup> ~~law~~. The OA has no merit and is accordingly rejected. No order as to costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: 21st Aug: 2002

Uv/