

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

RA/M.A/O.A./T.A./ 466 1989

J. M. Rawani Applicant (s).

vs. K.K. Shah Adv. for the
Petitioner (s).

Versus

Union of India & ors. Respondent (s).

vs. P.A. Mishra Adv. for the
Respondent (s).

SR NO.	DATE.	ORDERS,
		<p>(Copy is served)</p> <p>6/11/89 Mr. K.K. Shah the learned advocate present. Case is adjourned. Case be posted for admission on 8/11/89</p> <p><i>KMR</i> 6/11/89 07 6/11</p> <p>15/11 P issue notice of admission with DL - after admission with DL</p> <p><i>P</i> 15/11/89</p> <p>RPAD Recd from Resp. 2</p> <p>28/11 P issue notice of continuation of DL - admitted with DL</p> <p>9/12 P issue notice of continuation of DL admitted with DL to follow</p>

SR NO.	DATE.	IN THE CENTRAL ADMINISTRATIVE TRIAL COURT AT AHMEDABAD ORDERS.
		<p>Reply of ced. J.R. filed by the respondent advocate Mr. Vin. A.T. A.O. A.M.A.R.</p> <p>RPAD: Recd from Resp 122 (12-2)</p> <p>19-12-89 Deleted due to non-availability of D.B.</p> <p>D.C. F/H.</p> <p>11/2/90 Mr. R.A. Mishra has filed a sick note. Mr. K.K. Shah learned advocate for the Petitioner Present. Adjourned. Registry to fix the date.</p> <p>Asish 11/2/90</p> <p><i>CK</i></p> <p>6-8-91. Notice is served to the Resp. no. 2 as per RPAD. The said notice AD. in respect of Resp. no. 1 is not seen on record though the notice is issued on 16-11-89. But the said respondent is served with notice after admission by which order dt. 30-11-89 passed in caveat Application 8/89 was communicated as per RPAD. on record.</p> <p>17/9/92 F/H</p> <p><i>J. G. Chauhan</i> DR (J) 6/8/91</p> <p>4/9/ Notice served as per RPAD.</p> <p>9.11.90 RPAD Received from Ref. No 12.2 9.11</p>

GAC/

(1)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Shri J.M. Ramani

v/s

Union of I & Ors.

OA/190/89

Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman

12/5/1989

Heard Mr. D.M. Thakkar and Mr. R.A. Mishra, the learned advocates for the applicant and the respondents. Mr. Mishra states that under Rule 23 an appeal to the Indian Council of Agricultural Research authorities lies and the petitioner should be asked to exhaust this remedy. Learned advocate for the respondent disputes that this is a statutory remedy which requires to be exhausted. However, in view of the statement of the learned advocate for the respondent it is fit and proper that the following direction is issued.

The petitioner on his filing a representation or appeal within 15 days of this order as the case may be under Rule 23 referred to by the learned advocate, to the competent authority, the competent authority is directed to dispose of the appeal as quickly as possible within one month there of. The respondents are restrained from implementing the impugned order dated 1/5/1989 until the disposal of the appeal or any orders passed on the representation by the Competent Authority to entertain it or otherwise until one month from the date of its communication to enable the petitioner to seek any relief if he has any cause left. Learned advocate for the petitioner wants to withdraw the petition at this stage. Allowed. With this direction, the case is disposed of as withdrawn.

Sd/-
(P.H. Trivedi)
Vice Chairman

Caveat No. 8/89
with
C.A./466/89

2

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman
Hon'ble Mr. G.S. Sharma .. Judicial Member

8.11.1989

Learned advocates Mr. K.K. Shah and Mr. R.A. Mishra for the petitioner and respondents present. Both parties file~~s~~ respectively reply and rejoinder which be allowed to be taken on record. The case be put up on the next convenient date for admission.



(P H Trivedi)
Vice Chairman



(G S Sharma)
Judicial Member

*Mogera

O.A./466/89

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

10.11.1989

Heard Mr. K.K. Shah and Mr. R.A. Mishra, learned advocates for the petitioner and respondents respectively. Admit. The petitioner be protected against the impugned orders being implemented for a period of 15 days by way of ad interim relief. Respondents to reply within that period on interim relief and the reply on merits having been filed the case be posted for final hearing ^{ad interim relief} accordingly.

PH Trivedi
(P H Trivedi)
Vice Chairman

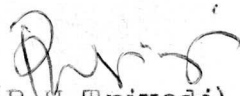
*Mogera

O.A./466/89

Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman

27/11/1989

Mr.K.K.Shah, learned advocate for the applicant has sent a leave note. Mr.R.A.Mishara, learned advocate for the respondents present. The case be posted on 30th November, 1989 for further direction. Interim relief earlier granted to continue until 30/11/1989.


(P.H.Trivedi)
Vice Chairman

a.a.bhatt

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CAVEAT APPLICATION/8/89

with

O.A./466/89

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

30.11.1989

Heard Mr. K.K. Shah and Mr. R.A. Mishra, learned advocates for the petitioner and respondents respectively. Mr. Mishra states that the caveat application may be treated as disposed of because he merely apprehended ^{with} the implementation of the repatriation order may be interfered with. The case be now fixed for final hearing. No orders on the caveat application are therefore required. Accordingly the C.A./8/89 stands disposed of. O.A./466/89 be posted for final hearing on 19th December, 1989. Interim relief to continue until further orders.

Ph...

(P H Trivedi)
Vice Chairman

*Mogera

O.A./220/88

with

O.A./466/89

6

Date : Office Report

~~XXXXXX~~

8.8.1991

Present : Learned counsel Mr.K.K.Shah for the applicant.

Learned counsel Mr.R.A.Mishra for the respondents.

ORDER

By the order dated 1.5.1991 in O.A./220/88 made on the representation of Mr.D.M.Thakkar and Mr.R.A.Mishra learned counsel for the applicant and respondents O.A./220/88 and O.A./466/89 were listed together perhaps because the applicant was same. We notice that the subject matter of the two application is different and the two do not appear to be linked together consequentially or otherwise. Hence O.A./220/88 and O.A./466/89 should be listed separately for final hearing. In O.A./220/88 now appears according to the information tendered by the applicant, who is present, Mr. N.M.Trivedi whose name alone be required to be shown as advocate for the applicant in O.A./220/88.



In O.A./466/89, according to the applicant Mr.K.K.Shah learned counsel appears. His name is correctly shown in the cause list.

Mr. R.M.Mishra appears in the above two cases on behalf of all the respondents.

O.A./466/89 should be listed in

Date : Office Report

Order



due course,

O.A./220/88 being a old matter should be listed for final hearing on 21.8.1991.

The copies of the order should be kept in each of the two files.

sd/-

(S.Santhana Krishnan)
Judicial Member

sd/-

(M.M.Singh)
Administrative Member

*A

Prepared by :



B. S. G. L.
14/08/91

Compared by :

[Signature]
COPY



[Signature]
Section Officer (J)
Central Administrative Tribunal
Ahmedabad Bench

(9)



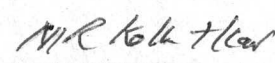

Date	Office Report	Order
17-9-92 40		<p>Shri K.K. Shah for the applicant Shri R.A.Mishra for the respondent.</p> <p>Counsel for respondent is ready. At the request of the applicant, Counsel Call for final hearing on 14th October 1992.</p> <p>Learned Counsel for respondent points out that there is a stay order operating in this case, He therefore oppose the prayer for adjournment. In the interest of justice this case be adjournto 14th October 1992 for final hearing No further Adjournments.</p> <p> (R.C.Bhatt) Member (J)</p> <p> (N.V.Krishnan) Vice Chairman.</p>


(8) (A)

Date s	Office Report	ORDER
14.10.92		<p>For want of time call on 9-12-92</p> <p><i>res</i> <i>u</i></p> <p>(R.C. Bhatt) (N.V. Krishna) Member (J) Vice Chairman</p> <p>* AS.</p>
9-12-1992		<p>Call on 15-2-1993.</p> <p><i>res</i> <i>u</i></p> <p>(R.C. Bhatt) (N.V. Krishnan) Member (J) Vice Chairman.</p>
15.2.93 7		<p>Learned advocate Mr.K.K.Shah seeks adjournment. Learned advocate Mr.R.A. Mishra, for the respondents is not present. The matter is adjourned to 11.3.93.</p> <p><i>u</i> <i>res</i></p> <p>(V.Radhakrishnan) (R.C. Bhatt) Member (A) Member (J)</p> <p>*SS</p>

DATE	OFFICE REPORT	ORDERS.
(3) 11.3.93		<p data-bbox="508 310 1428 413">For want of time the case is adjourned to 7th April, 1993.</p> <p data-bbox="508 470 827 635"> (V. Radhakrishnan) Member (A)</p> <p data-bbox="1141 527 1345 635"> (R.C. Bhatt) Member (J)</p> <p data-bbox="508 704 586 734">etc.</p>



DATE	OFFICE REPORT	ORDERS.
7-4-93		<p>Mr.Shah for the applicant submits that he has come to know that the applicant has directly sent written submission.</p> <p>Mr.Shah wants to inquire from xxx the applicant as to whether the applicant only wants written submissions to be placed or instead wants him to argue. Hence, the matter is adjourned to 15-4-93.</p> <p>Call on 15-4-93.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;">  (V. RADHAKRISHNAN) Admn. Member </div> <div style="text-align: center;">  (R.C. BHATT) Member (J) </div> </div> <p style="text-align: center; margin-top: 20px;">"SS</p>
15-4-93		<p>Mr.K.K.Shah for the applicant is present. Mr.R.A.Mishra for the respondents has sent a leave note. Hence, the matter is adjourned to 17-6-93.</p> <p>Call on 17-6-93.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;">  (M.R. Kolhatkar) Admn. Member </div> <div style="text-align: center;">  (R.C. Bhatt) Member (J) </div> </div> <p style="text-align: center; margin-top: 20px;">*SS</p>

DATE	OFFICE REPORT	ORDERS.
17/6/93		<p data-bbox="531 336 1409 448">This is a Division Bench matter, hence it is adjourned to 26/7/93.</p> <p data-bbox="1039 510 1262 660"> (R.C.Bhatt) Member(J)</p> <p data-bbox="623 697 669 735">SS</p>

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Date	Office Report	O R D E R	
26.7.93	31	The learned advocates are present.	
		Call on 25th August, 1993.	
		<i>M.R. Kolhatkar</i>	<i>Res</i>
		(M.R. Kolhatkar) Member (A)	(R.C. Bhatt) Member (J)
		vtc.	
25/8/93		Mr. R.A. Mishra for the respondents has filed a leave note.	
		Call on 6/10/93. I R to continue till then.	
		<i>M.R. Kolhatkar</i>	<i>Res</i>
		(M.R. KOLHATKAR) Member (A)	(R.C. BHATT) Member (J)
		ss	
6/10/93		By consent of the parties the matter is kept on 03/11/93. The applicant who is present today submits that as his learned advocate to argue the matter, the written submissions given by him may not be considered.	
		<i>M.R. Kolhatkar</i>	<i>Res</i>
		(M.R. KOLHATKAR) Member (A)	(R.C. BHATT) Member (J)
		ssh	

Date	Office Report	ORDER
3-11-93		<p>By consent of the parties, the matter is adjourned to 14-12-93.</p> <p><i>M.R. Kolhatkar</i> (M.R.KOLHATKAR) Member (A)</p> <p><i>R.C. Bhatt</i> (R.C.BHATT) Member (J)</p> <p>ssh</p>
14/12/93		<p>Sick note filed by Mr. Mishra, adjourned to 8.2.94.</p> <p><i>K.Ramamoorthy</i> (K.Ramamoorthy) Member (A)</p> <p><i>N.B. Patel</i> (N.B.Patel) Vice Chairman</p> <p>a.a.b.</p>
08-02-94		<p>For want of time the matter is adjourned to 21-3-94.</p> <p><i>K.Ramamoorthy</i> K RAMAMOORTHY MEMBER (A)</p> <p><i>N.B. Patel</i> N. B. Patel Vice Chairman</p>
21.3.94		<p>Time being over, adjourned to 25.4.1994.</p> <p><i>K.Ramamoorthy</i> (K.Ramamoorthy) Member (A)</p> <p><i>N.B. Patel</i> (N.B.Patel) Vice Chairman</p> <p>a.a.b.</p>

Date	Office Report	ORDER
25/4/94		<p>As Mr.K.K.Shah is indisposed, adjourned to 10/6/1994. Mr.R.A.Mishra is not present.</p> <p>(K.Ramamoorthy) Member(A)</p> <p>(N.E.Patel) Vice Chairman</p> <p>a.a.b.</p>
10/6/94		<p>Leave note filed by Mr.K.K.Shah. None is present for the respondents. Adjourned to 5/7/94.</p> <p>(Dr.R.K.Saxena) Member (J)</p> <p>(V.Radhakrishnan) Member (A)</p> <p>*ssh</p>
5-7-94		<p>Mr. Mishra for the respondents is not present. Mr.K.K. Shah is present for the applicant. Adjourned to 20-7-1994.-</p> <p>(Dr.R.K.Saxena) Member (J)</p> <p>(K.Ramamoorthy) Member (A)</p> <p>vtc.</p>
20.7.1994.		<p>By consent the matter is adjourned to 03.8.1994.</p> <p>(Dr.R.K.Saxena) Member (J)</p> <p>(K.Ramamoorthy) Member (A)</p> <p>ait.</p>

Date	Office Report	ORDER
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3-8-94		At the request of Mr. K.K.Shah adjourned to 6-9-94.
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WR

R

(Dr. R.K. Saxena)
Member (J)

(K. Ramamoorthy)
Member (A)

*AS.

6.9.1994.		Mr.K.K.Shah is present. None present for the respondents. Adjourned to 14.9.1994.
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WR

R

(Dr. R.K. Saxena)
Member (J)

(K. Ramamoorthy)
Member (A)

ait.

14.9.94		Mr.K.K. Shah for the applicant is present. None present for the respondents. Adjourned to 6.10.1994.
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WR

R

(Dr. R.K. Saxena)
Member (J)

(K. Ramamoorthy)
Member (A)

vtc.

10.94.		Mr.K.K.Shah is present. At the request of Mr.M.S.Trivedi for Mr.R.A.Mishra, last adjournment is given. Adjourned to 24.10.1994.
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WR

R

(Dr. R.K. Saxena)
Member (J)

(K. Ramamoorthy)
Member (A)

ait.

ORDER

14

Date

Office Report

24.10.94.

Learned advocates are present. For want of time the matter is adjourned to 25.10.94.

(Dr.R.K.Saxena)
Member (J)

(V.Radhakrishnan)
Member (A)

25.10.94.

ait.
The counsel for the applicant Mr.K.K.Shah and Mr.Vyas for Mr.R.A.Mishra for the respondents are present. At the request of Mr.Vyas, adjourned to 28.10.1994.

(Dr.R.K.Saxena)
Member (J)

(V.Radhakrishnan)
Member (A)

28.10.94.

ait.
Mr.K.K.Shah for the applicant and Mr.Vyas for Mr.R.A.Mishra for the respondents are present. At the request of Mr.Vyas, adjourned to 15.11.94.

(Dr.R.K.Saxena)
Member (J)

(V.Radhakrishnan)
Member (A)

15.11.94

ait.
Mr.K.K.Shah has filed sick note. None present for the respondents. Adjourned to 21.11.94.

(Dr. R. K. Saxena)
Member (J)

*ssh

(V. Radhakrishnan)
Member (A)

OA 466/89

Office Report

ORDER

21.11.94

None present for the parties. Adjourned to 28.11.94.

(Dr. R.K. Saxena)
Member (J)

(V. Radhakrishnan)
Member (A)

ssh*

28-11-94

Sick note filed by Mr. K.K. Shah. Adjourned to 15-12-94.

(Dr. R.K. Saxena)
Member (J)

(V. Radhakrishnan)
Member (A)

ssh*

15.12.94.

At the request of Mr. K.K. Shah, adjourned to 21.12.1994.

(Dr. R.K. Saxena)
Member (J)

(V. Radhakrishnan)
Member (A)

ait.

1-12-1994

Mr. Mishra is not present. Adjourned to 18-1-1995.

(Dr. R.K. Saxena)
Member (J)

(V. Radhakrishnan)
Member (A)

*AS.

Heard Mr. K.K. Shah, learned counsel for the applicant. None is present for the respondent.

Judgement Reserved.

(Dr. R.K. Saxena)
Member (J)

(V. Radhakrishnan)
Member (A)

The Judgement pronounced open court.

(Dr. R.K. Saxena)
Member (J)

(V. Radhakrishnan)
Member (A)

ATTACHED

CD

18-1-95

15

CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 466/89
T.A. NO.

DATE OF DECISION 01-2-95

Mr. Jagdish M. Ramani Petitioner

Mr. K.K. Shah Advocate for the Petitioner (s)

Versus

Union of India and Others Respondent

Mr. R.A. Mishra Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. V. Radhakrishnan Member (A)

The Hon'ble Dr. R.K. Saxena Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

} Yes

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Jagdish Mohanlal Ramani
C/o S.B. Patel
Timbawadi, Junagadh

Applicant.

Advocate Mr. K.K. Shah

Versus

1. The Union of India
Notice to be served through
The Secretary
Indian Council of Agricultural
Research, Krishi Bhavan,
New Delhi.
2. The Director,
National Research Centre for
Groundnut, Timbawadi,
Junagadh.

Respondents.

Advocate Mr. R.A. Mishra

J U D G M E N T

In

O.A. 466/1989

Date: 01-2-95

Per Hon'ble Dr. R.K. Saxena

Member (J)

In this case the challenge is made to the order whereby a deputationist who was permanently absorbed^{ed} in the department, was again treated as deputationist and was ordered to be repatriated.

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2. The facts of the case are that Shri Jagdish M. Ramani was appointed as Junior Clerk at Jodhpur in the Central Arid Zone Research Institute in 1972. He was promoted as Senior Clerk in 1978 and was posted at C.I.A.E. Bhopal. In the year 1982, the applicant made an application to go on deputation in National Research Centre for Groundnut at Junagadh. The application was processed and the applicant was posted as Assistant (on deputation) with effect from 30-4-1982 for a period of two years as disclosed in Annexure A-1 (two pages dated 1/2-4-1982 & 4-5-1982). The applicant joined the post at Junagadh and he worked with sincerity and devotion. The applicant appears to have prayed for permanent absorption and made an application. The result was that vide order dated 29-1-1983, Annexure A-3, the Director Central Arid Zone Research Institute, Jodhpur, was approached by the National Research Centre for Groundnut, Timbawadi, Junagadh, to furnish no objection Certificate and simultaneously to transfer his lien. The order about permanent absorption intimating to the applicant as well as the Director, Central Arid Zone Research Institute, Jodhpur, besides the copies being sent to other concerned authorities, was passed on 8-3-1983, Annexure A-2. It appears that the respondents communicated with Central Arid Research Institute, Jodhpur and ultimately on 19-7-1988, Annexure A-4, the Senior Administrative Officer intimated to the applicant as well as the Administrative Officer, National Research Centre for Groundnut, Junagadh that when the applicant was permanently absorbed at National Research Centre Groundnut, Junagadh, the question for maintaining of his seniority, promotion and pay

D

etc at the institute (Central Arid Zone Research Institute, Jodhpur) did not arise. The applicant was advised that any communication in future be routed through the National Research Centre for Groundnut, Junagadh.

3. It appears that after six years of the applicant having served in the National Research Centre for Groundnut, Junagadh, the activity for unsettling the applicant started. The case of the applicant is that the intention behind it was to accommodate some other person and therefore, the order dated 1-5-1989, Annexure A was passed by the Administrative Officer of National Research Centre for Groundnut to the effect that earlier order dated 8-3-1983 (Annexure A-2) was cancelled. Consequently the appointment of the applicant was deemed to be on deputation. The applicant then approached the Tribunal by filing O.A. 190/89 which was opposed on the ground that the applicant had not exhausted the remedies by way of appeal to the Indian Council of Agricultural Research. As a result, the O.A. was withdrawn with permission to file an appeal before the concerned authority. The permission of withdrawal of the O.A. was granted on 12-5-1989 (Annexure A-6). The applicant then presented the appeal, Annexure A-7 to the Secretary, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi. This appeal was rejected and the applicant was intimated vide Memo dated 13-10-1989, Annexure A. He was also intimated that the order of his repatriation passed on 1-5-1989 would be implemented after the expiry of one month. The applicant, therefore, approached this Tribunal seeking relief that the orders dated 1-5-1989 and 13-10-1989 being arbitrary

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and violative of principles of natural justice, be declared illegal and in-operative. The interim order about stay of the impugned orders was also granted. The ad interim order was passed on 10-11-1989 and was confirmed on 30-11-1989.

3. The respondents contested the case on the grounds that the applicant was not a permanent regular Assistant in National Research Centre for Groundnut and was only a deputationist. His permanent absorption was irregularly made on the initial stage on the initiation of the applicant himself and was therefore, cancelled on the instruction of the Indian Council of Agricultural Research. It is also contended that the applicant had mis-guided the authority at National Research Centre for Groundnut for his being absorbed permanently because he was holding only the post of Junior Clerk and was not eligible. It is also averred that Shri N. Viswambharan was not a deputationist but was holding the post of Assistant in the parent Institute on regular basis and he was transferred to National Research Centre for Groundnut Junagadh as ^{against} direct recruit quota. It was also pointed out that the decision of permanent transfer of Shri N. Viswambharan was taken prior to his joining at Junagadh. As such the contention of the applicant that he was unsettled from the post on which he was absorbed to accommodate Shri Viswambharan, was denied. The case of the respondents is also to the effect that the decision of repatriation of the applicant was taken only with a view to rectify the irregularity which was committed in the appointment of the applicant at National Research Centre for Groundnut for which

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the applicant himself was responsible for the manipulation of records and concealment of facts. It is also contended that the order of recalling the absorption order is legal and cannot be challenged.

4. We have heard the learned counsel for the applicant and the respondents and have gone through the record.

5. There are certain facts which are not disputed. It is not disputed that the applicant was appointed in the year 1972 as Junior Clerk at Central Arid Zone Research Institute, Jodhpur. It is contended on behalf of the applicant that he was promoted as Senior Clerk in 1978 but it has been disputed on behalf of the respondents. We may for the present ignore this aspect if he was promoted as Senior Clerk in 1978 or not but this fact is not in dispute that he was taken on deputation by National Research Centre for Groundnut, Junagadh. It is also clear from the Memo 1/2-4-1982 (part of Annexure -A) in which the offer of deputation was made to the applicant and the terms and condition of the deputation were also indicated. He was, however, taken on deputation vide order 4-5-1982, Annexure A-1. It is also not in dispute that the applicant was permanently absorbed as Assitant in the National Research Centre for Groundnut, vide order dated 8-3-1983 (Annexure A-2). This fact was brought to the notice of the Director, Central Arid Zone Research Institute, Jodhpur vide letter dated 29-1-1983, Annexure A-3 and was acknowledged though belatedly on 19-7-1988 (Annexure A-4) by the Central Arid Zone Research

[Handwritten signature]

Centre Institute, Jodhpur.

6. The respondents have raised two points. The first is that the applicant was not a Senior Clerk before he was taken on deputation at National Research Centre for Groundnut; and secondly, the applicant had manipulated for his absorption. It is not understandable as to how a person who is working in a different department can impose his command to be taken on deputation if he was not at all eligible. It is the duty of the department which is taking an employee on deputation to make detailed inquiry if he was eligible or not, and he fulfilled the conditions for being taken on deputation or not. If any mis-leading information was given by the applicant, it could have been verified from the department in which the applicant was working before going on deputation. The presumption is that the authorities shall comply with the Rules before any order is passed. When we look through this presumptive legal position, we find that the National Research Centre for Groundnut accepted the fact that the applicant was Senior Clerk and it was for this reason that Memorandum dated 1/2-4-1982, Annexure A-1 indicated him as Senior Clerk. Moreover, ^{when} the absorption had taken place, this kind of objection at subsequent stage and that too after six years, becomes meaningless. The respondents tried to emphasize that the coming over as deputationist by the applicant and his absorption on permanent basis in National Research Centre for Groundnut, Junagadh took place, on the manipulation of

the applicant himself. We are unable to appreciate this contention firstly for the reason that the applicant was not in such a situation as to compel the authorities of National Research Centre for Groundnut to take him on deputation and then to absorb him permanently. Mere allegation that it was manipulative work of the applicant will not suffice unless those instances are given by the respondents. Assuming for a moment that the applicant was in a position to influence the authorities to take decision in his favour, the order of permanent absorption cannot be done away with in this arbitrary manner as was done by the respondents. In this connection the law laid down by their lordships of Supreme Court in the case Purshottamlal Dhingra Vs. Union of India AIR 1958 SC 36 will have to be gone through. It reads;

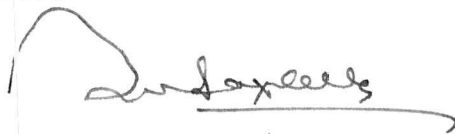
" It has already been stated that where a person is appointed substantively to a permanent post in a Government Service he normally acquires the right to hold the post until under the rules, he attains the age of superannuation or is compulsorily retired and in absence of contract, express or implied or service rule he cannot be turned down of his post unless the post itself is abolished or unless he is guilty of mis-conduct, negligence, inefficiency or other dis-qualification and proper proceedings are taken under the Service Rules read with Article 311 (2). Termination of service of such a servant so appointed imposes punishment for it operates as forfeiture of the servant's right and brings about premature end of his employment".

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The reading of this passage of the judgment, ^{makes it} ~~is~~ clear that a person once he is appointed substantively to a permanent post, he acquires the right to hold that post. He could be removed from that post only when he attains the age of super-annuation or he is compulsorily retired. He will have to quit the post if the same is abolished. There is only one more process by which he may be compelled to quit the post and that is when he is found guilty of misconduct and proper proceedings are drawn in accordance with the Rules or the principles of natural justice. If the appointment is brought to an end on other than the conditions mentioned above, it amounts to punishment and forfeiture of the right of the employee. Here in this case we have already observed that the applicant was permanently absorbed in National Research Centre for Groundnut. No doubt, it was alleged that this step was taken because of manipulative action on the part of the applicant, ^{and it} ~~is~~ If this allegation was there, the authorities ought to have proceeded according to the Rules and if they were not there according to the principles of natural justice. Manipulative action of a servant may be deemed as misconduct and for that misconduct, proper procedure by making charge-sheet, giving an opportunity to explain and by recording evidence in support of the charge and of defence, the conclusion must be arrived at about establishment of misconduct ^{or} ~~or not~~. Nothing of this sort

was done in this matter. It is an arbitrary order of the authorities of the National Reserach Centre for Groundnut to treat the employee who was permanently absorbed as on deputation and then to pass the order of repatriation. This action of the authorities concerned is in direct conflict of the law laid down in Parshottamlal Dhingra's case (supra) because the applicant had acquired the right and the impugned order operates as a forfeiture of the said right of the applicant. In our opinion, the impugned orders passed by the respondents are not at all sustainable under law. Therefore, the impugned orders dated 1-5-1989 and 13-10-1989 are quashed. The applicant on the basis of interim order continued on the post and thus the question of reinstatement does not arise.

7. In view of the discussions made above we allow the applitication and quash the impugned orders. The stay order shall automatically come to an end. No order as to costs.



(Dr. R.K. Saxena)
Member (J)



(V. Radhakrishnan)
Member (A)

*AS.

G. 5/96

Central Administrative Tribunal
Ahmedabad Bench
Inward No. 2050
Date 19.02.96

24

Recd
Order
19.2.86
D.K.A.

Section-IX

D.No. 1779/95/IX
Supreme Court of India,
New Delhi.

Dated:- 1/2/96

1000

From:-

Section Officer,
Supreme Court of India,
New Delhi.

To:-

The Registrar,
Central Administrative Tribunal,
Ahmedabad.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 385 of 1996

(Petition under Article 136 of the Constitution of India,
from the Judgment and Order dated 1/2/95

of the Central Administrative Tribunal, Ahmedabad
Bench in O.A.No.466/89)

The Secretary, Indian Council of
Agricultural Research & Anr.

..Petitioner(s)

-VERSUS-

Shri Jagdish R M. Ramani

..Respondent(s)

Sir,

I am directed to inform you that the Petition
above-mentioned filed in the Supreme Court was listed
before the Court on 2/1/96 when the
Court was pleased to pass the following Order:-

"The Special Leave Petition is dismissed on
the ground of delay as well as on merits."

For personal pleasure

Yours faithfully,

① Heitor vide chairman

7/27/96

Section Officer

② Heitor or Mr. Radhakrishnan, member (A)

③ Heitor or Mr. Ramamurthy, member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 04/466/89 of
Transfer Application No. _____ of

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated : 09.02.95

Countersign :

Qm 9/2/95

Section Officer.

aeedaf

Signature of the Dealing
Assistant

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

ORIGINAL APPLICATION NO. 466 OF 1989.

Jagdish Mohanlal Ramani. Applicant.

Versus.

Union of India & Ors. Respondents.

I N D E X

Annexures.	Particulars.	Page Nos.
-	Memo of application.	1-20
'A' ✓	True copy of orders Max dated 13.10.89 & 1.5.89.	21-23
'A-1' ✓	True copy of the appointment order as Assistant on deputation for two years.	24-25
Shah 'A-2' ✓	True copy of letter dated 20.4.1982. 83-83	26
'A-3' ✓	True copy of the order dated 29.1.1983.	27
'A-4' ✓	True copy of order dated 19.7.1988.	28
'A-5' ✓	True copy of the Seniority list.	29
'A-6' ✓	True copy of final order in O.A.No. 190/89.	30
'A-7' ✓	True copy of appeal dated 25.5.1989.	31-40
'A-8'	True copy of Guidelines of Govt. of India dtd. 30.4.1983.	41-44
'A-9'	True copy of the order in O.A.No. 102/89.	45-46
'A-10'	True copy of the order dated 19th April, 1989.	47

DD 234575
6

Let copy
to RA
Mishra
At 27.10.89

Shah

KIRAN K SHAH
Advocate for the Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

ORIGINAL APPLICATION NO 466 OF 1989.

Jagdish Mohanlal Ramani. Applicant.

Versus.

The Union of India & Ors. Respondents.

DETAILS OF APPLICATION :

1. Particulars of the applicant:

- (i) Name of the applicant : Jagdish Mohanlal Ramani.
- (ii) Name of father : Mohanlal Ramani.
- (iii) Age of the applicant : 39 years.
- (iv) Designation & particulars of office : Working as Assistant in the scale Rs.1400-2900 at Junagadh in National Research Centre for Groundnut (NRCG)
- (v) Office address : National Research Centre for Groundnut (NRCG)
- (vi) Address for service of notices : C/o. S.B. Patel, Timbawadi, Junagadh-362015

2. Particulars of the respondents:

- (1) The Union of India, Notice to be served through The Secretary, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi.
- (2) The Director, National Research Centre for Groundnut, Timbawadi, Junagadh - 362 015.

3. Particulars of the order against which application is made.

Order dated 13.10.1989 bearing No.75-1/82/Vol.II/1289 and Order dated 4.5.1989 bearing No. 75-1/82/Vol.II/218 & 219 issued by the Respondents are illegal, unjust and unfair and requires to be quashed and set

aside by holding that the applicant is a permanent regular Assistant in the National Research Centre for Groundnuts at Junagadh. The said orders are annexed hereby marked Annexure A Be the copies of the Ann. A. same.

The orders are arbitrary, mala fided, vindictive and against the provisions of Constitution of India particularly Article 14, 16, 311(1) & 311(2). The orders are ex-facie, colourable exercise of powers and abuse of process of law.

The applicant was sent on deputation as Assistant from Jodhpur from the Director, CAZRI and subsequently was made permanent on 8.3.1983 with effect from 30.4.1982 and after working with the department for more than 7 years, which is not opened for the respondents authority to say that the earlier orders were null and void and erroneous and by putting an end to the service of the applicant with the respondents department by repatriating him to the Director, CAZRI Jodhpur without any justified reason or any service rules and also passing such an order behind the back of the applicant without offering him an opportunity of hearing as well as estopping by the respondents from their own order dated 8.3.1983 hence the orders are unjust, unfair, illegal, violative of Promissory estoppel and principles of natural justice hence requires to be

quashed and set aside and the reliefs prayed in the application required to be granted.

4. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation :

The applicant further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the case :

The facts of the case are given below :

(1) The applicant is a citizen of India and have been enshrined by the provisions of the Constitution of India.

(2) The applicant belongs to Scheduled Caste community and is has been enshrined by the Constitution Provisions with certain additional benefits and privileges by granting such right on the reserved community.

(3) The applicant initially appointed in the year 1972 as Junior Clerk at Jodhpur under the Central Arid Zone Research Institute. Subsequently the applicant in the year 1978 was promoted as Senior Clerk regularly at C.I.A.E. Bhopal. In the year 1982 the applicant was appointed as N.R.C.G. Junagadh as Assistant on

deputation for two years. The said order is annexed hereto marked Annexure A-1 is a copy of the same.

Ann. A-1.

On finding the applicants' service extraordinarily efficient and satisfactory. Before completion of 2 years period on deputation the applicant was absorbed permanently under the respondents department from the date 30.4.1982, the said letter ^{8.3.83} is annexed hereto marked

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Annexure A-2 is a copy of the same. The applicant is efficiently and diligently working with the department and there was never an occasion or dispute in all this years regarding his service conditions. The order dated 8.3.83 was issued with the approval of the earlier department CAZRI Jodhpur can be seen from the order dated 29.1.1983. The same is ^{annexed} ~~marked~~ hereto marked Annexure A-3 is a copy of the same.

Ann. A-2.

Ann. A-3.

(4) The applicant in the year 1988 send one application to the Director CAZRI Jodhpur for finding his seniority, promotion, pay, confirmation etc., the necessasity thereof was arised due to the atmosphere prevailing in the respondents office against the applicant. For example one Mr. Viswanbharan who was junior-most Assistant in the Respondents Department who came from Shillong in fact on

deputation but the respondents with a view to favour Viswambharam treated it as a transfer by changing their orders made earlier and have come out with a case that as per the administrative rules he has been transferred and not on deputation. Also with a view to favour him, a further promotion was given to the post of Superintendent. The said subject matter has been challenged by the present applicant in O.A.No.220 of 1988 and the Hon'ble Tribunal was kind enough to admit the case and have granted the interim relief that the promotion will be subject to result of the case.

(5) It is apparently clear that the Director, who has made permanent the applicant as Assistant and when there was no dispute regarding order of making him permanent why all of a sudden after 6 years a necessity arise to cancel the earlier order of permanent assistant of applicant from 30.4.1982 and to treat it him on deputation and to repatriate him? The answer is with a view to favour the junior-most employee who is also South Indian and the Director himself is also a South Indian and when O.A.No. 220/88 is has been found merits and the Hon'ble Tribunal has admitted the same as device has been find out to make that matter infructuous when it reaches for final hearing by cancelling the earlier orders of the applicants' permanency and to repatriate him to the parent department. This averments can be seen correct from the orders issued by the CAZRI Jodhpur

dated 19.7.1988 marked hereto Annexure A-4 is a Ann. A-4.
copy of the same in which it is categorically
stated that since the applicant has been absorbed
permanently at NRCG in the post of Assistant with
effect from 30.4.1982 vide respondents order dated
8.3.1983, the question of maintaining seniority,
promotion and pay etc. does not arise and it
implidly means that by the impugned order Annexure 'A'
dated 13.10.1984 & 1.5.89 the applicants' service
is going to be put an end because the Jodhpur
authority as treated the applicant as employee of
the NRCG and not there now their letter dated
19.7.88 is self-explanatory. subsequently because
the man like Viswambharam was favoured and the
departments mala fide intention and charges of
favouratism is likely to be found correct at the
time of hearing in O.A.No. 220/88 up to the highest
level the things appears to have been managed
and Jodhpur authority has been convinced to absorb
the applicant again, the entire series of action
is illegal and unjust because Government can not
estope from their own orders after number of years
by taking a new stand or a different stand which
may or may not ~~exist~~ exceed at the time of issuing
order of permanency for the post of Assistant in
NRCG Junagadh.

(b) ~~three deputationist were working with the~~

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NRCG Junagadh namely J.M. Ramani (applicant himself),

S.B. Surolia & N. Viswambharan. The seniority list

of Assistant as on 1.1.1986 is annexed hereby marked

Ann. A-5.

Annexure A-5 is a copy of the same, in which in the

remarks column it is clearly stated that petitioner

has been permanently absorbed earlier to Shri Surolia.

So far as Shri N. Viswambharan is concerned, who came

in the year 1986 as Assistant, who was further

promoted as Superintendent (the said promotion is under

challenge).

(7) The applicant believes and alleging against

the respondents strongly that due to the litigation

raised for the promotion of superceeding the juniors

for the post of Superintendent as well as for not

sitting in the competitive examination of direct

recruits the respondents wanted to throw the applicant

out from their department and it is a case of

victimisation. The applicant after working for 7

years when he has demanded his constitutional rights

arising from the service conditions and contract the

reward of repatriating the applicant to the earlier

department with retrospective effect by cancelling

their own orders in absence of rules and regulations

and without any justification and giving hearing

an opportunity amounts violative of Article 14, 16

& 311(2) of the Constitution of India.

Shri

(8) In the case of retrenchment and reversion, the

junior person is to be retrenched or revert first as the case may be by retaining the seniors but in the present case the applicant being the senior-most is going to ~~the~~ repatriated to the earlier department without repatriating Shri Surolia & Viswanbharan. Though the respondents have stated on oath in the written statement in O.A.No. 190/89 that the repatriation of Shri Surolia is under consideration but till the order Annexure A issued for the applicant there is no order issued for Shri Surolia which is violative of Article 14, 16 of the Constitution of India. The applicant submits that by changing the status and designation of the applicant by the impugned order the applicant is not only going to be repatriated but also to be posted in the lower rank and grade and because of the same he is going to ^{incur} ~~ignore~~ monetary loss atleast Rs. 350 to 400 every month plus other pensionary benefits. Apart from that by repatriating him ^{at} by this juncture after making him permanent ~~when~~ it is ex-facie, illegal despite preferring a departmental appeal no positive thinking has been applied and the illegality is further continued by the same authority without having any power and the applicant is now set up the case for judicial intervention before this Hon'ble Tribunal.

Shri Surolia

Shri Surolia
Shri Surolia

Shankar

(9) The applicant submits that the respondents being a Government authority are not acting as model employer as per the constitutional mandate and unnecessary he has to face litigation after litigation without any justification on the action of the respondents. Firstly, he had challenged the promotion of junior by preferring O.A.No. 220/88, secondly, the retrospective cancelling permanency order of Assistant and repatriating to earlier department ^{challenged} by preferring O.A.No. 190/89 and now again after the order by the respondents, applicant has approaching this Tribunal again ~~x~~ is in contrary to the observation made by the Supreme Court in the case of Gonal Bihimappa reported in 1988(1) S.L.J. 9.140. The relevant portion is reproduced hereby.

13. In Karam Pal V. Union of India a three-judge Bench of this Court to which one of us was a party indicated as follows :-

"In a vast country such as ours, strong and independent bureaucratic set up is indispensable. At the same time it is equally necessary that the service from top to bottom must be alive to the fact that it is its obligation to maintain proper attitudes, discipline and duty-oriented working. While it is the right of every person in the service set up to expect just and fair treatment in regard to his employment frequent litigation between him and the State involving countless other co-employees in the service in the battle is a deviation from the right direction. It is true that very often instances come to light where the grievance is genuine and the treatment meted is unwarranted and uncalled for. Government in a democratic polity runs on impersonal basis but on the cardinal code that everyone shall perform his duty."

This Court further observed ;

"There has been a phenomenal rise in service dispute in the last three decades. It is time that serious attention is devoted to discover the reason for it and take effective steps to ensure curtailment thereof. Where such litigations come before Courts or Tribunals is of no

consequence here. Frequent litigations between the State and its employees ultimately affect the efficiency of service and bring about indiscipline, lack of loyalty and an attitude of indifference."

We are struck by the innumerable rules that have been framed within a period of about thirty years to cover the filed relating to constitution, recruitment and provision for other conditions of service. It is proper that service rules should be simple making reasonable provision for necessary aspects. While framing such rules, the relevant provisions of the Constitution and laws in force have to be kept in view. There should be no frequent alteration of the service rules through. Exigencies of circumstances and unforeseen situation will certainly justified alterations. This will/ In view of the above ratio of the judgment

be indeed rare occasions.

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where the Hon'ble Tribunal find a case on merits and balance of convenience in the favour of applicant just because a departmental remedy was not exhausted, by the applicant was given a chance to get it the case decide before the respondents authority and to show the respondents authority to correct their stand a time was granted to decide the appeal for one month. The matter was remitted to the quasi-judicial authority by the final order in O.A.No. 190/89, the same is annexed hereto marked Annexure A-6 is a copy of the same. Ann. A-6.

The applicant in a good ~~fact~~ faith preferred an appeal dated 25.3.1989 to the department, the same is annexed hereto marked Annexure A-7 is a copy of the same. The same appeal was not considered for quite a long time and the respondents without seeking any extension of time to decide the appeal sit tight over the appeal for quite a long time. Ann. A-7

It is surprised and strange to see that

even the appeal which was decided at the belated stage against the applicant is against the contrary to law and having a serious infirmity which requires urgent immediate judicial intervention otherwise there is a chance of ^{incur} ignoring an irreparable loss to the applicant can be seen from the following grounds :

G R O U N D S

- (a) The action of the respondents by estopping from their own order dated 8.3.83 by issuing an order dated 1.5.89 & 13.10.89 is violative of principles of estoppel.
- (b) The action of the respondents without applying their mind treating their order as null and void dated 8.3.83 and treating the applicant as deputationist and again to repatriate him is contrary, colourable exercise of power and vindictive.
- (c) The action of the respondents by treating the applicant as a chattel by treating same time him as a permanent, same time as a deputationist and same time him after 7 years efficiently and satisfactorily working sending back to the earlier department when the earlier department has catagorically stated that the applicant is no more on the seniority list of them. It is strange and surprise that why the necessity

to issue the impugned order dated 1.5.89
& 13.10.89 arise when the respondents keep
silent and giving a flimsy and favourless
reason that because the governing body has
not approved etc. It is a high time that this
Tribunal has to ~~suppress the~~ curtail the ^{veil} event
and to see the reason behind it to see legality
and justification of this order. The applicant
hereby relying upon the judgment in the case
of Anoop Jaiswal at the time of hearing.

(d) The impugned order dated 13.10.89 which is
after the order of this Hon'ble Tribunal is
also issued on the approval of the Director
NRCG Junagadh. It implicitly means that the
appeal has not been decided by the appellate
authority. Even the appellate authority has
decided the appeal the order is requires to be
signed by the appellate authority and not the
authority below its rank and such an orders
are violative of Article 311(1) of the
Constitution of India and hence requires to be
quashed and set aside.

(e) The Director, NRCG has himself passed the
order in the same fashion as it was passed on
1.5.1989 and without considering the merits
of the appeal on 13.10.89 also the Director

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NRCG has passed the order because he has approved that order and not the Secretary, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi.

(f) The order issued by the Respondent No.2 is illegal otherwise also since it is not a speaking order.

(g) The order dated 13.10.1989 and 1.5.1989 issued without reverting and repatriating the junior employee like Mr. Gurolia & Viswambharam amounts arbitrary, discriminatory and violative of Article 14, 16 of the Constitution of India.

(h) The action of the respondents is also violative of the guidelines of the Government of India department dated 30th April, 1983 which is annexed hereto marked Annexure A-8 is a copy of the same.

Ann. A-8

This Hon'ble Tribunal has protected the reversion of the senior candidate when juniors have been not reverted in O.A.No.102/89, the said interim order is annexed hereto marked Annexure A-9 is a copy of the same. The Hon'ble Tribunal has considered the applicant's case at the earlier occasion and finding the case on merits and since the appellate authority who was not empowered to grant stay against the

Ann. A-9

reversion and repatriation the Hon'ble Tribunal has given the stay at the appellate stage and further if the decision is contrary. Despite the opportunity given to the respondents, the respondents authority failed to understand the order of the Hon'ble Tribunal in a real spirit to justify their stand and correct their error on issuance of impugned order dated 1.5.1989. However the same view was taken on 13.10.1989 and the entire efforts which were made before the Hon'ble Tribunal as again to be made by preferring this application which is dragging the applicant in unnecessary litigation and is contrary to the law laid down by the Supreme Court in the case of Gopal Baniappa as referred earlier.

- Shilpa*
- (i) once the application has been admitted (O.A.No. 220/88) the further action governing the service conditions and rules ~~about~~ as per Section 19(4) of the Administrative Tribunals Act the respondents on being challenging the promotion of junior by superceeding the applicant have been restrained to take any further action because if the applicant will be getting the result in his favour then definitely Mr. Viswambharan will be reverted to the post of Assistant and applicant will be promoted as Superintendent

Shukla

but to make that matter infrectuous and before finalisation of that case all these steps were taken in great hurry and in illegal manner contrary to law ^{to} by put an end to the earlier matter i. e. O.A.No. 220/88 by cancelling the permanent absorption order of Assistant with retrospective effect after 6 years of its issuance which is going to be adversely affected the applicant is illegal and unfair and abuse of process of law.

(j) The action of the respondents is malafided and arbitrary and against the principles of equality and equity and fair-play ~~are~~ can be seen from the impugned orders and series^e of illegal action if any~~x~~ thing remains can be seen from the order dated 19.7.88, the said order is annexed earlier, which is narrated to applicant but till filing of this application it has not been communicated or served to the applicant because it was running against the present respondents No.2 and that is why they have not served to the applicant though it has been received by them long back more than one year. It shows that the entire file and case of applicant is manipulated by the department and papers must be tempering at their own sweet will and every order made behind the back of the applicant and for each

Shukla

illegal orders and for each and every right the applicant has to face unnecessary litigation to get justice.

(k) The action of the respondents is punitive can be seen because the applicant always work with honest and integrity and any illegal action committed at the departmental level applicant use to point out to the Director but since the Director himself has involved and various reports were sent to the Headquarter regarding the same and the Respondent No.1 was taken a cognizence of it because of the same the order dated 1.5.1989 & 13.10.89 has been passed against the applicant. The order dated 19th April, 1989 issued by the Respondent No.1 changing the Respondent No.2 as disciplinary authority by appointing some other authority clearly shows that the orders issued by the respondents No.2 are malafided, vindictive and arbitrary and requires to be quashed and set aside. The order dated 19th April 1989 is annexed hereto marked Annexure A-10 is a copy of the same. Ann.

(l) The applicant was appointed on a reserved vacancy of SC/ST quota and he can not be disturbed or repatriated and it is not opened for the D.P.C. to promote any ^{General} candidate on such a vacancy. The action of the respondents is

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against the policy of the Government for SC/ST. The relevant provisions of SC/ST will be relied from the Broucher at the time of hearing.

(m) The respondents authority is not maintaining the reservation quota and not implementing the reservation policy. In the cadre of Assistant only the applicant is a scheduled Caste candidate and in absence of any other coming scheduled caste to repatriate him is unjustified and illegal. The action of the respondents hence violative of Constitution of India, provisions enshrined particularly for the reserved and minority community.

(n) The action of the respondents is also in violation of Rule 8.1, 8.2, 9.2 & 9.6 of the Central Service Regulation, Appendix 31. The same will be relied at the time of hearing. In view of the aforesaid rule it is not opened for the respondents to continue the deputationist for more than three years and with the approval of the Ministry under any circumstances above 5 years. In the instant case all the three deputationist continue and hence any fault or error or any lapses by the Director for the same, the applicant should not suffer. The action of the respondents is illegal and violative of the Central Service Regulation.

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(o)

^{Rajgopal}
In the case of Raghavaehari, 1982 S.I.R.
the Hon'ble Court has observed that the
Government can not change their stand by
treating it as a mistake. It is not opened
for the Government to correct their mistake
at belated stage, before initiating or
exercising their powers Government has to
apply their mind and after executing the orders
at a belated stage to cancel the order of
permanent absorption and to treat the applicant
as deputationist is without application of mind
and illegal and hence requires to be quashed
and set aside.

(10) In the aforesaid facts, circumstances and grounds
raised in the petition the following reliefs requires
to be granted.

9. Relief(s) sought:

(a) This Hon'ble Tribunal may be pleased to
quash and set aside the impugned orders
dated 1.5.1989 & 13.10.1989 respectively
by holding it as illegal, unfair, unjust,
against the Constitution provisions and
arbitrary, violative of principles of
natural justice, estoppel and discriminatory
and against the principles of equity and
fair-play. This Hon'ble Tribunal may further
be pleased to direct the respondents to treat

the applicant as permanent regular Assistant from 30.4.1982 with all consequential benefits.

- (b) This Hon'ble Tribunal may be pleased to allow this application with costs.
- (c) Any other order or direction may be deemed fit in the interest of justice may be passed.

10. Interim order, if any prayed for :

Pending final decision on the application, the applicant seeks issue of the following interim order:-

- (a) Pending admission and final disposal of this application the impugned orders dated 1.5.1989 and 13.10.1989 may kindly be stayed for its implementation and operation and the applicant to be continued to work as Assistant in the Respondent No.2 department at Junagadh.
- (b) The Hon'ble Tribunal may further direct the respondents that the applicant should not be disturbed till his juniors are working till outcome of C.A.No. 220/88.
- (c) Any other order or direction may be deemed fit in the interest of justice may be passed.

12. Particulars of Bank Draft/Postal Order in respect of the Application Fee:

- 1. Number of Indian Postal Order(s) :
- 2. Name of the issuing Post Office :

3. Date of Issue of Postal Order(s) :

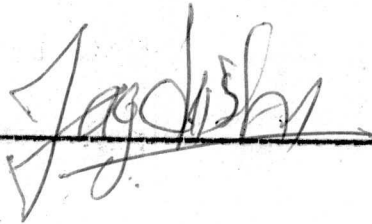
4. Post Office at which payable :

V E R I F I C A T I O N

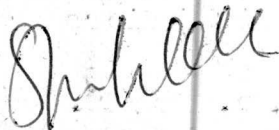
I, Jagdish Ramani, S/O, Mohanlal Ramani,
Age 39 years, working as Assistant in the office
of National Research Centre for Groundnut, resident
Timbawadi, Junagadh, do hereby verify that the
contents of paras 1 to 6 are true to my personal
knowledge and para 7 to 10(c) believed to be true
on legal advice and that I have not suppressed any
material fact.

Ahmedabad.

Date: 27-10-1989.



Identified by me :



(Kiran K. Shah)
Advocate for the Applicant.

Filed by Mr. K. K. Shah
Learned Advocate for Petitioners
with serials 3 as
copies 7 served not served 2
other size

27/10/89



J. K. Shah
Advocate (A.A.1.0)
S.A. Bench

F.No.Per.75-1/82/Vol.II/1289

Dated : 13.10.89.

MEMORANDUM

With reference to his appeal dated 25.5.89 addressed to the Secretary, ICAR, Krishi Bhawan, New Delhi, Shri Jagdish Ramani, Assistant is hereby informed that his appeal against the decision of his repatriation to CAZRI, Jodhpur was examined in detail at the Council Headquarters and it has since been communicated by the Council to repatriate Shri Ramani to his parent Institute as already decided by the Director, NRCG Junagadh. Accordingly, as per the judgement dated 12.5.89 passed by the honourable Bench of CAT, Ahmedabad in case No.OA190/89 filed by Shri Jagdish Ramani, the decision of the Director, NRCG, Junagadh for his repatriation to the parent Institute, i.e. Central Arid Zone Research Institute, conveyed vide this Office Memorandum F.No.Per.75-1/82-Estt/219 dated 1.5.89 will be implemented after expiry of one month from issue of this Memorandum. This is for information of Shri Jagdish Ramani.

This issues with the approval of the Director, NRCG, Junagadh.

Sd/-

(S.K. Mitra)
Administrative Officer.

To

Shri Jagdish Ramani
Assistant, NRCG
Junagadh

(Through the I/C Project Coordinator (Groundnut), N.R.C.G. Junagadh.

- c.c.: 1. The Under Secretary (J), Indian Council of Agricultural Research, Krishi Bhawan, New Delhi - 110 001 for kind information wrt his letter F.No.12(29)87-III.III dated 22.9.89. Necessary action as desired by the Council therein has since been taken.
2. The Senior Administrative Officer, Central Arid Zone Research Institute, Jodhpur alongwith a copy of Council's letter F.No.12(29)/87-III.III dated 22.9.89. Shri Ramani will be relieved of his duties at this Centre on 13.11.89 to enable him to join at the CAZRI, Regional Research Station, Ikma, Bhuj.
3. The Office Incharge, CAZRI, Regional Research Station, Ikma, Bh for information.
4. I/c. Proj Coordinator (Groundnut), NRCG, Junagadh.

Sd/-

(S.K. Mitra)
Administrative Officer.

For warded.

Sd/-
(M.S. Basu)
I/C. P.C.

Prof. Ashok
Asst Professor (Ag. Engg.)
Gujarat Agricultural University - Junagadh

NATIONAL RESEARCH CENTRE FOR GROUNDNUT
PO : TIMBAWADI, JUNAGADH-362015

F.No.Per.75-1/82/Vol.II/1289

Dated : 13.10.89.

MEMORANDUM

With reference to his appeal dated 25.5.89 addressed to the Secretary, ICAR, Krishi Bhawan, New Delhi, Shri Jagdish Ramani, Assistant is hereby informed that his appeal against the decision of his repatriation to CAZRI, Jodhpur was examined in detail at the Council Headquarters and it has since been communicated by the Council to repatriate Shri Ramani to his parent Institute as already decided by the Director, NRCG Junagadh. Accordingly, as per the judgement dated 12.5.89 passed by the honourable Bench of CAT, Ahmedabad in case No.0A190/89 filed by Shri Jagdish Ramani, the decision of the Director, NRCG, Junagadh for his repatriation to the parent Institute, i.e. Central Arid Zone Research Institute, conveyed vide this Office Memorandum F.No.Per.75-1/82-Estt/219 dated 1.5.89 will be implemented after expiry of one month from issue of this Memorandum. This is for information of Shri Jagdish Ramani.

This issues with the approval of the Director, NRCG, Junagadh.

Sd/-

(S.K. Mitra)
Administrative Officer.

To

Shri Jagdish Ramani
Assistant, NRCG
Junagadh

(Through the I/C Project Coordinator (Groundnut), N.R.C.G. Junagadh.

- c.c.: 1. The Under Secretary (J), Indian Council of Agricultural Research, Krishi Bhawan, New Delhi - 110 001 for kind information wrt his letter F.No.12(29)87-EE.III dated 22.9.89. Necessary action as desired by the Council therein has since been taken.
2. The Senior Administrative Officer, Central Arid Zone Research Institute, Jodhpur alongwith a copy of Council's letter F.No.12(29)/87-EE.III dated 22.9.89. Shri Ramani will be relieved of his duties at this Centre on 13.11.89 to enable him to join at the CAZRI, Regional Research Station, Kukma, Bhuj.
3. The Officer Incharge, CAZRI, Regional Research Station, Kukma, Bhuj for information.
4. I/c. Project Coordinator (Groundnut), NRCG, Junagadh.

For warded.

Sd/-
(M.S.Basu)
I/C. P.C.

Sd/-

(S.K.Mitra)
Administrative Officer.

TRUE COPY
Shankar
Anand
Assistant Professor (Ag. Engg.)
Gujarat Agricultural University-Junagadh

NATIONAL RESEARCH CENTRE FOR GROUNDNUT
PO : TIMBAWADI, JUNAGADH-362015

13
A (14)

F.No.Per. 75-1/82-Estt/219

Dated : 1.5.89

MEMORANDUM

Sub :- Regarding repatriation of Shri Jagdish Ramani, Assistant from NRCG, Junagadh to CAZRI, Jodhpur

With reference to the above mentioned subject Shri Jagdish Ramani, Assistant is hereby informed that in accordance with the decision of the Council conveyed by the Dy. Secretary (AR), ICAR vide letter No.F.12(29)/87-EE.III dated 20.11.87, this Office order No.Per.75-1/82/1108-12 dated 8.3.83 absorbing him permanently at NRCG, Junagadh as Assistant wef 30.4.82 stands null and void and, therefore, his service at N.R.C.G., Junagadh is being treated as deputation. Since no post of Assistant meant for direct recruitment quota is available at NRCG, Junagadh for enabling this office to obtain the approval of the Governing Body of ICAR for his permanent absorption as required under rules, the Council has since been requested to accord approval for the extension of his deputation period beyond the normal period of 3 years, i.e. from 30.4.85 onwards. Further, Shri Ramani is also not eligible for the permanent absorption as Assistant at NRCG, Junagadh wef 30.4.82 as he was promoted to the grade of Senior Clerk on regular basis by his parent Institute (C.A.Z.R.I., Jodhpur) only on 2.3.83. The service rendered by him in the grade of Senior Clerk on deputation basis at CIAE, Bhopal and NBPCR does not count for computing the requisite regular experience for the purpose of permanent absorption in the grade of Assistant.

In the light of above and on the basis of his request made to the Director, CAZRI, Jodhpur vide application dated 2.6.88, the matter for the repatriation of Shri Ramani was taken up with his parent Institute. The Director, CAZRI, Jodhpur, after consulting the Council headquarters has since intimated his decision to take Shri Jagdish Ramani back and adjust him in a post which he would have got but for his deputation to NRCG, Junagadh. Accordingly, the Director, NRCG, Junagadh has been pleased to revert Shri Jagdish Ramani, Assistant back to his parent Institute, i.e. Central Arid Zone Research Institute, Jodhpur wef 15.05.89. This is for his information and necessary action.

This issues with the approval of the Director, NRCG, Junagadh.

Sd/-

(S.K.Mitra)
Administrative Officer.

To

Shri Jagdish Ramani, Assistant, NRCG, Junagadh

Copy to :-

The Project Coordinator I/c. (Groundnut), NRCG, Junagadh.

R. Mohan
Assistant Professor (Ag. Engg.)
Gujarat Agricultural University - Junagadh

R. Mohan
Jodhpur

REGISTERED A.D.

NATIONAL RESEARCH CENTRE FOR GROUNDNUT
DIST. JUNDAGADH : P.O. TIMBAWADI

F.No.Rectt. 2(1)/81-3106-13

Dated 1/2-4-82.

MEMORANDUM ; -

With reference to his application dated 29.9.81 received in this office through proper channel vide letter No.2-242/72-81-Adm.II, dated 30.10.81 of Sr. Administrative Officer, Central Arid Zone Res. Institute, Jodhpur, the Director of this Centre is pleased to offer the post of Assistant in the pay scale of Rs.425-700 to Shri Jagdish Ramani, Sr. Clerk, C.A.Z.R.I., Jodhpur on deputation basis for a period of two years in the first instance at this Centre on the standard terms of deputation under Indian Council of Agril. Research.

In case, the above post of Assistant is acceptable to Shri Jagdish Ramani, he may please communicate his acceptance of the offer immediately through proper channel and report for duty at Junagadh on or before 30.4.82. In case his acceptance of the offer is not received in this Centre by 25-4-82 it will be assumed that he is not interested to join this Centre and therefore this offer will stand cancelled automatically.

Cd/-

To

ADMINISTRATIVE OFFICER.

Shri Jagdish Ramani,
Senior Clerk, through Sr. Adm. Officer
Central Arid Zone Research Institute,
JODHPUR (RAJASTHAN)

Copy forwarded for information and necessary action :-

1. The Director, Central Arid Zone Research Institute, Jodhpur with request to relieve Shri Jagdish Ramani immediately. The offer may please be forwarded to Shri Jagdish Ramani.
2. The accounts Officer, C.A.Z.R.I. Jodhpur (Rajsthan) for information
3. Sr. Administrative Officer, National Bureau of Plant Genetic Resources FCI Building, CTO Complex Pusa, New Delhi to take necessary action to allow Shri Jagdish Ramani to join at this Centre. The officer to Shri Jagdish Ramani has been forwarded to him through the Sr. Adm. Officer, C.A.Z.R.I. Jodhpur in order to avoid delay as the application was received through Sr. Adm. Officer, C.A.Z.R.I. Jodhpur.
4. The accounts Officer, N.B.P.G.R., FCI Building, CTO Complex Pusa, New Delhi for information.
5. Dr. Chopra, S-2 N.B.I.C.R. C/O C.A.Z.R.I. Jodhpur
6. The accounts Officer, N.B.C.G. Junagadh
7. Office order File.

Amsharf
Assistant Professor (Ag. ENGG.)
Gujarat Agricultural University-Junagadh

*Shukla
Ach*

NATIONAL RESEARCH CENTRE FOR CROUNUT
DIST. JUNAGADH : THIBAWADI -362015

LS (B)
AP

F.No.Per 75-1/82/3929-34

Dated : 4.5.82.

OFFICE ORDER

The Director, N.R.C.G., Junagadh is pleased to appoint Shri Jagdish Ramani to the post of Assistant (on deputation) with effect from 30-4-82 (forenoon) on the terms and conditions embodied in the Office Memorandum No. Rect. 2(1)/81/3106-13, dated 2-4-82.

He will draw the pay @ of Rs.425/- per month initially in the pay scale of Rs.425-15-500-EP-15-560-20-700 plus usual allowances as per rules.

sd/-

Distribution :-

ADMINISTRATIVE OFFICER

1. Shri Jagdish Ramani, Assistant, NRCG Junagadh
2. Accounts Officer, NRCH, Junagadh
3. Cash and Bills Section, NRCG Junagadh
4. Officer-in-charge, M.B.F.G.R. C/o Central Arid Zone Research Institute, Jodhpur (Rajasthan)
5. Sr. Administrative Officer, Central Arid Zone Research Instt. Jodhpur
6. Office Order File.

J. K. J.
P. Mohan
Assistant Professor (Ag. Engg.)
Gujarat Agricultural University-Junagadh

NATIONAL RESEARCH CENTRE FOR GROUNDNUT (ICAR)

JUNAGADH 362015

F.No.Per 75-1/82/1108-10

Dated 8-3-1983.

:- OFFICE ORDER :-

In continuation to the Office Order No.Per 75-1/82/3929-34 dated 4.5.82, the Director, N.R.C.G. Junagadh is further pleased to absorbed Shri Jagdish Ramani, as Assistant in the pay scale of Rs.425-75-500-LB-15-560-20-700, permanently in the public interest w.e.f. 30th April, 1982.

Sd/-

(S.K.PATEL)

ADMINISTRATIVE OFFICER.

Distributions :-

1. Shri Jagdish Ramani, Assistant, N.R.C.G., JND.
 2. The Accounts Officer, N.R.C.G., Junagadh
 3. P.A. to Director, N.R.C.G. JND.
 4. The Director, CAZRI, Jodhpur, in reference to letter No. 2-242/72-AI, dt. 26.2.83 of the Administrative Officer, CAZRI, Jodhpur. Further it is requested to please transfer his lien to this Institute as early as possible.
5. Cash & Bills Section.
6. Circular File.

Ramani
Assistant Professor
Gujarat Agricultural University

Subey
Asst

NATIONAL RESEARCH CENTRE FOR GROUNDNUT
TIMBAWADI, JUNAGADH

18
AS

F.No.Per 75-1/82/515

Dt. 29.1.1983

To

The Director,
Central Arid Zone Research Institute,
JODHPUR

Sub : Permanent absorption of Shri J. Ramani

Sir,

The Director of this Centre has agreed for permanent absorption of Shri J. Ramani, as Assistant (425-700) in public interest. Willingness of Shri J. Ramani is also enclosed.

The lien of the above employee is retained with your Institute. You are therefore, requested to please furnish a no objection certificate and transfer his lien to this Centre at an early date.

Thanking you,

Yours faithfully,

sd/-

(S.P. TIVARI)
ADMINISTRATIVE OFFICER.

Copy to :-

Shri J. Ramani, Assistant.

Amol
Assistant Professor (Ag. Engg.)
Gujarat Agricultural University - Junagadh

*Shubhlal
Sah*

Indian Council of Agricultural Research.
CENTRAL ARID ZONE RESEARCH INSTITUTE, JODHPUR.

No.F.2-242/72-Adm.I

Dated : 19.7.88

M E M O R A N D U M

With reference to his application dated 2.6.1988, Shri Jagdish Ramani, Assistant N.R.C.G., Junagadh is informed that he has already been absorbed permanently at N.R.C.G. in the post of Assistant with effect from 30.4.82 vide N.R.C.G. office order No.per.75-1/82/108-12, dated 8.3.1983. Therefore, question for maintenance of his seniority, promotions and pay etc. at this Institute, after permanent absorption does not arise. He is further advised that his communication in future, if any, should be routed through proper channel only.

Sd/-

(S.N. JHA)
SENIOR ADMINISTRATIVE OFFICER.

Shri Jagdish Ramani
Assistant
through Adm. Officer
N.R.C.G., JUNAGADH

Copy to Administrative Officer, National Research
Centre for Groundnut (ICAR), JUNAGADH.

Sd/-

SENIOR ADMINISTRATIVE OFFICER.

PROVISIONAL SENIORITY LIST OF ASSISTANTS

(No. 425-700) AS ON 1986 1.1.1986

S. No.	Name of the incumbent	Instt. to which attached	Date of birth	Educational Qualification	Date of initial appnt. to the ICAR/Instt.	Whether permanent/Temp.	Date of continu- us appnt. to the grade of Asstt. on regular basis.	Whether appnt. was made by Direct Reckt or by prom- otion	Date of confirm- ation in the Grade,	Remarks
1.	Shri J. Ramani	N.R.C.G.	30.11.1950	H.S.C.	3.6.1977 3.6.1972	Q.P.	30.4.82	-	Confirmed in the grade of Jr. Clerk.	permenently absorbed in NRCG as Asstt on 30.4.82 ✓
2.	Shri S.B. Surolia	N.R.C.G.	26.12.1939	M.A.	30.7.1971	Q.P.	3.3.1984	-	Confirmed in the grade of Sr. Clerk.	Permenently absorbed in NRCG as Asstt on 3.3.1984

(Signature)
 (Principal) Sr. Clerk
 26.5.

(Signature)
 (Principal)

Shri J. M. Ramani
v/s.
Union of India & Ors
OA/190/89

Central Administrative Tribunal
Ahmedabad Bench

Handwritten initials and numbers: "AB", "90", and a signature.

Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman

12/5/1989

Heard Mr.D.M.Thakkar and Mr.R.A.Mishra, the learned advocates for the applicant and the respondents. Mr.Mishra states that under Rule 23 of an appeal to the Indian Council of Agricultural Research authorities lies and the petitioner should be asked to exhaust this remedy. Learned advocate for the respondent disputes that this is a statutory remedy which requires to be exhausted. However, in view of the statement of the learned advocate for the respondent it is fit and proper that the following direction is issued:

The petitioner on his filing a representation or appeal ^{within 15 days of the Order} as the case may be under Rule 23 referred to by the learned advocate to the competent authority, the competent authority is directed to dispose of the appeal as quickly as possible. ^{within one month here of} The respondents are restrained from implementing the impugned order dated 1/5/1989 until the disposal of the appeal or any orders passed on the representation by the competent authority ^{is} entertained or otherwise ^{within} one month from the date of ^{its} communication. ^{is free to} Thereafter the petitioner ^{is} to seek any relief if he has any cause left. Learned advocate for the petitioner wants to withdraw the petition at this stage Allowed. With this direction, the case is disposed of as withdrawn.



Prepared by: REC 15.5.89
Compared by: P.T.T. 15.05.89

Sd/-
(P.H.Trivedi)
Vice Chairman

TRUE COPY

a.a.bhatt
Handwritten notes: "7 am", "Shubh", "Adm"

Handwritten signature and date: 15/5/89
Section Officer
Central Administrative Tribunal,
Ahmedabad Bench,

From :

Shri Jagdish Ramani
Assistant,
National Research Centre
For Groundnut, Timbawadi
JUNAGADH

31 AF 22

Dated 25th May '89

To

The Hon'able Secretary
Indian Council of Agricultural Research
Kishu Bhawan, NEW DELHI - 1100 01

Through the Director, N.R.C.G., Junagadh

Subject : Appeal under rule 23 of CCS (CCA) 1965, against the orders of Director, dt. 1.5.89 in the matter of Art. 14, 16 and 311 of the constitution, discrimination and violation of the rights of SC/ST candidates-regarding.

Ref. : The Director, NRCG, Junagadh
No.Per 75-1/82/218, dt. 1.5.89
No.Per 75-1/82/219, dt. 1.5.89

Respected sir,

The appellant most respectfully begs to submit this appeal in the circumstances indicated herein below :-

The Appellant is serving as an Assistant at N.R.C.G., Junagadh and was submitted with an order of reversion vide No.Per 75-1/82/219, dated 01.05.1989 and per 75-1/82/218, dated 01-05-1989 annexed herewith at Annexure J-1/and J-2 for your kind reference please.

F A C T S OF THE C A S E

The appellant being aggrieved by the impugned orders No.219 and 218 dated 1.5.89 is to most respectfully question the legality and validity of the same.

It is submitted that a clear vacancy of the post of Assistant existed at the NRCG Junagadh in 1982. The Appellant being qualified for the said vacancy, was initially appointed as Assistant at NRCG on deputation. Thereafter in public interest the appellant was permanently absorbed.

Cont 2.

The Competent Authority at N.R.C.G. duly requested the Authorities at CAZRI, Jodhpur to transfer the lien of the appellant to NRCG (Annexure J-3). The CAZRI authorities consequently conveyed their "NO ~~IS~~ OBJECTION" to the permanent absorption of the appellant at NRCG. The appellant has been functioning as Assistant at NRCG since his permanent absorption on dated 8-3-1983 (Annexure J-4). The Director has accepted and treated the appellant as a permanent regular employee of NRCG. This is implicit and self contained in the Seniority list and the offer to appear as a departmental candidate at the examination for the post of Office Superintendent held at N.R.C.G. (Annexure J-5 & J-6). Consequent to the complaints against the Director reported to the Higher Authorities of the Council and irregular appointment of the Superintendent being challenged by the appellant the respondent (Director) being prejudiced and vindictive against the appellant, has issued the impugned order No.Per 75-1/82/218 and 219 dated 1.5.89 which are arbitrary and bad in the eyes of law and which the appellant most humbly and respectfully prays must be struck down on the grounds under mentioned.

G R O U N D S

1. Whereas it has been held by the Supreme Court that the entirety of circumstances precedent or attendant upon the order of reversion have to be considered so as to decide whether or not the said order is punitive; Now therefore, the appellant pleads that the impugned orders dated 1.5.89 are ab-initio-invidious, mala fide, vindictive and punitive.
2. That in the best interests of public service the appellant while functioning as Assistant at NRCG had reported to the Council certain cases of irregularities. The Director is personally concerned with some of these cases. All these cases already stand reported as stated above. However the following cases deserve to be mentioned here.
 - (a) The case of non handing over of charge of stores by Shri J.B. Bhatt, Jr. Clerk stores inspite of warning of disciplinary proceeding for an inordinately long period.
 - (b) The case of misuse of gas regulator at NRCG and related police action thereon.

Cont..... 3.

(c) The case of the complicity of Dr.P.S.Raddy, in a proven case of wilful cheating and fraud. The applicant most respectfully submits that in this particular case Police Cognizance must be taken and proceedings initiated. The appellant has already prayed for permission to report the matter to Police.

(d) The case of non refund of the Octroi deposit of Rs.1000/- due to gross negligence of Shri J.B.Bhatt, and failure to act against Shri Bhatt.

It is on account of these complaints that the Director has issued the malafide, arbitrary and vindictive orders on dated 1.5.1989.

3. That the impugned orders No.Per 75-1/82/219 and 218 of dated 1.5.89 are based and founded on misleading and false considerations and are therefore invalid and illegal. The Director has stated in the impugned order No.Per 75-1/82/219, dated 1.5.89 that "on the basis of his request made to the Director,CAZRI,Jodhpur vide application dated 2.6.88 the matter for the repatriation of Shri Jagdish Rama ni was taken up" The applicant Most respectfully submits that the very basis of the so called repatriation is false, misleading and incorrect. The applicant had never made any request for repatriation, the latter dated 2.6.88 is in fact a mere enquiry regarding service details and is Annexed herewith, for your kind perusal at Annexure J-7.
4. That the Director, further states in the impugned order No.219, dated 1.5.89 that "the services rendered by him in the grade of Senior clerk on deputation basis at CIAE, Bhopal does not count for computing the requisite regular experience for the purpose of permanent absorption in the grade of Assistant" The applicant therefore, contends that this ground for the issuance of impugned orders No.219 & 218 dated 1.5.89 being ab-intio-invalid, renders the same to be illegal and therefore liable to be quashed. The fact remains that the applicant served at C.I.A.E. Bhopal on regular basis and not on deputation as falsely allaged in the impugned order, The applicant g craves leave to annex here the relevant orders at Annexure J-8 and J-9.
5. That it is stated by the Director in order No.218, dtd.1.5.89 that "order No.Per 75-1/82/1108-12 dated 8.3.89 absorbing him permanently at NRCG, Junagadh as Assistant stands null and void", "In accordance with the decision of the Council conveyed by the Dy.Secretory(AR) vide No.F.12(29)/87-EE.III, dt.20.11.87".

The Applicant submits with due respect that a bare perusal of the said letter dated 20.11.87 at Annexure J-10 would show that the Council has nowhere decided to revert the applicant in the said letter. The Dy. Secretary (AR) in the said letter dt. 20.11.87 has only advised that the permanent absorption should be made against a post of direct recruitment quota. The Director, NRCG Junagadh instead of complying with the decision of the Dy. Secretary (AR) as per the relevant service rules and the laws of natural justice, has vindictively issued the impugned orders of 1.5.89 which are arbitrary and Malafide and therefore must be quashed.

6. That the Director NRCG, further states in the impugned order No. 219 dated 1.5.89 that no post of Assistant meant for direct recruitment quota is available at NRCG. This is grossly mis-leading. A post of Assistant against direct recruitment quota is very much available at NRCG. On this direct recruitment post one Shri Meena (who was an ST candidate) was appointed in 82-83. This post of Assistant is reserved for ST/SC candidates as per the existing roster system. Therefore, consequent to the said post remaining vacant in the event of the said incumbent refraining from joining duty, it was obligatory under the rules that the said direct recruitment post should have gone to the applicant being only SC Assistant, Rule - "While vacancies reserved for SC/ST will continue to be reserved for the respective communities only, an SC officer may be considered against a vacancy reserved for ST's or vice versa, in the same year itself in which the reservation is made, where the appropriate reserved vacancy could not be filled by an SC or ST candidate as the case may be"

(No. DP&AR, OM No. 10/37/84-Estt. (SCT), dated 3-2-1975).

The question of non availability of direct recruitment post of Assistant therefore, does not arise. The appellant therefore prays that the impugned orders No. 218 and 219 dated 1.5.89 being based on erroneous premises are liable to be quashed and set aside.

7. The Appellant further contends that since the said direct recruitment post is reserved for an SC/ST candidate as per the rules the same can not be filled by incumbents from other categories, When a SC candidate is already available at NRCG.

Cont.... 5.

35 (28)

8. The applicant further prays that since he was permanently absorbed at NRCG and since the direct recruitment post of Asstt. could not be filled by a suitable ST candidate, therefore as per the decision of the Council vide No.F.12(29)/87-EE.III, 20.11.87 the case of the permanent absorption of the applicant ought to be approved as he was absorbed in public interest and has rendered seven continuous years of service since being absorbed.
9. The applicant is to further contend that the Respondent(Director) had very much expressed his acceptance to the fact that the applicant is a regular permanent employee of N.R.C.G. Junagadh. A bare perusal of the Seniority list at Annexure J-6 would show that not only is the applicant the Senior Most Assistant at NRCG, He was also considered to be permanently absorbed at NRCG vide the said seniority list No.EA 81-1/85-86/931, dt.26.2.1986, it was only after the applicant filled his claim to the post of Office Supdt. at NRCG that the respondent (Director) has issued the arbitrary and mala fide order No.218 and 219 dt. 1.5.89 which the applicant prays must be struck down.
10. The Director has sought the approval of the Council to the extension of the deputation period beyond the normal period of 3 years, the applicant therefore prays that the impugned orders dated 1.5.89 are anticipatory and incomplete and therefore liable to be quashed. Further, vide CSR Appendix 31 para 9.1 there is no provision to approve the extension of deputation beyond 4 years, whereas the applicant has already served for more than 7 years. For this reason also the impugned orders must be set aside.
11. The applicant is to dispute the conversion of his seven years of regular service at NRCG Junagadh retrospectively in to deputation. As per the existing service rules of CSR para 9.6(iii) deputation can only be prospective and not retrospective. In the absence of any rule for the enforcement of deputation retrospectively for a period of 7 years the impugned orders can not be sustained and therefore must be struck down.
Moreover there is no provision what so ever under the rules for the payment of deputation allowance beyond a period of 3 years; Now therefore to retrospectively force the applicant to accept these terms of deputation without deputation allowance would attach forced financial losses and would be punitive and violative of Art. 14 of the constitution, since it takes away the rights and freedom of the applicant under the contract of service to accept or reject deputation on these terms.

26 (27)

12. The applicant further pleads that the Director, NRCG had expressed his agreement, while accepting the fact that the applicant is a permanent regular employee at NRCG. The Director offered to hold a departmental examination for the post of Office Supdt. at NRCG AND considered the applicant as departmental candidate and not a deputationist. Further the departmental examination was restricted to Assistants of NRCH and was not for the deputationists, Now consequent to the applicant filing his claim to the post of Supdt. at NRCG vide OA/220/88 with the Hon'ble CAT Ahmedabad the Director is attempting to remove and eliminate the rights of the applicant to the said post. It is pertinent to observe here that the Hon'ble Tribunal is yet to decide the claims of the applicant to the post of Supdt. at NRCG. The impugned orders dated 1.5.89 therefore superse the awaited decision of the Hon'ble Tribunal, and seek to render application No.OA/220/88 at Hon'ble Tribunal infructious. Therefore the impugned orders being punitive and mala fide must be quashed and set aside.
13. The applicant is to futher submit that Shri S.B.Surolia, Assistant at NRCG was sent on deputation to Indian Institute of Soil Science Bhopal on the post of Supdt. On his own request Shri Surolia was reverted back to NRCG Junagadh and was accepted by the Director, NRCG. This could only be if the lien of Shri Surolia is maintained at NRCG, else he would have been reverted to his parent Institute Shri S.B.Surolia was permanently absorbed at NRCG in 1984 after initially joining on deputation. The applicant therefore prays that since the lien of Shri Surolia has been ma intained & treated to be at NRCG the impugned orders dt. 1.5.89 are discriminatory and violate Art. 16 and therefore must be quashed. (Annx. J-11, J-12).
14. The applicant most respectfully pleads that the has been held in in Barad Kant V/S. state of Orrisa as under -
"That when reversion is exclusively on the ground of exigencies of service and not for being found unsuitable for the post than the principle of 'LAST COME FIRST GO' should be followed"
The appellat most respectfully prays that consequent to the absorption of the applant Shri S.B.Surolia who was also on deputation at NRCG was successively absorbed in 1984. Much later in the year 1986 Shri N.Vishwanbharan was accepted on deputation/transfer with t e express condition that he will be ranked Junior Most amongst the Assistants at NRCG. In accordance with the principle laid down in the above case the appellat most respectfully prays that he has primary and original rights to the direct recruitment post at NRCH and the one to come last should go first.

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14. The Applicant further pleads that the Director's recruitment post of Assistant at NRCG is a reserved post on which one Shri Meena being an ST candidate was initially offered appointment. Vide rule (see para 6 above) in the event of the said incumbent having failed to join at NRCG the said post would mandatorily go to the appellant, being the only SC Assistant at NRCG. Therefore, if in case the said direct recruitment post, reserved for ST/SC has been given to Shri N. Vishwanbharan, (as per ICAR Administrative Manual para 5.1.2 of Chapter XVI) in violation of the rules and policy of the Govt. then his transfer to NRCG is invalid and in breach of the rules of ICAR and Art. 14, 16 of the constitution. It follows from above that in accordance with ICAR's letter dt. 20.11.87 Shri Vishwanbharan (Junior Most Assistant) should be repatriated and the rights of the applicant must be protected.

16. The applicant also prays that it has been held by the Supreme Court that, if an incumbent is being reverted to accommodate another then the said order of reversion would be arbitrary and bad in the eyes of law. The applicant humbly submits that it has been clearly exposed that Shri N. Vishwanbharan has been accepted on transfer at NRCG in 1986 in a blatant breach of the rules and policies of the Government of India, which protect and safeguard the rights of SC/ST candidates. Now to accommodate Shri N. Vishwanbharan (Junior Most) at NRCG the Director has issued the impugned orders No. 218 and 219 dt. 1.5.89.

17. It has been held in Rupendra Kaur V/S. Secretary to Punjab Govt. (1980) I.SLR 710 as under :

* If the services of an employee are terminated to accommodate a candidate then the termination of services was clearly illegal and arbitrary in the absence to any thing to show that his work was not satisfactory", "This principle will also be applicable in the case of reversion and such an order would violate Art. 14, 16 of the constitution; although the reversion by itself may not amount to a punishment but entirety of circumstances proceeding or attendant on the impugned order have to be taken into consideration" as held in the case of Shri A. Mohanty V/s. Union of India Lab. IC 729.

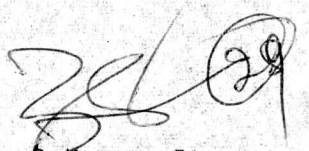
The circumstances precedent and attending upon the impugned order dated 1.5.89 clearly reveal as under :

(A) That Shri N. Vishwanbharan was initially invited on deputation and then in violation of the rules of ICAR and Art. 14, 16 of the constitution, deputation was converted into transfer by the Director against a direct recruitment post meant for reserved candidate only.

(B) Further in violation of the rules of ICAR under which appointments are to be made 66.3/4% by promotion and 33.1/4% by Examination, the Director, NRCG unduly favoured Mr. Vishwanbharan with a view to promote him to the post of Officer Superintendent at NRCG.

(C) Also with a view to demolish the claims of the applicant to

Cont.....



(C) Also with a view to demolish the claims of the applicant to the post of Office Supdt., and with a view to render application No. OA/220/88 at the Hon'able Tribunal infructious, and to accomodate Shri Vishwanbharan at NRCG the impugned order dated 1.5.89 have been passed by the Director, which the applicant prays must be struck down being arbitrary and illegal.

18. The appellant most respectfully pleads that the impugned orders dated 1.5.89 have been issued consequent to the initiation of disciplinary proceedings against the appellant vide No. dated . The Director has already expressed his opinion as to the guilt of the accused in the said proceedings even before the trials have been held, thereby a stigma is cast on the character of the applicant, Now therefore as a consequence of impugned orders the applicant will be subject to a loss or postponment of future chances of promotion, and thereby the impugned orders are punitive and attract Art. 311 of the constitution of India, and being arbitrary must be quashed and set aside.
19. The appellant further argues that it has been held by the Supreme Court that in case where Juniors are being retained and the Senior being reverted then the said order would be punitive. Since Shri Vishwanbharan and Shri S.B.Surolia, who are Junior to the applicant are being retained, and the appellant is being reverted therefore the impugned order visits the applicant with penal consequences, and therefore Art. 311 is attracted. The applicant therefore prays that prior to affording a reasonable and fair opportunity of defence the impugned orders can not be implemented and are liable to be quashed.
20. The appellant most humbly submits that in other Institutes of ICAR EMPLOYEES HAVE been absorbed by the Director's. The case of Shri N.R.Verma, who was absorbed at CIARI, Bhopal from deputation is one such case. The impugned orders of reversion/repatriation are therefore discriminatory and violative and must therefore be quashed.
21. The Appellant further prays that he has been functioning as Assistant at NRCG since April 1982 to the best of his abilities and has never received any adverse CCR during the entire period. Further even on his current posting the applicant has drawn excellent remarks for excellent services. The appellant craves leave to annex Annexure .. J-13, J-14 and J-15 for your kind perusal.
22. The Appellant begs to submit that there are four posts of Assistant at NRCG and vide the ICAR Administrative Manual 3 of these posts would be filled by promotion and the 4th by direct recruitment. As per the brochure of SC/ST candidates first and fourth points of appointments from the post of Assistant are reserved. Vide the said Brochure the IVth point is reserved for ST candidates as applicable

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in the Saurashtra region. Now therefore the applicant contends that Shri N. Vishwanbharan was initially offered the post of deputation and was later permitted by the Director, NRCG to be considered on permanent transfer, against a direct recruitment post reserved for ST/SC. Thereby the said transfer of Shri Vishwanbharan is illegal and invalid. Shri Vishwanbharan's tenure at NRCG can therefore can only be on deputation, Further vide ICAR Administrative Manual chapter XVI para 5.1.3 inter Institutional transfers on equivalent posts can be made only on mutual transfer basis, the relevant para is reproduced here :

" Inter-Institutional transfer against equivalent posts can be made only on mutual transfer basis, provided the persons are acceptable to the Directors of both the Institutions."

Therefore the applicant Most Respectfully pleads that the transfer of Shri Vishwanbharan not being on mutual basis violates para 5.1.3 of the Admn. Manual of ICAR and is therefore invalid.

In the light of the above the appellant submits with due respect that his rights to the said direct recruitment post stand protected. Now therefore the impugned orders of 1.5.89 No.218 and 219 of the Director being based on unjust and illegal grounds must be struck down and quashed.

- 23 The applicant submits further that as a direct consequence of impugned orders the retirement benefits of the applicant would be adversely affected. The Supreme Court has held that in such a case the orders are punitive. Therefore the impugned orders attract Art. 311 and hence must be quashed and set aside.
- 24 This appeal has been preferred on time.
- 25 The Appellant most respectfully contends that his permanent absorption at NRCG was sanctioned by the Competent Authority and his lien is to be considered as existing against the post of Assistant at NRCG requests for the transfer of lien were duly made to the CAZRI Jodhpur authorities vide letter No.2-242/72-Adm.I., annexed at J-16 for your kind perusal. The C.A.Z.R.I., Authorities conveyed their no objection to the permanent absorption of the appellant at NRCG vide their communication No. F.2-242/72-Admn. I of July 1988 and want on to say that "the question of maintenance of his seniority, promotion and pay etc. at CAZRI after permanent absorption does not arise. "Further as per FR where it is proposed to absorb the Govt. servant in public interest with effect from the date of such permanent absorption the lien will stand automatically terminated."

Finally the applicant most humbly and respectfully prays and submits that the impugned order No. Per 75-1/32/218 and 219 dated 01.05.89

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are arbitrary, malafide, and vindictive. That the said orders are based on false and misleading premises and grounds as has already shown above; the said orders violat Art. 14, 16 and 311 and rules governing SC/ST candidates. The appellant now therefore begs to submit that the same must be quashed and set aside and for this act of kindness the appellant as in duty bound shall ever pray.

The appellant prays for an opportunity of personal hearing in this case.

Thanking you sir,

Yours faithfully

Encl : Annexures J-1 to J-17,

Sd/-

(JAGDISH RAMANI)
Assistant.

An advance copy to the Secretary, ICAR, Krishi Bhavan, New Delhi for information please.

Copy to the Commissioner, SC/ST, R.K. Furem, New Delhi through the Director, NRCG Junagadh with the request to kindly look into the matter for considration.

Sd/-

Anojit
Assistant Professor (Ag. Engg.)
Gujarat Agricultural University-Junagadh

(JAGDISH RAMANI)
Assistant.

*To copy
Jagdish
Hoh*

deputation post, the service rendered in that scale prior to permanent absorption counts for the purpose of fixation of pay under the normal rules. As regards persons who draw pay in their parent grade plus deputation (duty) allowance, cases are often referred to Finance Ministry for protection of the emoluments drawn by them in the ex-cadre post prior to their permanent absorption against such posts. The President is now pleased to decide that when a Government servant drawing emoluments in the ex-cadre post on the basis of his grade pay plus deputation (duty) allowance is absorbed in a public Sector Undertaking/another Government Department in *public-interest* his pay on such absorption shall be fixed in the relevant scale of pay of the post as if the person concerned had elected to draw pay in the scale of the post from the date of his initial appointment on deputation/foreign service subject to the restrictions laid-down in Finance Ministry's Office Memorandum No. F. 10(24)-E. III/60, dated 9.3. 1964. This would be further subject to the condition that the pay thus fixed is not more than the pay plus deputation (duty) allowance drawn immediately before permanent absorption. No arrears should, however, be paid on account of such fixation nor any adjustment made in the deputation allowance already drawn till the date of absorption. However, in cases where such fixation of pay on permanent absorption results in drop in the emoluments drawn by the Government servant concerned, the difference between the pay so fixed and pay plus deputation (duty) allowance drawn prior to absorption may be allowed as personal pay to be absorbed in future increases in pay.

4. These orders will take effect from the date of their issue and cases already decided otherwise need not be re-opened.

[G.I.M.F. (Deptt. of Exptr.) Memo. No. F. 1(11)-E. III (B)/69 dated the 20th January, 1970].

7. *Admissibility of any other pay and allowances while on deputation,*

- (i) Any project allowance admissible in a project area may be drawn in addition to deputation (duty) allowance.
- (ii) Any other special pay drawn by an employee in the parent department should not be allowed in addition to the deputation (duty) allowance provided however, that Government may, by general or special order, suitably restrict the deputation (duty) allowance where, under special circumstances, the special pay drawn by an officer in a non-tenure post in his parent cadre is allowed to be drawn, in addition to basic pay, in his deputation post. This will, require the specific concurrence of the Ministry of Finance.
- (iii) The personal pay, if any, drawn by an employee in his parent department will continue to be admissible until it is absorbed in other increase in pay e.g. increments or increase of pay by promotion or for any other reason.

8.1. *Exercise of option.* An employee on deputation may elect to draw either the pay in the scale of pay of the new post as may be fixed under the normal rules or his basic pay in the parent department plus personal pay if any (*vide* para 7 above) plus deputation (duty) allowance.

8.2. The option once exercised shall be final except when (i) such an employee receives *proforma* promotion in his parent department under the next below rule or is reverted to a lower grade in the parent department or is appointed to another grade in the new department and (ii) when the scale of the deputation post or that of the Post held by a deputationist in his parent cadre is revised with retrospective effect or from a prospective date.

9.1. *Period of drawing deputation duty allowance.* The period of deputation shall be subject to a maximum of 3 years in all cases except for those posts where a longer period of tenure is prescribed.

9.2. Administrative Ministries may grant extension beyond this limit upto one year, after obtaining orders of their Secretary, in cases where such extension is considered necessary in public interest. Extension beyond this period would be with the specific approval of the Ministry of Finance. No

deputation allowance will be allowed for such extension, if agreed to by the Ministry of Finance.

9.3. The period of deputation of Public Sector Undertaking will be regulated in accordance with the orders issued by the Bureau of Public Enterprises of Finance Ministry. The period is fixed as three years. Extension in this period can be granted with the approval of the A.C.C.

9.4. If a person (with permission from the competent authority) proceeds on deputation from one Corp/Deptt. to another without reverting to his parent department, the transfer to second Corp/Deptt. would be a fresh tenure of deputation for the purposes of reckoning the period as provided in 9.1 above. Provided that if the second ex-cadre post is at the same station as the first ex-cadre post or at the station from where the officer came on deputation to the first Ex-cadre post the rate of deputation allowance would be restricted to 10%.

9.5. If during the period of deputation the basic pay of an employee exceeds the maximum of the scale of pay of the post or the fixed pay of the post the deputation of the employee should be restricted to a period of six months from the date on which his pay thus exceeds such maximum after which he should be reverted to his parent department.

9.6. An employee whose basic pay, while on deputation, is fixed under 'next below rule' should be reverted to his parent department when his basic pay exceeds the maximum of the scale of the new post.

Government of India decision :- In accordance with paragraph 9.1 of this appendix the period of deputation of a Central Government servant shall be subject to a maximum of three years in all cases except for those posts where a longer period of tenure has been prescribed under the relevant rules/orders. Paragraph 9.2 of this appendix provides that the administrative Ministries/Departments may grant extension beyond this limit upto one year after obtaining orders of their secretary in cases where such extension is considered necessary in public interest. Extension beyond this period was to be with the specific prior approval of the Ministry of Finance. This subject has since been transferred to the Ministry of Personnel and Training, Administrative Reforms and Public Grievances and Pension. As such extension beyond the period would be with the specific prior approval of the Department P&Trg. Again no deputation allowance will be allowed for such extension, if agreed to by the Department of Personnel and Training.

2. The question of further delegation of powers to the Ministries/Departments regarding extension of the period of deputation in the light of strict directive on extension in the period of deputation has been examined in the Department of Personnel and Training. It has now been decided that the borrowing Ministries/Departments may be delegated powers for extending the period of deputation for the fifth year or for the second year in excess of the period prescribed in the Recruitment Rules, where absolutely necessary, subject to the following conditions :-

- (i) While according extension for the fifth year, or the second year in excess of the period prescribed in the Recruitment Rules, the directives issued by the Prime Minister for rigid application of the tenure rules should be taken into consideration and only in rare and exceptional circumstances such extensions should be granted.
- (ii) The extension should be strictly in public interest and with the specific prior approval of the concerned Minister of the borrowing Minister/Department.
- (iii) Wherever such extension is granted, it would be on the specific undertaking that the officer would not be entitled to draw deputation duty allowance.
- (iv) The extension would be subject to the prior approval of the lending organisation, the officer on deputation, and wherever necessary, the UPSC.

- (v) In cases where the extension is beyond the fifth year or for the second year in excess of the period prescribed in the Recruitment Rules, the same would be only after obtaining the prior approval of this Department P & Trg. Proposals in this regard should invariably reach the Department P & Trg. at least three months before the expiry of the extended tenure.

[G.I.M. of Personnel & Training, Adm. Reforms & Public Carivances & Pension (Deptt. of Personnel and Training) Memo. No. 2/39/85-Estt. (Pay-II), dated 25th October, 1985.]

10.1. *Sanctioning of deputation (duty) allowance.* The administrative, Ministries will be competent to sanction the deputation (duty) allowance of their employees and those in offices under them and in accordance with these terms and conditions. Such sanctions may be issued either by the Ministry transferring the employee or by the Ministry borrowing the service of the employees, as may be appropriate in the circumstances of each case.

10.2. No employee whose basic pay at the time of his proposed deputation exceeds the maximum of the scale, of pay of the new post or the fixed pay of the new post, as the case may be, shall be deputed to such as post.

11. *Relaxation of condition.* Any relaxation of these term and conditions will require the prior concurrence of the Ministry of Finance.

12. *Application.* These orders will apply to all Central Government Servants and employees of State Governments deputed to hold posts in the Central Government except in the following cases viz.

- (a) Members of the All India Services and those deputed to posts whose terms are regulated under statutory rules or orders.
- (b) Persons appointed on deputation to posts in the Central Secretariat Such as Under Secretary, Deputy Secretary, Joint Secretary, Additional Secretary for whom separate orders as modified from time to time will continue to apply.
- (c) Deputation to posts outside India, and
- (d) Appointments of a specific category of employees to a specified class or posts where special orders already exist.

[G I M.F. No. F1(II) E III (B)/75 dated the 7th November, 1974 C.P.R.O. 32/76]

Government of India's decisions (1) In the absence of any specific delegation except in the case of pay and deputation allowance, delegation in respect of which has been made in this appendix and standard term, cases of deputation of officers from the Central to the State and *vice versa* are being referred to the Ministry of Finance for concurrence at present. The matter has been carefully examined and the decisions enumerated in the following paragraphs have been taken in this regard.

2. The system of filling of posts on deputation basis being an expensive one should be resorted to only in exceptional cases and with discretion. Normally, there should be no cases of deputation of ministerial except in the case of employees of the Accounts Department and class IV Government servants. The period of deputation should not ordinarily exceed one year at a time and should not normally be extended beyond three years.

3. The fixation of pay of Government servants transferred on 'deputation in the public interest as defined in this appendix will be governed by the terms of this appendix including any general or special orders issued under para 6 (ii) of this appendix. In the case of transfers which are not in the public interest, the pay of the officer will be fixed in the scale of the deputation post under the operation of the normal rules. In such cases, if the minimum of the deputation post is substantially higher than the emoluments admissible to him in his parent department/State, administrative authorities are expected to invoke the provision of F.R. 35 and to restrict the pay of the officer suitably and the pay so fixed should be indicated in item 2(ii) of the enclosure (See Annexure on pages 10-11).

4. The standard terms as given in the Annexure to this decision should

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Coram : Hon^{ble} Mr. P.M. Joshi : Judicial Member
Hon^{ble} Mr. P.S. Chaudhuri : Administrative Member

HS

25/4/1989

In this application the petitioner has challenged the validity of the order dated 9/2/1989 whereby he is reverted from the post of Deputy Superintendent of Post Office, Vadodara to Post-Master, Surendranagar (non-gazetted Class III). According to the petitioner he is promoted to the post of Deputy Superintendent of Post Office since the year 1986 on adhoc basis. According to Mr. K.K. Shah, the learned counsel for the petitioner, ^{some time} after the issuance of the impugned order it has not been implemented and by virtue of the order dated 28/2/1989 he has been posted as a Senior Post Master, Vadodara, and thereafter by virtue of the order dated 27/3/1989 he has been posted as Officiating Superintendent of Sorting at Ahmedabad in leave arrangement for 32 days which period expires on 28/4/1989. It is stated by Mr. Shah that in the meantime the respondent authorities have modified the impugned order dated 9/2/89 vide order dated 30/3/1989 and in pursuance thereof he will have to be reverted to the post of Post Master after 28/4/1989. It is alleged that M/s. U.C. Mahsuri, P.L. Shirsath, I. A. Vora and H.G. Chhipa, who are his juniors as per the seniority list (A4) (page 20) are retained on the post of promotion and under the circumstances the respondents ~~are directed to stay the operation of the orders of reversion~~ ^{it will be proper to pass some directions to the respondents} passed in the case of the petitioner. Bearing in mind, the points raised in the application, in our opinion, they deserve consideration. Accordingly, the application is admitted. Having regard to the facts and circumstances of this case in our opinion, the petitioner requires to be protected by way of interim relief to the extent only that in case his aforesaid juniors are retained on the post of



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Post Master. Accordingly, the respondents can implement the impugned order of reversion only in case his juniors are reverted. Interim relief to ^{the} extent only granted for 15 days. In the meantime, issue notices to the respondents to show cause why the interim relief should not be granted. Issue notices to the respondents to reply on merits within 30 days from the date of this order. The case be posted on ^{Tribunal} Registrar. (0/5/1989 for further direction before Registrar. Direct service permitted to Respondent No.2.

The petitioner has filed the documents along with the application dated 24/4/1989 which is taken on record.

sd/-
(P.S. Chaudhuri)
 Administrative Member

sd/-
(P.M. Joshi)
 Judicial Member

Prepared by: *P.E.C.*
 10.5.89

Composed by: *P.T.T.*
 10.05.89

TRUE COPY

Accountant

K.B. Sane
 10-05-89
K. B. SANE
 Section Officer
 Central Administrative Tribunal,
 Ahmedabad Bench.

a.a.bhatt

C. A. T.

Ahmedabad Bench

- (a) Serial Number of the 'Application'. 3094
- (b) Name of the Respondent. *Shri Jagdish Ramani*
- (c) Date of the Application for copy 10.5.89
- (d) *2*
- (e) *Rs 71/-*
- (f) *(Rs. Seven only)*
- (g) *Receipt No. 3049*
- (h) *dfd. 10.5.89*
- (i) *10.5.89*
- (j) *10/11/89*
- (k) *copy of the*

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI

47 A 10 (36)

F.No.3(31)/88-Per.V

Dated the 19 April, 1989.

O R D E R

(36)

WHEREAS disciplinary proceedings have been initiated against S/Shri Gautam Mookherjea, Hindi Translator (Under suspension) and Jagdish Ramani, Assistant of N.R.C.G., Junagadh under Rule 14 of CCS(CCA) Rules 1965 vide NRCG, Junagadh's Memo. No.Per 80-1/82-Estt/Part.III dated 19.2.88 and No.Per 75-1/82-Estt/2129 dated 19.2.88 respectively.

WHEREAS the Director, NRCG, Junagadh being unable to function as the Disciplinary Authority in respect of both the above officials on account of his being personally concerned with the charges framed against the above officials, the nomination of an ad-hoc Disciplinary Authority is required.

NOW THEREFORE the President, ICAR, under the provision of Rule 12(2) of CCS(CCA) Rules 1965 nominates the Secretary, ICAR as an ad-hoc Disciplinary Authority in the disciplinary cases against Shri Gautam Mookherjea, Hindi Translator (under suspension) and Shri Jagdish Ramani, Assistant of N.R.C.G., Junagadh.

Sd/-

(S. VASUDEV)

DIRECTOR (F)

for and on behalf of the President,
I.C.A.R.

Distribution :-

1. Director, NRCG, Junagadh w.r.f. his letter No.Per.80-1/82-Estt/3049 dated the 1st March, 1988.
2. Shri Gautam Mookherjea, Hindi Translator, NRCG, Junagadh
3. Shri Jagdish Ramani, Assistant, NRCG, Junagadh.
4. Vigilance Section, ICAR
5. P.A. to Secretary, ICAR.
6. Copy for Guard file.
7. Spare copies (five).

P. Mohan
Assistant Professor (Ag. Engg.)
Gujarat Agricultural University Junagadh

*To Secy
Shri Vasu
Dev*

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Before the Central Administrative Tribunal
Ahmedabad Bench at Ahmedabad.

O.A. No. 466/8

JAGDISH RAMANI V/S. UNION OF INDIA & OTHERS

REJOINDER

I, Shri Jagdish Ramani, Asst. NRCG Junagadh in
reply to reply file on behalf of respondent No. 1 & 2
as under :-

1. The reply file by Shri N. Vishmbharam (Asst.)
has got no authority to file the reply on behalf
of respondent No. 1 & 2. There is no authority letter
produced or filed or furnished together with the
reply which shows that Shri N. Vishmbharam is empo-
wered and authorised to file such reply and in
absence of the same the reply filed by him does
not requires to be consider and no further opportu-
nity of filing another reply requires to be given,
because as per the CAT net & rules on being
furnishing an advance copy the respondents have
chosen to file reply and once they have filed there
is no necessity to give another opportunity.

filed in
court

Am
SH

The reply filed by N. Vishmbharam is contrary to
the rule 12(2) of the CAT procedure rules 1987
in addition to the same the applicant relied upon the
judgement of RamRakha based on the same rulings.

In reply to the reply filed on behalf of respondent
No. 1 & 2 I hereby state that the respondent has not
replied on each everment & grounds made by me & the
evernment and grounds which are not denied by them

Ramesh Chaudhary
SPB
For R.A. Mishra
Advocate
Dt: 7-11-87

with any sort of evidence should be considered as admitted and accepted by the respondents, and I am filing this rejoinder the points delted by the respondents and reserving my rights to file further reply if necessary.

3. In reply to para 1 I hereby submit that the post of Asst. is a class III post & the respondent themselves have stated in their reply as under, "similarly the staff is required at a particular institute namely class II, III & IV posts are being appointed by the director of that particular institute and are known as institute based posts," So the respondents themselves has admitted that Director is the appointing authority & the everments with a documentary evidence of making permanent assistant in NRCG Junagadh by order dated 8-3-83 is correct and cannot be suspected.

The Hon'ble Supreme court in the case of Pravash Chandra Dalui V/s. Bishwanath Benarjee has observed as under:-

" In connection a contract the court must look at the words used in the contract unless they are such that one may suspect that they do not convey the intention correctly. If the words, are clear, there is a very litter, the court can do about, it. In the construction of a written instrument it is legitimate in order to ascertain the true meaning of the words used, and if that be doubtful it is legitimate to have regards to the circumstances surrounding their cre ation & the subject matter to which it was designed and intended they should apply."

Looking to the facts that when an application for the post of Assistant forwarded through proper channel and acceptance offer made to the applicant & once it is accepted and appointment of assistant made in the circumstance of public interest how the respondent No.2 now

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takes a contradictory and illegal stands by issuing the impugned orders ? The orders under challenged are not violative of principal of stipal. It is not open for the director now to change the intrinsic character of the service contract & the order dt. 8-3-83 by the present impugned order.

The Hon'ble Supreme court in the case of Shanti-devi V/s. A.K. Benerji has observed that , "Parties could not by their pleadings alter the intrinsic character of the lease or being about a change of the rights & obligations flowing therefrom. The court would only look into the terms of the lease irrespective of the ~~enverments~~ everments in the pleadings."

The above ratio is equally applicable in the instant case also in the function circumstance of a service contract by virtue of the permanent appointment. The rest of the enverments regarding holding the post on deputation is denied hereby.

4. In reply to para 2 I hereby submit that the avering fraud made against their own employee by respondents does not give them any decoram or credit by using such language without offering any opportunity. The facts remains that the respondents have admitted their illegal action by considering it as wrong as per their reply in para 8 of their reply.

I, hereby submit that I was appointed as stated earlier permanently on 8-3-83 with effect from 30-4-82 and whatever ~~will~~ be the rules and regulations applicable at the time binding to ~~the~~ respondents and any bypass or ignorance to the same ~~or stepping~~

or estopping of their own action after a number of years can be said as complete fraud made by the applicant. ^{not}

5. The period between 1978 to 1982 the applicant has worked as Sr. Clerk on regular basis can be said further the office order dt. 13-9-221978 issued by CAZRI Jodhpur and order dt. 17/18-7-1978 are annexed hereby marked annexure A-11 are copies of the said order.

So, as stated by the respondent about working as Jr. clerk on regular basis at Jodpur is incorrect & hence the reply of respondent can not be believe.

In explanation to the document R-1 I hereby submit that if an incomplete document and all the annexure to the same has not been annexed with the same. The important letters dated 2-3-83 and 16-7-88 has made the things clear but respondent has hide this documents with the malacious motive can be seen and hereby proved in black & white.

In the said letter two important things have been narrated firstly, "as shri Ramani was absorbed permanently in the post of Asst. the question of maintenance of his lien further did not arise. "

Secondly "in this connection it may also be stated that had his lien not been terminated Shri Ramani might have continued to work as Sr. clerk, the post which he did not joined on promotion here. It may also be stated that no vacancy of Sr. clerk has been kept earmarked for Shri Ramani and as such his reversion to the post as Sr. clerk may lead to representatios from persons Jr. to him."

From the above two observations it impliedly means that the applicant has been put off from parent department of Jodhpur and in assuring that in case of posting him in the parent department by impugned orders there is no surety of maintenance of his earlier service condition, rights in the parent department & the earlier department has already observed in the above second part regarding the serious anomalies likely to arise on reversion of the applicant.

So, the stand taken by the respondent by relying the Annexure R-1 is contrary to law & against their earlier orders, & hence such a reply can not be believed & to be considered by the Hon'ble tribunal, even if any irregularity or wrong has been detected without admitting the same the respondent after 6 years cannot take contrary stand by depriving the applicant from his accrued rights behind his back & without his fault.

6. In reply to para 2(b) I hereby submit that allegation of misleading the authority is in correct, looking to their own orders. Once the no objection certificate obtained by the respondent No.2 it is not open for the respondent to state such things.

The respondent has never pointed out regarding the approval of general body of ICAR for permanent absorption the respondent incorrectly stated that the applicant was fully aware of the

same.

There is no suppression of fact or avoiding cleverly any point. The annexure R-3 hardly help the respondent because the approval has been given by the Director ~~is~~ (who is competent authority). So there is no question of seperation of any facts and to ractify any irregularities within the frame work of rule as applicable and existing in the year 1982-83.

The Annexure A-11 is self explanatory to the reply given in para 2(c). The service rendered by the applicant at Bhopal is requires to be counted for all purposes as per service contract and rights arise out of it & the letter of Ministry dt. 29-5-86 was not at all existing in the year 1982-83 & the letter dt. 29-5-86 can not be implemented reterospectively by which the applicant rights can adversely affected.

The ICAR, HQ, New Delhi as instructed to NRCG Junagadh is without any evidence and out of its power since Director is the appointing authority.

So far as the appointment of Shri Vishmbharam on direct recruitment post is incorrect and the issue regarding the same is subjudice, in OA No. 220/88 before this Hon'ble Tribunal.

7. In reply to para 3 I hereby submit that assuming that the letter dated 20-11-1987 has been issued by the ICAR New Delhi, then why for two years subsequent to that NRCG kept silent on the same, what is the reason for not serving the letter to the applicant ?

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8. In reply to para 4 in absence of showing any data yearwise it is unbelievable that respondents are maintaining the reserved quota as per reservation policy.
9. In reply to para 5 the respondent themselves admitted that Shri S.B. Surolia is still not repatriated to his parent office & regarding appointments on the promotion quota is incorrect. Shri Vishmbharam was initially brought on deputation and his appointment on deputation was changed subsequently without proper approval and on the pledge of mistake with a view to favour him though being a Jr. most to promote him further. The deputation was converted and considered as transfer can be seen from the Memorandum dated 25-4-1986 marked hereby ~~XXXXXX~~ marked annexure A-12 is a copy of the same.
10. In reply to para 5 it is pertinent to note that the applicant is working as Asst. from 30-4-82 and Shri Vishmbharam working as Asst. from 15-11-1983 & the rest of the statement made can be seen incorrect from the reply given in earlier para and hence the respondent reply is far from the truth.
11. The reply in para 6 is already covered in earlier para and hence not replied hereby in reply to para 7 I hereby submit that the appellate Authority order was made available only on demand and the same is also ambiguous & signed by the third party who has got no authority.

In reply to para 8 I hereby submit that the judgement referred by the respondent has got no relevance with the present case and its facts and circumstances.

I hereby submit that an illegal action of respondents can not be named by treating it as a irregularities, fraud, mistake or wrong whereby a arbitrary action can be taken by the respondent. The Hon'ble Tribunal may be pleased to quashed the impugned orders by holding it as illegal and the relief prayed requires to be granted by allowing the application with cost.

VERIFICATION

I, Jagdish Ramani, S/O Shri Mohanlal Ramani age 39 years, working as Assistant in the office of National Research centre for Ground nut resident Timbawadi, Junagadh, do hereby verify that the contents para 1 to 11 are true to my best of knowledge and believed to be true on legal advice and that I have not suppressed any material facts.

Ahmedabad.

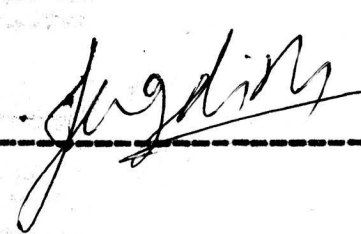
Dated: /11/89

Identified by me :



(Kiran K. Shah)

Advocate for the Applicant.



INDIAN COUNCIL OF AGRICULTURAL RESEARCH
CENTRAL ARID ZONE RESEARCH INSTITUTE, JODHPUR

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No.F 2-242/72-78-Adm.

Dated : 13SEP. 1978

OFFICE ORDER

Consequent upon his accepting the Post of Senior Clerk on regular basis at Central Institute of Agricultural Engineering, Bhopal, Shri Jagdish Ramani, Junior Clerk has been relieved of his duties in the afternoon of 12.9.1978.

Sd/-

(KISHORI LA)

SENIOR ADMINISTRATIVE OFFICER.

Distribution

1. Shri Jagdish Ramani, Junior Clerk, through the Administrative Officer(Bills), C.A.Z.R.I., Jodhpur.
2. The Senior Administrative Officer, Central Institute of Agricultural Engineering, Bhopal
3. The Senior Accounts Officer, C.A.Z.R.I., Jodhpur.
4. Administrative Officer(Bill Section), C.A.Z.R.I. Jodhpur
5. Employment Exchange file (Shri B.C.Tatia, Supdt. & Rectt. Sec.)
6. Seniority file of Junior Clerk.
7. Office order file.

*P. C. ...
Shri ...
Bhopal.*

CENTRAL INSTITUTE OF AGRICULTURAL ENGINEERINGBHOPAL

No. 2-6/77/Resett/V.II/7388

Dated 17.7.1989

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MEMORANDUM

On the recommendations of the selection committee of the Central Institute of Agricultural Engineering (ICAR), Bhopal, Director, Central Institute of Agricultural Engineering, Bhopal is pleased to approve the offer of appointment of Shri Jagdish Ramani who is at present holding the post of Junior Clerk in Quasi-permanent capacity at the Central Arid Zone Research Institute, Jodhpur to the post of Senior Clerk on regular basis in the scale of Rs. 330-10-380-EB-12-500-EB-15-560 at the Central Institute of Agricultural Engineering (ICAR), Bhopal on the following terms and conditions :-

- (i) The post is temporary and sanctioned upto 31.3.1979 for the present and carries the pay scale of Rs. 330-10-380-EB-12-500-EB-15-560. On appointment, his pay will be fixed according to the normal rules. He will be entitled to draw such allowances as are admissible to other staff of the corresponding grade and status under the Indian Council of Agricultural Research.
- (ii) He will be on probation for a period of two years from the date of joining the post, which may be extended at the discretion of the competent authority. Failure to complete the period of probation satisfactorily he will be liable to be reverted to his post of Junior Clerk at the Central Arid Zone Research Instt. Jodhpur (Rajasthan)- His services can be terminated at any time during the period of probation, without assigning any reason.
- (iii) His headquarter will be at Bhopal for the present, but he will be liable to serve in any Institute and/or office of the Indian Council of Agricultural Research located anywhere in India.
- (iv) His appointment is subject to the condition that he is declared medically fit for services by the prescribed medical authority, if this has not already done.
- (v) He will be entitled to joining time, transfer T.A. and joining time pay as per rules.
- (vi) On appointment he will be required to take an oath of allegiance to the constitution of India or make a solemn affirmation to that effect, if this has not already been taken.
- (vii) He will be submit a declaration regarding his marital status in the prescribed form, if not already given. In the event of his having more than one wife living the appointment will be subject to his being exempted from the enforcement of the requirements in this behalf.

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- (viii) Other conditions of service will be governed by the relevant rules/orders/staff regulations which may be issued by the Indian Council of Agricultural Research from time to time.
- (ix) If any information furnished or declaration given by him proves to be false or he is found to be wilfully suppressed any material information, he will be liable to removal from service and such other action as may be deemed necessary.
- (x) His seniority in the category of Senior Clerks at this Institute will only count from the date of joining the post at this Institute.

If the post is acceptable to Shri Jagdish Ramani on the terms and conditions mentioned above, he should intimate his acceptance to the undersigned immediately and should report himself for duty in this office within 15 days of the receipt of this Memorandum after which this offer will be considered as cancelled automatically.

Sd/-

(M.C. TEWARI)

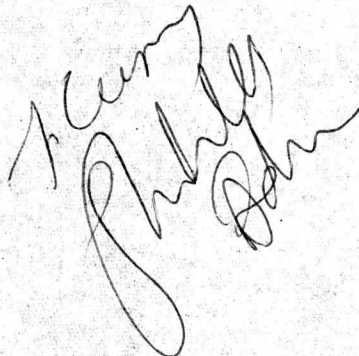
SENIOR ADMINISTRATIVE OFFICER

Shri Jagdish Ramani
Junior Clerk,
Through : Director,
Central Arid Zone Research Institute,
JOINPUR (Rajasthan)

Forwarded.

Sd/- 21.7.78

(DAULT RAM)
Superintendent.



NATIONAL RESEARCH CENTRE FOR GROUNDNUT
TIMBAWADI-JUNAGADH

F.No.Reett.2(8)/86/460

Dated : 25.4.86.

MEMORANDUM

With reference to his application dated 18.4.86 received in this office vide ICAR Research Complex for NEM Region, Shillong letter No.RC(E)/21/86, dated 18.4.86 for considering transfer as Assistant from ICAR Research Complex for NEM Region Shillong to National Research Centre for Groundnut, Junagadh, on permanent basis instead of on deputation basis as offered vide this office memorandum No.Reett.2(8)/86/213-18, dt.8.4.86. The Director National Research Centre for Groundnut, Junagadh is pleased to agree to the transfer of Shri N.Vishwanbharan, Asstt. in the pay scale of Rs.425-700 from ICAR Research Complex for NEM Region to N.R.C.G., Junagadh on permanent basis subject to the condition that Shri N.Vishwanbharan, will rank junior to the Assistants at National Research Centre for Groundnut, Junagadh and join immediately on or before 31.5.1986.

This issues with the approval of the Director,

Sd/-

ADMINISTRATIVE OFFICER.

To

Shri N. Vishwanbharan
through the Director,
ICAR Research Complex
for NEM Region,
SHILLONG.

[Handwritten signature]

[Handwritten initials]
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD

ORIGINAL APPLICATION No.466 OF 1989

Shri Jagdish M. Ramani Applicant

-versus-

(1) Union of India, Respondents
Secretary,
Indian Council of Agricultural
Research, Krishi Bhawan
New Delhi

(2) The Director,
National Research Centre for Groundnut - -do-
Timbawadi, Junagadh-362 015

REPLY ON BEHALF OF RESPONDENTS No.1 & 2

1. It is pertinent to give the ~~e~~back-ground of establishment of the Institution by Indian Council of Agricultural Research, Krishi Bhawan, New Delhi. The Indian Council of Agricultural Research has set up different Institutes at different places in India under its direct supervision and control. Accordingly at present there are about 54 Institutes working at different places and the Institute at Junagadh is also one of these 54 Institutions. The National Research Centre for Groundnut has been set up by Indian Council of Agricultural Research, New Delhi, in the year 1979 for carrying out research in the groundnut crop. The Indian Council of Agricultural Research has set up the Centres for the purpose of carrying out research in the crop and for that Scientists and other higher level administrative officers are being appointed by Indian Council of Agricultural Research and are known as all India based-posts. Similarly, the staff which is required at a particular Institute, namely Class II, III and IV posts are being appointed by the

*Received
Copy on
11/12/89
S. S. Rao*

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Director of that particular Institute and are known as Institute based posts. I submit and say that the applicant is holding the Institute-based post on deputation basis at N.R.C.G., Junagadh and was initially posted as Junior Clerk with Central Arid Zone Research Institute at Jodhpur in the pay scale of Rs.260-400/- (pre-revised).

2. A complete fraud was detected in the appointment of Shri Jagdish Ramani at the National Research centre for Groundnut, Junagadh as detailed below :-

(a) The requirement for appointment to the post of Assistant on deputation basis is three years regular service in the grade of Senior Clerk in the parent Institute. Whereas Shri Jagdish Ramani was holding the post of Junior Clerk on regular basis in his parent Office, i.e. Central Arid Zone Research Institute (CAZRI), Jodhpur when he was appointed on deputation as Assistant at N.R.C.G., Junagadh as is evident from his parent Office letter No.F.2-242/72-Adm.I dated 28.11.88 (hereto annexed as Annexure-R.1). This irregularity could not be detected initially as in the relieving Order F.No.2-242/72-Adm.I dated 28.4.82 (hereto annexed as Annexure-R.2) the original designation of post held by the applicant in the parent Institute was neither indicated nor the date of relief was mentioned as these are the two primary requirements that should be shown in any Relieving Order. In absence of these information the authorities of National Research Centre for Groundnut, Junagadh could not find the irregularity in the initial stage.

(b) The applicant by taking the advantage of being posted in the Establishment Section during 1982-83 actually misguided the authorities, (i.e. Director as well as the Administrative Officer who were new to these posts) by moving his case for permanent

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absorption at the Institute level although the applicant was fully aware of the fact that the permanent absorption is possible only with the approval of the Governing Body of Indian Council of Agricultural Research and that too not against a promotion post which was held by the applicant. In the note dated 4.3.83 moved by the applicant himself for getting the approval of the Director for his permanent absorption issued (copy hereto annexed as Annexure R.3) these essential points were very cleverly avoided. This is a clear suppression of the facts and rule position made by the applicant while submitting the proposal for his own permanent absorption which had ultimately been detected by the Indian Council of Agricultural Research, Krishi Bhawan, New Delhi who had directed the Director, N.R.C.G., Junagadh to rectify the irregularities within the frame-work of the rules.

(c) The applicant in fact was actually due for promotion to the post of Assistant on regular basis after his promotion to the Senior Clerk at his parent Institute, Jodhpur on 2.3.83, only on 2.3.86 (i.e. after completion of 3 years regular service in the grade of Senior Clerk). Whereas by making the suppression of the real facts the applicant had succeeded in getting regular appointment to the post of Assistant made by irregular absorption on 30.4.82 (with retrospective effect), almost 4 years prior to the actual due date. It is, thus, a very clear fact that the applicant could jump directly from Junior Clerk to the post of Assistant without having put in the requisite period of regular service in the grade of Senior Clerk. It is a well-known fact that the services rendered by the applicant on deputation to C.I.A.R., Bhopal and then N.B.P.G.R. Research Station, Jodhpur are not counted towards regular service as according to the guiding principles of seniorities issued by the Govt of India, Ministry of

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Personnel, Public Grievances and Pensions (Deptt of Personnel & Training) OM No.20020/7/80/Estt(D) dated 29.5.86 the seniority can be fixed only with reference to the post held by an employee in his parent office on regular basis and nowhere else.

Because of the ~~xxx~~ abovementioned irregularities, the ICAR Headquarters, New Delhi who are the policy-making authorities of the organisation as whole had instructed the Director, N.R.C.G., Junagadh to rectify the irregularities made in the appointments/absorption of the following Assistants :-

- (a) Shri S.B. Surolia - Held a promotion post as per running roster of determining the promotion/direct recruitment quota (Point No.P-3).
- (b) Shri Jagdish Ramani - Held a promotion post as per running roster of determining the promotion/direct recruitment quota (Point No.P-4).
- (c) Shri N. Viswambharan - Held a direct recruitment post as per running roster point No.Direct Recruitment -D.4.

3. I submit and make it clear that the Director, N.R.C.G., Junagadh from his own did not initiate the case of repatriation of Shri Jagdish Ramani, Assistant. It was necessitated only due to the clear instructions issued by the ICAR Headquarters, New Delhi vide letter No.F.12(29)/87-EE.III dated 20.11.87 (hereto annexed a copy as Annexure R.4).

4. The mode of filling up of the posts and the quota against Direct Recruitment and promotion etc are determined by the Running roster maintained for the purpose.

5. It was accordingly decided to repatriate the employees at sub-para (a) & (b) above as their appointments at N.R.C.G., Junagadh was against promotion quota and, therefore, it was not found possible to move their case for approval of the Governing Body of I.C.A.R. The Case of Shri S.B. Surolia for repatriation is also under correspondence with his parent Office

and an appropriate decision is expected to be taken in due course.

5. Whereas Shri N. Viswambharan who was already working as an Assistant since 15.11.83, at ICAR Research Complex for N.E.H. Region, Shillong (one of the sister ICAR Institutes) was transferred against a direct recruitment post as permissible under para 5.1.2 of Chapter 16 (Transfer) of the Manual of Administrative Instructions of ICAR (copy annexed hereto as Annexure R.5). Therefore, the plea of the applicant for the reversion of Shri N. Viswambharan to his parent Office is incorrect and misleading. Moreover, the order of repatriation of the applicant is due to his irregular appointment at N.R.C.G, Junagadh for which there is no need to link the case with a person who was ~~xxxxxx~~ transferred as per rules.

6. As regards the point raised by the applicant for his continuance at N.R.C.G., Junagadh on the plea of his being an SC employee, it is hereby clarified that the appointment of SC/ST is made as per the points maintained in the SC/ST Roster and no irregularity is made by the respondent in this regard. The SC/ST roster is periodically being inspected by the Liaison Officer for SC/ST.

7. With reference to the allegation made by the applicant that the order dated 13.10.89 was not issued by the Appellate Authority it is hereby clarified that a photo-copy of the order addressed to the respondent (No.2) in this respect by the Appellate Authority was already provided to the applicant vide Memo F.No.Per.75-1/82/Vol.III/1301 dated 16.10.89 (hereto annexed as Annexure R.6). Therefore, the applicant's allegation that the order dated 13.10.89 was not issued at the instance of the Appellate Authority is totally mischievous and misleading.

8. It is further clarified that the repatriation of the applicant to his parent Institute is only within the ICAR system itself ~~xxxx~~ as a result of rectifying a major irregularity and hence no injustice whatsoever as alleged has been caused to the applicant. The respondents hereby place on

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on record a copy of the judgement passed in the case of Ravindranath Tiwari-vs-Divisional Supdt of Education and another 1978 SLJ 97(MP) which clearly states that "once a wrong is discovered the Govt is bound to do justice even to those who ungrudgingly suffer injustice". ^{Annexed R-7 is relevant portion.} Therefore, by detection of the irregular absorption of the applicant and subsequent rectification the respondents are now bound to do justice to the five regular employees working at N.R.C.G., Junagadh as already lot of heart-burnings have developed because of the continuance of the applicant at N.R.C.G., Junagadh irregularly.

9. In view of this the application requires to be rejected and therefore no interim relief can be granted to the applicant.

Dated : Ahmedabad,

[Signature]
6.11.89
(Respondent)

6.11.89

[Signature]

(Advocate for the respondent)

Reply/Rejoinder/written submissions
filed by *[Signature]*
learned advocate for petitioner/
Respondent with second set. —
Copy served/not served to other side

[Signature]
Dy. Registrar CAT (P)
A'bad Bench

6/11/89

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Inward No. 4754
2-12-78

Indian Council of Agricultural Research
CENTRAL ARID ZONE RESEARCH INSTITUTE
JODHPUR - 342 003 (RAJ.)

No.F. 2-242/72-Adm.I

Dated : 26/11/88

To

The Deputy Secretary (AR)
E.E. II Section,
Indian Council of Agril. Research,
Krishi Bhavan,
N E W D E L H I - 110 001.

Sub.: Case of Shri Jagdish Ramani, Assistant, NRCG,
Junagadh - Request for repatriation.

Sir,

I am to enclose herewith a copy of letter No. Per. 75-1/82/1687 dated 3.10.88 from Administrative Officer, NRCG, Junagadh followed by D.O. letter No. Per-75-1/82/Estt/2161 dated 8.11.88 from Dr. P.S. Reddy, Director requesting for necessary orders of reversion of Shri Jagdish Ramani back to CAZRI. In this connection it may be stated that initially Shri Ramani proceeded to CIAE, Bhopal on appointment as Sr. Clerk on deputation basis in the year 1978. From CIAE he proceeded to NBPGR Regional Station, Jodhpur in the year 1981 as Sr. Clerk and again proceeded to NRCG, Junagadh on appointment as Assistant on further deputation basis where he was absorbed permanently in the public interest w.e.f. 30.4.82 vide NRCG's Office Order No.F. Per. 75-1/82/108-12 dated 8.3.83 (copy enclosed as Annex. III). Meantime Shri Jagdish Ramani was promoted as Sr. Clerk vide this Office Order No. 4-6/78-Rectt. dated 2.3.83 which he did not join. As Shri Ramani was absorbed permanently in the post of Assistant the question of maintenance of his lien further did not arise. This position was made clear to Shri Ramani vide our Memorandum of even number dated 16.7.88 (copy enclosed as Annexure IV).

As permanent absorption of Shri Ramani as Assistant at NRCG Junagadh was found irregular vide your letter No. 12(29)/87-EE.III dated 20.11.87 and the Director, NRCG has requested for his reversion back to this Institute, I would request you to kindly advise us regarding the post on which Shri Ramani is to be reverted at this Institute if at all necessary. In this connection it may also be stated that had his lien not been terminated Shri Ramani might have continued to work as Sr. Clerk, the post which he did not join on promotion here. It may also be stated that no vacancy of Sr. Clerk has been kept earmarked for Shri Ramani and as such his reversion to the post as Sr. Clerk may lead to representations from persons junior to him.

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1/11/88

In view of above, Council's final decision in the matter may kindly be conveyed as early as possible for further necessary action in the matter.

This issues with the approval of the Director.

Yours faithfully,

sd/-

(S. N. JHA)

SENIOR ADMINISTRATIVE OFFICER

Copy to the Director, National Research Centre for Groundnut, Timbawadi, P.O. Junagadh-362 015 (Gujarat) with reference to his D.O. letter referred above.

(S. N. JHA)

SENIOR ADMINISTRATIVE OFFICER

R-2 (56)

FORWARD No. 15-22

Date... 5.5.82

sent
Bash.
4/5/82

M. R. C. GN., JND.
CENTRAL ARID ZONE RESEARCH INSTITUTE
JODHPUR 342003

(17)

No. F.2-242/72-Adm.I

Dated: 28-4-1982

With reference to his letter dated 28th April, 1982 Shri Jagdish Ramani is relieved from the National Bureau of Plant Genetic Resources, Jodhpur, is directed to report to National Research Centre for Groundnut, Junagadh to join the appointment as Assistant as offered to him vide Centre's letter No. Recruitment 2(1)/81-3106-13 dated 2.4.1982 if the post is acceptable to him.

(H.M.MATHUR)
Sr. Administrative Officer

Shri Jagdi Ramani,
Sr. Clerk,
NBPGR, Regional Station,
Jodhpur.

Copy forwarded for information to:

1. Director, National Research Centre for Groundnut, Junagadh - with ref. to his letter dated 2.4.1982
2. Director, National Bureau of Plant Genetic Resources, CTO Complex, New Delhi - 12 with reference to Officer Incharge, Regional Station, NBPGR, Jodhpur letter dated April 20, 1982.
3. Officer Incharge, Regional Station, National Bureau of Plant Genetic Resources, Jodhpur with the request that Service records and L.P.C. of Shri Jagdish Ramani, may be forwarded to Director, National Research Centre for Groundnut, Junagadh.

SPM
W/S

WMS

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(H.M.MATHUR)
Sr. Administrative Officer

R-3 (59)

No. Per 75-1/82/575 (6)
Dated - 4-3-83

As the Director, NRCI is agreed for permanent absorption of Shri Jagdish Ramani, Assistant at present working on deputation we had approached to the Director, CAZRI, Jodhpur for his no objection certificate vide this office letter no. Per-75-1/82/575 dated 29.1.83. Now the Director, CAZRI, Jodhpur is pleased and furnished the no-objection vide letter No. 2-242/72-A1., dated 26.2.83.

The Director, NRCI is therefore requested to approve the final permanent absorption of Shri Jagdish Ramani; Assistant in public interest in the pay scale of Rs. 425-700. So that we may further request the CAZRI Jodhpur for transfer of leave.

for approval please.

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This may kindly be approved

A/O/Director.

Approved

DP.
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INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN, NEW DELHI-110 001

No. F. 12(29)/87-EE. III

Dated 26th November, 1987

To


The Director
National Research Centre for Groundnut
Junagadh-362 015.

Sub: NRCG - Fixation of seniority of Assistant -
Proposal regarding -

Sir,

With reference to your letter No. F. GA.83-1/85-Estt/1308 dated the 11/12th August, 1987 on the subject cited above, I am to say that the proposal regarding the absorption of the three persons in the Grade of Assistant at NRCG, Junagadh has been considered in consultation with the Personnel Division of the Council. As decided, you are advised to review your earlier decision and rectify the irregularity. In case, however, it is considered absolutely necessary in the interest of the work of the Institute to absorb the three persons as a very very special case, that would require the approval of the G. d., ICAR. The absorption can be done against the posts meant for direct recruitment quota only.

Yours faithfully,


(Kishori Lal)
Dy. Secretary (AR)

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26/11/87

26/11/87

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4.1.3 The decision will not be applicable (against their will) to such of the officers and establishment of the erstwhile Government Institutes (whether opted or not) as had been recruited for service in a particular Institute/ Regional Station/Sub-station only or who might have been recruited by the competent authority for service in a particular post.

4.1.4 Class III and Class IV employees of the Institute/Regional/ Sub-stations will not be covered by the decision, for the reason that they are ordinarily recruited by local advertisement or by inviting nominations from Regional Employment Exchange; unless their term of appointment provide for such inter-transfers.

4.1.5 Since the proposed transfers against equivalent posts at the Headquarters of the Institute/Regional Station/Sub-station would not be on their own volition, their transfers would presumably be in public interest. Accordingly, the officers concerned would be eligible for joining time, joining time pay and transfer T.A.

(ICAR letter No. 4-20/68-Reorg(Adm)dt. 18-12-71)

5. Inter-Institutional Transfers:-

The inter-institutional transfers shall be regulated by the following guiding principles.

5.1.1 Scientific posts, recruitment to which is made from open market either wholly or partly:-

Inter-Institutional transfers against equivalent posts are not normally admissible. However, in special cases, there may be no objection to such transfers, provided the candidate is otherwise acceptable to the Institute to which he seeks his transfer and is taken against a post meant to be filled in by direct recruitment.

5.1.2 Posts, other than scientific posts, recruitment to which is made from open market either wholly or partly:-

Inter-Institutional transfers against equivalent posts are

60

normally admissible, provided the candidate is otherwise acceptable to the Institute to which he seeks his transfer and is taken against a post meant to be filled in by direct recruitment.

5.1.3 Scientific as well as non-scientific posts recruitment to which is made wholly by way of promotion:

Inter-Institutional transfers against equivalent posts can be made only on mutual transfer basis, provided the persons are acceptable to the Directors of both the Institutes.

5.1.4 Regarding the grant of transfer travelling allowance etc., the individual concerned will have to meet this expenditure himself, since the transfer would be on the request of the individual concerned he will not be entitled to any transfer travelling allowance, joining time and joining time pay. For the period of journey etc. he may take leave of the kind due and admissible to him.

5.1.5 As regards seniority of administrative and supporting staff who are transferred under these guidelines, they will be ranked junior to all the existing regular staff of the new Institute in that grade.

(ICAR letter No. 4-20/68-Reorg(Adm)
dt. 18-12-1971)

61 R-60

**NATIONAL RESEARCH CENTRE FOR GROUNDWATER
PO : TIMBAWADI, JUNAGADH-362 015**

F.No.Per.75-1/82/Vol.III/1301

Dated : 16.10.89

MEMORANDUM

With reference to the representation dated 13.10.89 from Shri Jagdish Ranani, Assistant a copy of Council's letter F.No.12(29)/87-EE.III dated 22.9.89 is hereby forwarded to him for his information.

S.K. Mitra

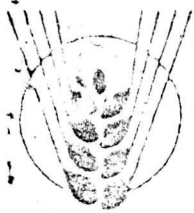
**(S.K. Mitra)
Administrative Officer**

To

**Shri Jagdish Ranani,
Assistant,
NRCG, Junagadh**

J.R.
16.10.89

(Through I/C Project Coordinator (Groundwater), NRCG, JND)



भारतीय
ICAR

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TELEPHONE OFF. 388991/.....EXT

TELEGRAM : AGRISEC
TELEX : 031 - 62249 ICAR IN

REGISTERED
IMMEDIATE

भारतीय कृषि अनुसंधान परिषद्, कृषि भवन, डा० राजेन्द्र प्रसाद मार्ग, नई दिल्ली-110001
INDIAN COUNCIL OF AGRICULTURAL RESEARCH, KRISHI BHAWAN, Dr. RAJENDRA PRASAD ROAD, NEW DELHI-1

P.N.O. 12/27/87-AN.111

Dated the 22nd Sept., 89.

To

✓ Dr. P. S. Reddy,
Director,
National Research Centre for Groundnut,
Junagadh- 362002.

Sub:- An appeal of Shri Jagdish Ramani Assistant,
N.R.C.G., Junagadh regarding his repatriation
to CAZRI, Jodhpur.

.....

Sir,

With reference to your letter No. Per. 75-1/82-
Estt/594 dated the 30th May, 1989 on the subject mentioned
above, I am to say that the appeal of Shri Jagdish Ramani,
Assistant, against the orders of his repatriation to
CAZRI, Jodhpur, has been examined in details and it has
been decided that Shri Ramani may be repatriated if the
resultant vacancy can be filled up by promotion. However,
in the interest of work, LPC may first decide about the
promotion before Shri Ramani is repatriated. Shri Ramani
may also please be informed accordingly.

Yours faithfully,

J. Chandler
(JAGDISH CHANDLER)
UNDER SECRETARY (J).

63

Unfortunately in this case even after nearly 32 years the dispute regarding the appointment of some of the respondents to the writ petition is still lingering in the court. In these circumstances the High Court was wrong in rejecting the preliminary objection raised on behalf of the respondents to the writ petition on the ground of laches.

A Government servant who is appointed to any post, ordinarily should at least, after a period of 3 to 4 years of his appointment, be allowed to attend to the duties attached to his post peacefully and without any sense of insecurity. It is unfortunate that in this case the appellants have been put to the necessity of defending their appointments as well as their seniority after nearly three decades. This kind of fruitless and harmful litigation should be discouraged.

[K.R. Mudgal and others v. R.P. Singh and others, 1987 SCC (Lab) 6.1]

5

Reversion of officer promoted on the basis of wrong seniority list does not amount to reduction in rank

The petitioner was appointed to the post of Lower Division Teacher in a Government school on 2-9-1960. By order, dated 25-1-1967, passed by the Divisional Superintendent of Education, Jabalpur Division, the petitioner was promoted to the post of Upper Division Teacher. He was later made quasi-permanent. However, by order, dated 3-7-1974, passed by the Divisional Superintendent of Education the petitioner was reverted to the post of Lower Division Teacher. The petitioner then filed the present petition under Art. 226 of the Constitution challenging the order of his reversion.

The respondents submitted that the petitioner's promotion to the post of Upper Division Teacher and the subsequent declaration that the petitioner was quasi-permanent on that post were invalid and void because the petitioner was promoted on the basis of a wrong seniority list which was prepared on a wrong interpretation of a statutory rule. It was further submitted that on the basis of his correct placement in the seniority list, the petitioner had no chance of being promoted and therefore, he and many others like him were reverted. It was contended that the reversion of the petitioner did not amount to reduction in rank within the meaning of Art. 311 of the Constitution of India.

Held: it will be seen that the petitioner's promotion to the post of Upper Division Teacher and the subsequent declaration that he was quasi-permanent on that post were all done under a mistake as to his correct position in the seniority list. The petitioner's promotion on the basis of a wrong seniority list violated the rights of those teachers guaranteed to them under Art. 16 of the Constitution who ought to have been considered for promotion before the petitioner on the basis of their true seniority. When the petitioner could not be promoted and when his promotion was invalid because it was made on the basis of a wrong

R-7

seniority list, the declaration that he held a quasi-permanent status could not confer on the petitioner any right to hold the post of Upper Division Teacher. In these circumstances, the reversion of the petitioner cannot amount to reduction in rank under Art. 311 of the Constitution. It is immaterial that the persons affected by the wrong promotion of the petitioner did not go to the court. Once a wrong is discovered the Government is bound to do justice even to those who ungrudgingly suffer injustice.

The petitioner's reversion is not by way of punishment and does not amount to reduction in rank.

[Ravindranath Tiwari v. Divisional Superintendent of Education and another, 1978 SLJ 97 (M.P.)]

6

Court cannot promote officials, but may demolish a bad order or direct reconsideration on correct principles

The first respondent filed a petition under Art. 226 of the Constitution seeking the following reliefs:—(1) for quashing an order denying him credit for service while he was serving as Private Secretary to three Ministers from October 27, 1946 to July 23, 1954, and (2) for a direction for payment of such amounts as he would have got had his due *inter se* seniority and promotion been accorded to him. The High Court granted both the reliefs. The State of Mysore challenged the order of the High Court as being beyond the powers of the Court.

Held: (Per Krishna Iyer, J.) the first respondent was entitled to count his service from October 27, 1946 for fixation in the graduation list but the High Court erred in directing the Government to give the petitioner notional promotion as Deputy Secretary with effect from the date from which his junior was promoted and for payment of excess salary on that footing.

In our Constitutional scheme, a broad three-fold division exists. The power to promote an officer belongs to the Executive and the judicial power may control or review Government action but cannot extend to acting as if it were the Executive. The court may issue directions, but leave it to the Executive to carry it out. The judiciary cannot promote or demote officials but may demolish a bad order of Government or order reconsideration on correct principles.

Basically, it is in Government's discretionary power, fairly exercised to promote a Government servant. If the rule of promotion is one of sheer seniority it may well be that promotion is a matter of course. On the other hand, if seniority-cum-merit is the rule, promotion is problematical. In the absence of positive proof of the relevant service rules, it is hazardous to assume that by efflux of time the petitioner would have spiralled up to Deputy Secretaryship. How can the Court speculate in retrospect what the rule was and whether the petitioner would have been selected on merit and on the strength of such dubious hypothesis direct

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD

ORIGINAL APPLICATION No.466 OF 1989

Shri Jagdish M. Ramani Applicant

-versus-

(1) Union of India, Respondents
Secretary,
Indian Council of Agril. Research,
Krishi Bhawan,
New Delhi

(2) The Director, -do-
National Research Centre for Groundnut
Timbawadi, Junagadh-362 015

DETAILED REPLY ON BEHALF OF RESPONDENTS No.1 & 2

1. That in the above matter Caveat was filed by the respondent (No.2) vide CA/8/89. Thereafter the copy of the application OA/466/89 was served on the Advocate for the respondents on 5.11.89 at 3.00 P.M. Thereafter the Officer of the respondents was telephonically informed on 5.11.89 and the ~~no~~ officer of the respondent came from Junagadh to Ahmedabad on 6.11.89 at 8.00 AM. The interim reply to oppose the application was prepared and filed on 6.11.89. Thereafter the matter is adjourned at the instance of the petitioner to 8.11.89. The respondent (No.2) is filing the detailed para-wise reply to the application which is as under :-

DETAILS OF APPLICATION

Para 1 & 2 - No comments.

Para 3 - The applicant is not a permanent regular Assistant of N.R.C.G. as alleged. He is only a deputationist drawn from other ICAR Institute. His permanent absorption irregularly made at the initial stage by his own initiative had to be cancelled as per the instructions of ICAR Headquarters, New Delhi vide letter dated 20.11.87.

*Received
by Mr. Ramani
8/11/89
10:45 AM*

*filed in
court*

*Rm
8/11*

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The applicant is only being repatriated to his parent Office within the ICAR set-up itself against a post that he would have got had he not proceeded on deputation to N.R.C.G., Junagadh. It is not a case of reversion from higher post to a lower post due to any punishment or a case of retrenchment etc.

The allegation of putting an end to the service of the applicant is hereby refuted.

Para 4 - No Comments.
& 5

Para 6(1)&(2) - No comments.

Para 6(3)- The statement of the applicant that he was promoted as Senior Clerk regularly at C.I.A.E. Bhopal is only mis-guiding. As clearly indicated in his parent Office (i.e. CAZRI, Jodhpur) letter No.F.2-242/72-Adm.I dated 28.11.88, his appointment as Senior Clerk at C.I.A.E., Bhopal was on deputation basis only. Otherwise had he been holding regular post at C.I.A.E. Bhopal, the question of issuing his relieving order by CAZRI, Jodhpur to join the post of Assistant at N.R.C.G. vide order dated 28.4.82 would not arise.

The role played by the applicant himself to get permanently absorbed as Assistant at N.R.C.G. by misguiding the Authority through a wrong-noting, has already been explained in the respondents written replies filed on 6.11.89.

The plea of the applicant that his service was extra-ordinarily efficient and satisfactory etc. is totally false. The applicant was subjected to several major and minor penalties for various misconducts during his service at N.R.C.G. Junagadh.

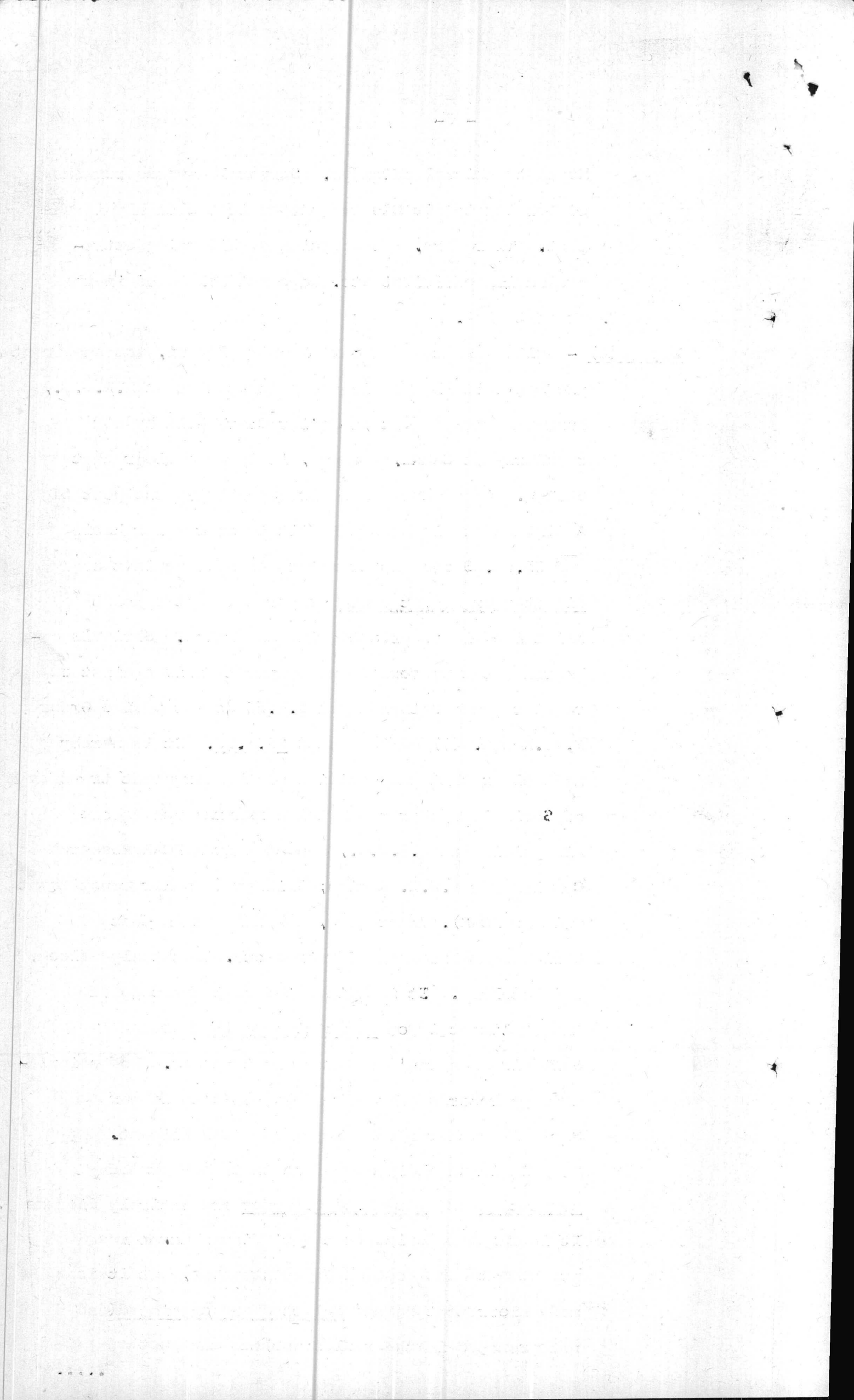
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He is a habitual offender. Several adverse remarks concerning to his CRs were communicated to him in the past. Therefore, the question of his being extraordinarily efficient etc. does not hold good in the present case.

Para 6(4) - Unlike the case of Shri Jagdish Ramani, the applicant who was initially appointed on deputation at N.R.C.G., Junagadh from a post of Junior Clerk held by him regularly at CAZRI, Jodhpur, it is made clear that Shri N. Viswambharan was already holding the post of Assistant at his parent Institute on regular basis wef 15.11.83 and his transfer was made against a direct recruitment quota as per the roster point maintained in accordance with the rules. Shri Viswambharan was transferred on permanent basis against a regular permanent post wef 1.6.86 as per Office Order F.No.Rectt.2(8)/86/466 dated 25.4.86. It is hereby made clear that the decision of the permanent transfer of Shri Viswambharan was taken ~~much~~ much before his joining at N.R.C.G., Junagadh from ICAR Research Complex for N.E.H. Region, Shillong (another constituent unit of ICAR). Therefore, the allegation that Shri Viswambharan was favoured etc. is totally false and baseless. It is reiterated that the case of the applicant is on deputation basis whereas Shri Viswambharan's a permanent transfer. No manipulation of records of any kind was made to favour Shri Viswambharan as alleged by the applicant.

It is an undisputed fact that the term of deputation and permanent transfer are entirely different. It is further denied that Shri Viswambharan was promoted to the post of Superintendent, but it is made clear that he was selected and appointed (and not promoted in the real sense) to the post of



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Superintendent through a departmental competitive examination. In fact the applicant does not have any substance in OA/220/88 and therefore he has failed to submit his rejoinder even after a lapse of 1½ years.

Para 6(5) - It is denied that the applicant was ever made permanent in the grade of Assistant.

The attitude of the applicant exhibiting the regional feelings is neither tenable under any law nor is in conformity with the provisions contained in the CCS(Conduct) Rules, 1964. The Director, N.R.C.G., Junagadh is in fact better known for his honesty and impartiality. It is always the applicant who used to view the things always in a regional and disorderly manner.

The decision of repatriation of the applicant was taken only with a view to rectify the irregularities committed in the wrong appointment of the applicant at N.R.C.G. for which he himself was mainly responsible for the manipulation of records by hiding the facts. By his repatriation it is ensured that while he gets his due benefits, the interest of other five regular incumbants are not badly affected. The applicant is certainly not entitled to continue to enjoy the undue benefits at the cost of other regular employees and if it is allowed by any means it will lead to a serious heart-burnings and repercussion amongst the staff members.

The applicant is unnecessarily linking the case No.OA/220/88 with the present application and thereby misguiding the honourable Tribunal. If the applicant was really interested in the disposal of OA/220/88 he would not have delayed filing the rejoinder upto now. The OA/220/88 relates to the appointment of Shri N. Viswambharan to the post of Superintendent through departmental competitive examination

whereas the present application is pertaining to the repatriation of the applicant to his parent Office.

Para 6(6) - Only two persons are deputationists, viz.

S/Shri S.B. Surolia and Jagdish M. Ramani as per the roster. Hereto annexed as R.1 is an abstract from the relevant roster for kind perusal. Amongst these two persons the case of Shri Surolia for his repatriation to his parent Office is still in progress and an appropriate decision will be taken in due course as stated earlier. Whereas, Shri Viswambharan was a permanent transferee against direct recruitment post as permissible under rules and the question of his reversion does not arise as the rules governing the deputationists as well as the transferees are different.

Para 6(7) - The allegation is incorrect as this is not a case of retrenchment or reversion. ~~The applicant-~~ The repatriation of the applicant necessitated as per the instructions issued by the ICAR Headquarters dated 20.11.87 wherein it was desired to review the earlier decision of permanent absorption and to rectify the irregularities. The approval of the Governing Body of ICAR to the permanent absorption of any deputationist is necessitated because the permanent absorption is beyond the scope of the relevant recruitment rules under which the Director, N.R.C.G. Junagadh is empowered to ~~appoint~~ make any appointment.

Para 6(8) - The allegation is incorrect as this is not a case of retrenchment or reversion. The applicant is in fact assured all his due benefits which he would have got but for his proceeding on deputation to N.R.C.G., Junagadh as mentioned in the Posting Order issued by his parent Office (CAZRI, Jodhpur) vide letter No.F.2-242/72-Adm.I dated ~~28.5.89~~ 15.5.89.

8/6/89

Hereto annexed is a copy of the same as Annexure R.2 for kind reference.

Para 6(9) - As already pointed out, the applicant is in the habit of approaching the honourable Tribunal without even applying his mind to acquaint himself ~~with~~ either with the relevant service rules/procedures involved in or with the legal aspects of the case. The judgement reproduced is not tenable in this particular case of repatriation.

It is a fact that the Council HQrs, New Delhi had to properly examine the case in detail before communicating its decision on the applicant's appeal dated 25.5.89 vide letter F.No.12(29)/87-EE.III dated 22.9.89 and not much delay as alleged was caused. It is only quite natural that some more time was taken to process, examine and decide the case properly in the light of the existing rules and procedures in the matter by the Appellate Authority, keeping in view the interest of work of the Office as well as the regular employees who are otherwise badly affected by the continuance of the applicant at N.R.C.G., Junagadh. The authorities are bound to do justice to the regular employees lest they will have to face a lot more case that are coming forth from the regular employees if the applicant is allowed to continue at N.R.C.G., Junagadh.

G R O U N D S

(a), (b) & (c) - Review and rectification of earlier order dated 8.3.83 made by the Authorities are permissible under law. The judgements of Court in the case of Ravindranath Tiwari-v. Divisional Superintendant of Education and another 1978 SLJ 97 (MP) and A.K. Srivastava v. Union of India and others 1986(1)

82/66

SLJ (CAT) 1 (Principal Bench) (copies annexed hereto as Annexure.R.3) are clear examples of it. Since the applicant was found ineligible for holding the post of Assistant at N.R.C.G., Junagadh which could be detected only at a later stage due to the "hide and suppress" attitude made by the applicant, the petitioner's absorption made earlier wrongly could not confer on the applicant any right to hold the post of Assistant on regular basis.

(d) (e) & (f) - Vide respondent's (No.2) Memo F.No.Per.75-1/82/Vol.II/1289/1997 dated 13.10.89 the decision of the Appellate Authority addressed to the Director, N.R.C.G vide letter No.F.12(29)/87-EE.III dated 22.9.89 was only conveyed. Even a photostat copy of the said letter No.F.12(29)/87-EE.III dated 22.9.89 was subsequently supplied to the applicant vide Memo dated 16.10.89. Since the decision does not relate to a case of punishment and a photo-copy was already supplied to the applicant there is no violation of Article 311(1) of the Constitution of India as alleged. The speaking order as required by the applicant will be issued on expiry of one month from communication of the decision vide Memo dated 13.10.89.

The Director, N.R.C.G., Junagadh has only approved the issuance of the Memo dated 13.10.89 wherein the decision of the Secretary, ICAR was conveyed as per the normal procedure of communicating with the employees through the employer existing under ICAR system.

(g) - The matter of repatriation of Shri S.B. Surolia is already in progress. The question of Shri N. Viswambharan, transferee who was not a deputationist like the applicant does not arise.

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- (h) - The Govt of India instructions dated 30.4.83 cited by the applicant are applicable only in the case of regular employees and regular promotions. The applicant is not a regular employee of N.R.C.G., Junagadh.

The order of this honourable Tribunal dated 25.4.89 passed in OA/102/89 relates to the case of reversion of regular employees with reference to the position maintained in the seniority list. Whereas in the instant case the applicant is neither a regular employee of N.R.C.G., Junagadh nor he maintains any position in the seniority list as on date.

Vide the order dated 12.5.89 passed by this honourable Tribunal in OA/190/89 filed earlier by the applicant (copy enclosed as Annexure R.4) the respondents were restrained from implementing the impugned order dated 1.5.89 until the disposal of the appeal or any orders passed on the representation by the Competent Authority to entertain it or otherwise until one month from the date of communication. Honouring the order of the honourable Tribunal, while communicating the decision of the Appellate Authority vide Memo dated 13.10.89 the applicant was given one month time.

It is only the applicant who is dragging the matter, and not his authorities, with a bad motive to get any sort of interim order so that he can further linger on at N.R.C.G., Junagadh and enjoy the undue benefits for as much period as he can.

- (i) - The allegation made by the applicant is totally false and baseless.
- (j) - It is clear from the letter No.F.2-242/72-Adm.I dated 19.7.88 the applicant himself wanted to know his position in his parent Office by submitting

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a direct representation dated 2.6.88 without routing it through proper channel as required under rules.

The applicant was subsequently posted at the CAZRI, Regional Research Station by his parent Office vide CAZRI, Jodhpur Office Order No.2-242/72-Adm.I dated 15.5.89 against a post of Senior Clerk on which he would have continued but for his proceeding on deputation and irregular absorption at N.R.C.G., Junagadh. The applicant instead of complying with the posting order issued by his parent Office and the decision of the Appellate Authority has adopted a dilatory tactics by filing a fresh application in this honourable Tribunal in the matter with a sole intention to get the case further complicated and thereby he gets some more time to enjoy the undue benefits.

(1)(m) - The applicant is now not entitled to any provision that is prescribed in the SC/ST brochure for the benefit of regular SC/ST employees of N.R.C.G., Junagadh.

At N.R.C.G., Junagadh the SC/ST roster is maintained properly which was subjected to inspection by the Liaison Officer (SC/ST) and other officials deputed by the ICAR. No irregularity whatsoever was ever pointed out/noticed.

(n) The appointment of the applicant at N.R.C.G., Junagadh and his repatriation to the parent Institute, i.e. CAZRI, Jodhpur now are within the ICAR-set up only and, therefore, approval of the Ministry is for deputation beyond 4 years not warranted. The question of approval of the Ministry for deputation beyond 4 years will arise only in the cases of deputations outside ICAR set-up. The allegation of the applicant, therefore, is irrelevant in the instant case.

(o) It cannot be termed as a belated stage. As only 5 years have elapsed since completion of the initial tenure of 2 years. Moreover it is within the ICAR system

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only. By repatriating the applicant, the ICAR authorities are only ensuring a fair and reasonable justice both to the applicant himself as well as other Council's employees. It is only an impartial decision to ensure that nobody is allowed to enjoy undue benefits under the prescribed rules at the cost of others.

THE RESPONDENTS HEREBY state that so far the application of the applicant has not been admitted by the Hon'ble Tribunal and no notice has been issued to the respondents. The respondents files this advance reply in continuation to the interim written reply filed on 6.11.89 and further reserves right to file the further reply in case need arises after the notices of this honourable Tribunal is served in accordance with Rule 12 of the Procedure Rules.

In view of this no interim order should be passed and the application filed by the applicant deserves to be dismissed in limine.

Dated, Ahmedabad
the 8th Nov, 1989.


(Respondent)


(Advocate for respondents)



ICAR

राष्ट्रीय मूंगफली अनुसंधान केन्द्र (भा. क. अ. प.)
पोस्ट - टिबावाडी, जूनागढ़ - ३६२०२५ (गुजरात)
NATIONAL RESEARCH CENTRE FOR GROUNDNUT (ICAR)
TIMBAWADI P. O. JUNAGADH-362015 (Gujarat) INDIA.

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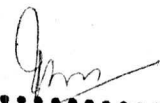
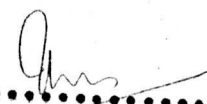
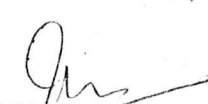
Dr. P. S. Reddy
Director

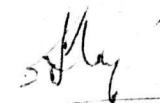
F. No. GA.49(2)/367

Date : 22.10.89

AUTHORITY LETTER

Shri N. Viswambharan, Superintendent of National Research Centre for Groundnut, Junagadh whose specimen signatures are appended, is hereby authorised to sign the documents such as Vakalatnama, Caveat, other applications & documents to be filed in the honourable Central Administrative Tribunal, Ahmedabad on behalf of the undersigned, in the cases pending and/or being filed by Shri Jagdish Ramani, Assistant and Shri Gautama Mookherjee, Hindi Translator (under suspension)-both employees of N.R.C.G., Junagadh :-

1..........2..........3..........


(P.S. Reddy)
Director
N.R.C.G.
Junagadh

ABSTRACT FROM THE RUNNING ROSTER MAINTAINED AT N.R.C.G.,
JUNAGADH FOR DETERMINING THE 'PROMOTION POST' AND 'DIRECT
RECRUITMENT POST' IN THE GRADE OF ASSISTANT

Point No	Roster point		Name of person appointed & year of appointment	Mode of appointment/ status
	Whether DR or Promotion post			
1	D1(Direct Rectt)		Shri A.R. Somani (1979)	Deputation
2	P1(Promotion)		" B.T. Mewada (1979)	-do-
3	P2		" V.S. Parmar(SC) (1980)	-do-
4	D2		" P. Jayachandran (1980)	-do-
5	P3		" S.B. SuroMa (1981)	-do-
6	P4		" Jagdish Ramani(SC) (1982)	-do-
7	D3		" S.R. Meena(ST) (1983)	-do-
8	P5		" R.S. Sagar(SC) (1983)	-do-
9	P6		" V.S. Negi (1983)	-do-
10	D4		" N. Viswambharan (1986)	Permanent transfer

Inward No.....

Annex. R.2

Dated.....

N.R.C.G., JUNAGADH

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Indian Council of Agricultural Research
CENTRAL ARID ZONE RESEARCH INSTITUTE, JODHPUR.

No.2-242/72-Adm.I

Dated : 15/5/89

OFFICE ORDER

Consequent upon repatriation of Shri Jagdish Ramani from the National Research Centre for Groundnut, Junagadh he is posted at the Central Arid Zone Research Institute, Regional Research Station, Kukma, Bhuj as Sr. Clerk, the post on which he would have continued but for his preceding on deputation and irregular absorption at National Research Centre for Groundnut.

On his being relieved from the National Research Centre for Groundnut, Junagadh, Shri Jagdish Ramani will report for duty to the Officer Incharge, Central Arid Zone Research Institute, Regional Research Station, Kukma, Bhuj.

This issues with approval of the Council vide No. 12(29)/88-EE.II dated 3.1.1989.

(S.N. JHA)

SENIOR ADMINISTRATIVE OFFICER

Distribution :

1. Shri Jagdish Ramani, Assistant through the Administrative Officer, National Research Centre for Groundnut, P.O. Timbavadi, Junagadh.
2. Administrative Officer, National Research Centre for Groundnut, P.O. Timbavadi, Junagadh with reference to the endorsement of his office memorandum No.Per.75-1/82-Esstt./219/352 dated 1.5.89.
3. The Officer Incharge, Central Arid Zone Research Institute, Regional Research Station, Kukma, Bhuj.
4. Sr. Accounts Officer, CAZRI, Jodhpur.
5. A.A.C. (Adm.III), CAZRI, Jodhpur.
6. Recruitment file of Sr. Clerk.
7. Seniority list of Sr. Clerk.

DS

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15/5/89

Annex R.3
 72
 88

Unfortunately in this case even after nearly 32 years the dispute regarding the appointment of some of the respondents to the writ petition is still lingering in the court. In these circumstances the High Court was wrong in rejecting the preliminary objection raised on behalf of the respondents to the writ petition on the ground of laches.

A Government servant who is appointed to any post, ordinarily should at least, after a period of 3 to 4 years of his appointment, be allowed to attend to the duties attached to his post peacefully and without any sense of insecurity. It is unfortunate that in this case the appellants have been put to the necessity of defending their appointments as well as their seniority after nearly three decades. This kind of fruitless and harmful litigation should be discouraged.

[K.R. Mudgal and others v. R.P. Singh and others, 1987 SCC (Lab) 6.]

5

Reversion of officer promoted on the basis of wrong seniority list does not amount to reduction in rank

The petitioner was appointed to the post of Lower Division Teacher in a Government school on 2-9-1960. By order, dated 25-1-1967, passed by the Divisional Superintendent of Education, Jabalpur Division, the petitioner was promoted to the post of Upper Division Teacher. He was later made quasi-permanent. However, by order, dated 3-7-1974, passed by the Divisional Superintendent of Education the petitioner was reverted to the post of Lower Division Teacher. The petitioner then filed the present petition under Art. 226 of the Constitution challenging the order of his reversion.

The respondents submitted that the petitioner's promotion to the post of Upper Division Teacher and the subsequent declaration that the petitioner was quasi-permanent on that post were invalid and void because the petitioner was promoted on the basis of a wrong seniority list which was prepared on a wrong interpretation of a statutory rule. It was further submitted that on the basis of his correct placement in the seniority list, the petitioner had no chance of being promoted and therefore, he and many others like him were reverted. It was contended that the reversion of the petitioner did not amount to reduction in rank within the meaning of Art. 311 of the Constitution of India.

Held: it will be seen that the petitioner's promotion to the post of Upper Division Teacher and the subsequent declaration that he was quasi-permanent on that post were all done under a mistake as to his correct position in the seniority list. The petitioner's promotion on the basis of a wrong seniority list violated the rights of those teachers guaranteed to them under Art. 16 of the Constitution who ought to have been considered for promotion before the petitioner on the basis of their true seniority. When the petitioner could not be promoted and when his promotion was invalid because it was made on the basis of a wrong

seniority list, the declaration that he held a quasi-permanent status could not confer on the petitioner any right to hold the post of Upper Division Teacher. In these circumstances, the reversion of the petitioner cannot amount to reduction in rank under Art. 311 of the Constitution. It is immaterial that the persons affected by the wrong promotion of the petitioner did not go to the court. Once a wrong is discovered the Government is bound to do justice even to those who ungrudgingly suffer injustice.

The petitioner's reversion is not by way of punishment and does not amount to reduction in rank.

[Ravindranath Tiwari v. Divisional Superintendent of Education and another, 1978 SLJ 97 (M.P.)]

6

Court cannot promote officials, but may demolish a bad order or direct reconsideration on correct principles

The first respondent filed a petition under Art. 226 of the Constitution seeking the following reliefs:—(1) for quashing an order denying him credit for service while he was serving as Private Secretary to three Ministers from October 27, 1946 to July 23, 1954, and (2) for a direction for payment of such amounts as he would have got had his due *inter se* seniority and promotion been accorded to him. The High Court granted both the reliefs. The State of Mysore challenged the order of the High Court as being beyond the powers of the Court.

Held: (Per Krishna Iyer, J.) the first respondent was entitled to count his service from October 27, 1946 for fixation in the gradation list but the High Court erred in directing the Government to give the petitioner notional promotion as Deputy Secretary with effect from the date from which his junior was promoted and for payment of excess salary on that footing.

In our Constitutional scheme, a broad three-fold division exists. The power to promote an officer belongs to the Executive and the judicial power may control or review Government action but cannot extend to acting as if it were the Executive. The court may issue directions, but leave it to the Executive to carry it out. The judiciary cannot promote or demote officials but may demolish a bad order of Government or order reconsideration on correct principles.

Basically, it is in Government's discretionary power, fairly exercised to promote a Government servant. If the rule of promotion is one of sheer seniority it may well be that promotion is a matter of course. On the other hand, if seniority-cum-merit is the rule, promotion is problematical. In the absence of positive proof of the relevant service rules, it is hazardous to assume that by efflux of time the petitioner would have spiralled up to Deputy Secretaryship. How can the Court speculate in retrospect what the rule was and whether the petitioner would have been selected on merit and on the strength of such dubious hypothesis direct

There is no law or principle that requires that every senior should be eligible for promotion irrespective of the qualifications prescribed for the next higher post. Having regard to the qualifications prescribed to a post, a junior may be eligible, while a senior is not. A rule prescribing longer period of qualifying service *per se* is neither arbitrary nor unjust and violative of Article 14 of the Constitution. In prescribing 8 years' service instead of 5 years for being considered eligible for appointment of directly recruited Assistants to the post of Section Officers on a temporary basis, the Government was acting reasonably and not arbitrarily.

[A.K. Srivastava v. Union of India and others, 1986 (1) SLJ (CAT) 1 (Principal Bench).]

53

***Ad hoc* appointment confers no right to seniority
from the date of such appointment**

The petitioner was appointed as Assistant Engineer, *ad hoc* with effect from 15-9-1970. Thereafter on 30-1-1975, the petitioner and his other colleagues, who were also given *ad hoc* promotions to the post of Assistant Engineer were regularised on officiating basis on the post of Assistant Engineer. Respondent No. 3 and respondent No. 4 were direct recruits. They were recruited respectively on 19-1-1971 and 14-1-1971. On 10-2-1978, a tentative seniority list of Assistant Engineers was published. This seniority list was published on the basis of rotation as between promotees and direct recruits. Respondent No. 3 got his seniority at serial No. 4 and respondent No. 4 got his seniority at serial No. 6 while the petitioner got his seniority at serial No. 8. Hence the present petition.

The petitioner contended that since he was given *ad hoc* appointment as Assistant Engineer right from 15-9-1970, respondent Nos. 3 and 4, who were respectively recruited on 19-1-1971 and 14-1-1971, could not have been given seniority over him.

Held: it is always open to the administration to keep the wheels of administration going on in cases where proper incumbents, who could be appointed in a particular quota, are not available. In such cases, with a view to see that the administration runs smoothly, it is open to the department to make *ad hoc* appointments. If such *ad hoc* appointments are made, it would mean that technically the post in question is still vacant for the person who is found eligible to occupy the quota post. An *ad hoc*ist has got no right either of seniority or otherwise on the post on which his *ad hoc* appointment is made and his right to that post begins or comes into existence only from the date on which his services are regularised.

Under the circumstances, it is not open to the petitioner to claim the benefit of the services on the post on which he served merely as an *ad hoc*ist.

[A.V. Sharma v. State of Himachal Pradesh and others, 1979 SLJ 642 (Him. Pradesh).]

Accordingly, the impugned order was quashed with a direction that the pay of the petitioner be fixed in accordance with the rules.

[Sardar Santokh Singh Bhondi v. State of Punjab and others, 1975 SLJ 480 (Punj. & Haryana).]

52

Reversion of *ad hoc* promotee due to amended rules prescribing longer qualifying service is neither arbitrary nor unjust

The two petitioners, who were Assistants working in the Commerce Ministry and Labour Ministry respectively were promoted on *ad hoc* basis to the post of Section Officers. When the petitioners were promoted on *ad hoc* basis they had less than 8 years of service. While the petitioners were continuing to work as Section Officers on *ad hoc* basis, Rule 13 of the C.S.S. Rules, 1962, was amended. Under the amended rule only those Assistants who had put in not less than 8 years of service as Assistants were eligible for appointments against temporary vacancies in Section Officers Grade. The petitioners who did not fulfil the qualifications laid down by the amended rule were reverted to their substantive posts of Assistants with effect from 1-7-1985.

It is these orders of reversion that are called in question in the present writ petitions.

Counsel for the petitioner contended that by the application of the amended rules, the seniority of the petitioners is being disturbed and persons junior to them in the cadre of Assistants will now occupy the position of Section Officers while they would continue as Assistants and that according to him is contrary to all canons of justice.

Held: when qualifications for appointment to a post in a particular cadre are prescribed, they must be satisfied before a person can be considered for appointment. Only when one is eligible as per the qualifications prescribed and is appointed he enters that cadre and then his seniority in that cadre is fixed. The post in the next higher cadre may be a promotion post or a selection post. In either case one must first be eligible for appointment to the next higher post before he can come for consideration for appointment. For any appointment, eligibility comes first and is a must. Seniority comes only next if it is a promotion post and merit if it is a selection post. Even the seniormost must possess the prescribed qualifications before he can be considered eligible for appointment failing which he must give way to his juniors who are eligible. Seniority would be relevant only amongst persons eligible; it cannot be a substitute for eligibility much less can it override it in the matter of appointment to the next higher cadre. The petitioners are not coming up for consideration for appointment as Section Officers not because they are treated as junior to the others in the cadre of assistants but because with less than 8 years of service they are not qualified. In other words, they do not possess the requisite length of qualifying service to be eligible for appointment. Prescribing the qualifications for appointment to the promotional post of Section Officers does not disturb the order of seniority of the Assistants themselves.

Shri J.M. Ramani

Annexure V

Annex R.4

Central Administrative Tribunal
Ahmedabad Bench

(22) (78)
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Union of 7 & 8 Q.S.

QA/190/89

Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman

12/5/1989

Heard Mr.D.M.Thakkar and Mr.R.A.Mishra, the learned advocates for the applicant and the respondents. Mr.Mishra states that under Rule 23 of an appeal to the Indian Council of Agricultural Research authorities lies and the petitioner should be asked to exhaust this remedy. Learned advocate for the respondent disputes that this is a statutory remedy which requires to be exhausted. However, in view of the statement of the learned advocate for the respondent it is fit and proper that the following direction is issued:

The petitioner on his filing a representation or appeal ^{within 15 days of this order} as the case may be under Rule 23 referred to by the learned advocate, to the competent authority, the competent authority is directed to dispose of the appeal as quickly as possible. ^{within one month there or} The respondents are restrained from implementing the impugned order dated 1/5/1989 until the disposal of the appeal or any orders passed on the representation by the competent authority ^{it} entertained ^{until} or otherwise ^{is enable} one month from the date of ^{is free to} communication. Thereafter the petitioner ^{is free to} to seek any relief if he has any cause left. Learned advocate for the petitioner wants to withdraw the petition at this stage Allowed. With this direction, the case is disposed of as withdrawn.



Prepared by: P.H.
15.5.89

Sd/-
(P.H.Trivedi)
Vice Chairman

Compared by: P.T.T.
15.05.89

TRUE COPY

a.a.bhatt

[Signature]
15/5/89
Section Officer

19-12-89

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD

ORIGINAL APPLICATION No.466 OF 1989

Shri Jagdish M. Ramani Applicant

-versus-

(1) Union of India, Respondents
Secretary,
Indian Council of Agril. Research
Krishi Bhawan,
New Delhi

(2) The Director, -do-
National Research Centre for Groundnut
Timbawadi, Junagadh-362 015

RESPONDENTS REPLY ON THE AD-INTERIM RELIEF DATED 10.11.89

The respondent No.2 on behalf of the respondents do hereby humbly pray that the ad interim relief granted to the applicant may kindly be vacated due to the reasons afforded to hereunder :-

1. That the applicant is not a regular employee of the National Research Centre for Groundnut, Junagadh (Respondent No.2). The applicant was appointed on deputation basis against a promotion post (Running Roster Point No.P4 -Annex.R.1 of respondents detailed reply dated 8.11.89 refers) and hence his permanent absorption at N.R.C.G., Junagadh cannot be made. Because of the irregularities in the applicant's appointment and irregular absorption at N.R.C.G. it is neither possible to obtain the approval of the Competant Authority, i.e. the Governing Body of Indian Council of Agricultural Research, to his permanent absorption at this belated stage.
2. That as already pointed out the applicant was not eligible to hold the post of Assistant at N.R.C.G., Junagadh on regular basis. He virtually jumped from the post of Junior Clerk to Assistant without serving in the grade of Senior Clerk in his parent Institute on regular basis as against the stipulated condition existing under the General Principles

RAM
SABLI
Rishabh R Shukh
Advocate.
Dt 5/12/89

of Seniority circulated vide Govt of India in O.M. No.9/11/55-RPS dated 22.12.59 as amended from time to time.

3. That the services rendered by the applicant at C.I.A.E., Bhopal on deputation basis cannot be treated as regular service for the purpose of permanent absorption, since the applicant originally belonged to the parent Office, i.e. C.A.Z.R.I., Jodhpur. This is the reason why he was relieved by C.A.Z.R.I., Jodhpur on his appointment as Assistant on deputation basis at N.R.C.G., Junagadh. At his parent Office (C.A.Z.R.I., Jodhpur), the applicant was holding the post of Junior Clerk only as against the requirement of Senior Clerk.

4. That the irregular order of absorption dated 8.3.83 was cancelled with a view to correct the mistake committed initially at the instance of the applicant himself, as per the instructions of the Council Headquarters vide letter dated 20.11.87 (Annex.R.4 of the respondents written reply dated 6.11.89 refers). The judgement annexed as Annex.R.7 of the respondent's written reply dated 6.11.89 in the case of "Ravindranath Tiwari v. Divisional Superintendent of Education and another, 1978 SLJ 97(MP)" clearly indicates that when a promotion was found to be invalid because it was made on the basis of a wrong seniority list/ ~~the~~ wrong action the declaration of the permanent status could not confer on the petitioner any right to hold the post. Accordingly it is re-iterated and submitted that the applicant does not hold any right over the post of Assistant at N.R.C.G., to hold it permanently. The abovementioned judgement is very much relevant in the present case and the decision of repatriation of the applicant to the parent Institute is in conformity with the rules and laws existing in the subject matter.

5. That Shri N. Viswambharan was permanently transferred from an equivalent post of Assistant at ICAR Research Complex for NEH Region, Shillong to an equivalent grade of Assistant at N.R.C.G., Junagadh against a direct recruitment post strictly in accordance with the ~~the~~ existing recruitment rules and no irregularity was involved in his case. The decision of Shri Viswambharan's permanent transfer

was made as there was a direct recruitment post existing at the time of his transfer. The decision was even taken much before his joining the duties at N.R.C.G., Junagadh and, therefore, the question of favouring ~~the~~ Shri N. Viswambharan as alleged by the applicant is totally false and misleading.

6. The applicant is the junior person amongst the two deputationists now working in the grade of Assistant at N.R.C.G., Junagadh. Shri S.B. Surolia who had joined in 1981 (earlier to the applicant) is the senior person amongst the deputationists. Shri Surolia is also being repatriated to his parent Office in due course after getting clearance from his Parent Institute. The retention of the applicant at N.R.C.G., Junagadh will tantamount to enforcing a binding on the authorities to keep both the deputationists at N.R.C.G., Junagadh which is going to adversely affect the promotional avenues of other regular employees and thereby giving a room for ~~may~~ many more litigations.
7. That the respondent (No.2) has held a D.P.C. on 12.10.89 for the promotion of Senior Clerk to Assistant against the post to be vacated by the applicant being repatriated as desired in the Council HQrs letter dated 22.9.89. The respondents are finding ^{it} difficulties to implement the recommendations of the DPC ^{of} 12.10.89 for want of repatriation of the applicant. Further retention of the applicant is going to lead to serious heart-burnings amongst the regular staff which will be against the interest of running the affairs and administration of N.R.C.G., Junagadh smoothly.
8. That the repatriation of the applicant was first decided by the Director, N.R.C.G., Junagadh in consultation with his parent Institute as per Council HQrs letter dated 20.11.87. The applicant's parent Office (C.A.Z.R.I., Jodhpur) issued the posting order of the applicant dated 15.5.89 to a post which he would have got but for his proceeding on deputation and irregular absorption at N.R.C.G., Junagadh, after obtaining the Council's approval again. Now the appellate authority has also decided to repatriate the applicant vide order dated 22.9.89

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(conveyed to the applicant vide Memo dated 13.10.89) while disposing of the applicant's representation dated 25.5.89 preferred in pursuance of this honourable Tribunal's order dated 12.5.89 passed in OA/190/89. From all angles the decision of the repatriation of the applicant is fully justified in the public interest.

In the aforesaid facts, circumstances and grounds the respondents humbly say and submit that the applicant cannot be permanently absorbed at N.R.C.G., Junagadh ~~xxxxxxx~~ under the rules and laws nor the applicant is eligible for any relief sought for.

The respondents may, therefore, kindly be allowed to implement the order of repatriation of the applicant so that the respondents can act upon the recommendations of the D.P. of 12.10.89 for promotion of a regular Senior Clerk to the post of Assistant to be vacated by the the applicant. It is submitted and re-iterated that the applicant is being repatriated to his parent Office under the ICAR set-up itself where he has been assured all the due benefits including the post on which he would have continued but for his proceeding on deputation and irregular absorption at N.R.C.G., Junagadh as mentioned vide CAZRI, Jodhpur Office Order No.2-242/72-Adm.I dated 15.5.89 (Annex.R.2 of the respondent's written reply dated 8.11.89).

In view of this it is humbly ~~xxx~~ prayed that the interim relief granted to the applicant may kindly be vacated and the respondents permitted to repatriate the applicant without further delay. Further, the respondents also pray that the application of the petitioner may be quashed and set aside in limine.

Dated, Ahmedabad
the 30th November, 1989.

[Signature]
30.11.89

(Respondent)

(Advocate for the respondents)

Reply/Rejoinder/written submission
filed by Mr. *P.A. Mishra*
learned advocate for petitioner
Respondent with second set
Copy served/not served & other side

Dt 31/11/89 *C. G. Rao*
Dy. Registrar
Ahmedabad

(concerning the applicant's application for a passport) dated 11.10.59) while
 regarding the applicant's application for a passport dated 11.10.59, the
 in pursuance of the provisions of the Passport Act, 1920, the
 passed in 1959, from which the decision of the Registrar
 of the applicant is being appealed in the present case.
 In the present case, circumstances and grounds for the Registrar's
 decision are stated in the applicant's appeal which are
 set out in the following paragraphs under the title and laws not
 the applicant is entitled to be granted a passport for
 the reasons stated, therefore, kindly be allowed to implement the
 order of registration of the applicant as that the respondent can
 not upon the recommendations of the Registrar, of 11.10.59, for the purpose of
 a regular passport to the Registrar to be issued by the
 the applicant. It is stated and reiterated that the applicant is
 being registered to his present office under the IAS set-up itself
 where he has been awarded all the benefits including the post on which
 he would have continued but for his proceeding on deputation and irregular
 absorption as M.A.S.O., Bangalore as mentioned vide G.O., Mysore Office
 Order No. 2-242/7-1-59 dated 15.8.59 (Annex. 2) of the respondent's
 written reply dated 8.11.59).
 In view of the fact that the Registrar's decision is
 granted to the applicant may kindly be vacated and the respondent
 permitted to register the applicant without further delay. Further,
 the respondent also pray that the application of the petitioner may
 be granted and set aside in limine.

(Respondent)
 the 30th November, 1959.

(Advocate for the respondent)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

Caveat no 8/89
RA/M.A/O.A./T.A./ 198 in OA/46

The Director M.A.C. Applicant (s).

R.A. Mehta Adv. for the
Petitioner (s).

Versus

Shri Jogdish Ramani Respondent (s).

P.P. Adv. for the
Respondent (s).

Mr. K.K. Shah

SR. NO.	DATE.	ORDERS,
		(Caveat) (copy received)
	8/11/89	
	10-11-89	
	27/11-89	FOIL
		<u>Disposed of</u> 30/11/89

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

Submitted; C.A.T./Judicial Section.

Original Petition No.: Caveat no 8789. of _____.

Miscellaneous Petition No.: _____ of _____.

Shri Director M.P.C. Petitioner(s).

Versus.

Shri Jagdish Ramani Respondent(s).

This application has been submitted to the Tribunal by Shri _____ under Section 19 of The Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunals Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application is not been found in order for the same reasons indicated in the check list. The applicant may be advised to rectify the same within 21 days/Draft letter is placed below for signature.

We may register this application as caveat no 8789 & keep in await.

[Signature]
23/10/89

GAC/1989.

So
w/leu
02/3
[Signature]
26/10/89

Re-submitted.
O.A stamp no 501/

CAT/170

Filed by applicant - Mr. Jagdish
Ramani, respo. for caveat w. 8/89.

We may put up caveat with
O.A. on 6/11/89 for order.

~~apl a.~~
2/11/89

K. S. Sawe
02-11-89

~~C. S. Sawe~~
2/11/89

to
OR J

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~~restrain~~- the Caveator from implementing the repatriation order be passed in the proposed application to be filed by the opponent challenging the order dated 13.10.89 or any other application without hearing the Caveator.

(b) Any other relief deemed fit be granted.

A copy of this Caveat is sent to the opponent by R.P.A.D.

And for this act of kindness the undersigned shall in duty bound, forever pray.

Ahmedabad

Dated : 23.10.89

R. A. Mishra
(R.A. Mishra)
ADVOCATE

Filed by Mr. R A Mishra
Learned Advocate for Petitioners
with second set & copies
copies copy served/not served to
other side

Dt. 23/10/89 Dy. Registrar C.A.T (J)
Ahmedabad Bench

बीमा कम्पनी NOT INSURED

आपूर्ति गरिएको कम्पनीको नाम र रु. र. १०००

Amount of Stamps affixed Rs. १०००

एक तिर्थः प्राप्त गरियो

WAD

Received a Registered

पत्रको नाम

Addressed to Jagdish

Jungadh

प्राप्त गर्ने व्यक्तिको नाम

Ramam

Date Stamp

मार्क प्राप्त

No.

0263



Signature of Receiving officer

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/COPY/

NATIONAL RESEARCH CENTRE FOR GROUNDNUT
PO : TIMBAWADI, JUNAGADH - 362 015

F.No.Per.75-1/82/Vol.II/1289/1997 dated : 13.10.89

MEMORANDUM

With reference to his appeal dated 25.5.89 addressed to the Secretary, ICAR, Krishi Bhawan, New Delhi, Shri Jagdish Ramani, Assistant is hereby informed that his appeal against the decision of his repatriation to CAZRI, Jodhpur was examined in detail at the Council Headquarters and it has since been communicated by the Council to repatriate Shri Ramani to his parent Institute as already decided by the Director, NRCG, Junagadh. Accordingly, as per the judgement dated 12.5.89 passed by the honourable Bench of C.A.T., Ahmedabad in case No.OA/190/89 filed by Shri Jagdish Ramani, the decision of the Director, N.R.C.G., Junagadh for his repatriation to the parent Institute, i.e. Central Arid Zone Research Institute, conveyed vide this Office Memorandum F.No.Per.75-1/82-Estt/219 dated 1.5.89 will be implemented after expiry of one month from issue of this Memorandum. This is for information of Shri Jagdish Ramani.

This issues with the approval of the Director, NRCG, Junagadh.

Sd/-
(S.K. Mitra)
Administrative Officer

To
Shri Jagdish Ramani,
Assistant,
N.R.C.G.,
Junagadh

(Through the I/C Project Coordinator(Groundnut), N.R.C.G., Junagadh).

- cc : 1. The Under Secretary(J), Indian Council of Agricultural Research, Krishi Bhawan, New Delhi-110 001 for kind information wrt his letter F.No.12(29)/87-EE.III dated 22.9.89. Necessary action as desired by the Council therein has since been taken.
2. The Senior Administrative Officer, Central Arid Zone Research Institute, Jodhpur alongwith a copy of Council's letter F.No.12(29)/87-EE.III dated 22.9.89. Shri Ramani will be relieved of his duties at this Centre on 13.11.89 to enable him to join at CAZRI, Regional Research Station, Kukma, Bhuj.
3. The Officer Incharge, CAZRI, Regional Research Station, Kukma, Bhuj for information.
4. I/C Project Coordinator(Groundnut), NRCG, Junagadh.

Sd/-
(S.K. Mitra)
Administrative Officer