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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.299 OF 1998  
Cuttack, this the 18th day of August, 1998

Dr.Rama Shankar Shrivastava .....Applicant

Vrs.

Union of India and others .... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes .
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No .

(G.NARASIMHAM)  
MEMBER(JUDICIAL)

*Bannath Som*  
(BANNATH SOM)  
VICE-CHAIRMAN 18.8.98

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN  
AND  
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Dr.Rama Shankar Shrivastava,  
aged about 33 years, son of late R.A.L.Srivastava,  
resident of At/PO-Gaurabeni, Via-Koelsa,  
Dist.Azamgarh (UP), at present working  
as Scientist, Central Institute of Fresh Water  
Aquaculture (CIFA), Kausalyaganga,  
Bhubaneswar-751 002, Dist.Khurda ..... Applicant

By the Advocate - Mr.J.Gupta.

Vrs.

1. Union of India, represented by  
Secretary (DARE)-cum-Director-General,  
Department of Indian Council of Agriculture Research,  
Krishi Bhavan, New Delhi.
2. The Chairman,  
Agricultural Scientist Recruitment Board(ASRB).
3. The Secretary,  
Agricultural Scientist Recruitment Board (ASRB),  
Nos. 2 and 3 are at Krishi Anusandhan Bhawan,  
Pusa, New Delhi-110 012.
4. Under Secretary (P),  
Indian Council of Agriculture Research,  
Krishi Bhavan,  
New Delhi ..... Respondents

By the Advocate - Mr.Ashok Mohanty,  
Senior C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

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In this application under Section 19 of  
Administrative Tribunals Act, 1985, the petitioner has  
prayed for a direction to respondent nos. 2 and 3 to issue  
fresh interview letters to the petitioner, within a

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stipulated period, for each of the posts for which he has applied.

2. Facts of this case, according to the petitioner, are that he was appointed as a Scientist in Agricultural Research Service on 4.8.1992 and after completion of the training, he joined Central Institute of Freshwater Aquaculture, Bhubaneswar. His discipline is Agricultural Economics. Agricultural Scientists Recruitment Board issued an advertisement on 18-24 October 1997 for filling up of several vacancies. Six posts of Senior Scientist (Agricultural Economics), one each in six Research & Training Institutes under the Indian Council of Agricultural Research were advertised along with other posts. The petitioner applied for these six posts of Senior Scientist (Agricultural Economics) in the six Institutes. Names of the six Institutes are at paragraph 4.3 of the O.A. According to the advertisement, the qualifications for these six posts were identical, and the qualification relevant for the present purpose is Doctorate in Agricultural Economics and five years experience excluding the period spent in obtaining the Ph.D. Degree during service subject to a maximum of three years. Such experience should be in research/teaching/extension education as a Specialist. The applicant's case is that he has the necessary educational qualifications and experience for the posts he applied for. But the Agricultural Scientists Recruitment Board did not send him interview letters though he understood that interview letters have been sent to other persons. He made several representations, but without any result. On 29.4.1998 he sent a representation to the Hon'ble Prime Minister, with copy to the President, I.C.A.R., regarding non-acceptance of his candidature for the interview for the post of Senior Scientist (Agricultural Economics), for which he had applied for. Thereafter, he received a telegraphic

message and later on, an interview call letter for one of the six posts applied for by him. In the letter, he was called upon to attend the interview on 18.5.1998 at 11.00 A.M. at Delhi. On the appointed day, he appeared in the office of Agricultural Scientists Recruitment Board, signed the Register along with other candidates and produced all copies of the relevant documents as per instructions in the interview letter, but he was not allowed to appear before the Interview Board. On his enquiry as to why he has not been issued with call letters for the other five posts applied for by him, no reply was given to him and that is how he has come up in this O.A. with the prayers referred to earlier.

3. Respondents in their counter have submitted that Agricultural Scientists Recruitment Board is an autonomous organisation and in their functioning they are not under the control of Indian Council of Agricultural Research, and as such they have stated that respondent no.1, i.e., Union of India, represented by Director-General, ICAR, and respondent no.4, under Secretary, Indian Council of Agricultural Research should be deleted from the list of respondents. The respondents have taken the stand that the petitioner was not allowed to appear before the Interview Board because he did not have the five years experience mentioned in the advertisement and for the same reason, he was not issued with interview letters for the other five posts applied for by him. The respondents have pointed out that the applicant's service experience started from 4.8.1992 when he joined the Agricultural Research Service as a Scientist and three years service was deducted from his service period as the period taken by him to obtain Ph.D.Degree in 1995. Therefore, according to the respondents, on the date of the advertisement on 24.10.1997 the petitioner did not have five years of service experience

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and on that ground, they have opposed the prayer of the petitioner.

4. The applicant has filed a rejoinder in which he has stated that for calculating the five years service experience, the period spent for obtaining Ph.D.Degree during service subject to a maximum of three years should be excluded. The petitioner's case is that the last date of submission of application was 2.12.1997 by which date he had completed five years three months and 28 days of service from the date of his joining the Agricultural Research Service on 4.8.1992 and therefore, he is eligible. He has also stated that in case a candidate has done his Ph.D. work before joining, then the period spent by him for obtaining the Ph.D.Degree should not be excluded. He has also stated that from Annexure-D filed by the respondents along with the counter, it is clear that he has done the course work and academic work for Ph.D. prior to his joining the Agricultural Research Service. So the respondents are not right in excluding a period of three years from his service experience thereby declaring him ineligible by the experienced criterion.

5. We have heard Shri J.Gupta, the learned counsel for the petitioner and Shri Ashok Mohanty, the learned Senior Standing Counsel appearing on behalf of the respondents, and have also perused the records.

6. The experience requirement as mentioned in the advertisement as also in paragraph 9 of the counter is five years experience excluding the period spent in obtaining Ph.D.Degree during service subject to a maximum of three years. From the above, it is clear that in case the petitioner has obtained his Ph.D.Degree while in service, then the period spent in obtaining Ph.D.Degree should be excluded subject to a maximum of 3 years. The respondents

have indicated in paragraph 11 of their counter that as the applicant's service experience started from 4.8.1992 and as three years were deducted from the service experience for obtaining Ph.D.Degree, on the date of application he did not have the five years experience. From the clause in the advertisement relating to service experience requirement as also mentioned by the respondents in paragraph 9 of their counter, it is clear that the period taken by a candidate in obtaining Ph.D.Degree during his service career is to be excluded. According to Annexure-D filed by the respondents, which is a certificate from National Dairy Research Institute and which has been relied on also by the learned counsel for the petitioner, it is seen that the applicant joined National Dairy Research Institute on 1.8.1989 and discontinued his Ph.D.work and he was relieved in the afternoon on 31.7.1992, i.e., exactly after three years. Thereafter he joined the Central Institute of Freshwater Aquaculture on 4.8.1992. As such the respondents are clearly in the wrong in deducting a period of three years from his service experience when he did not spend three years during his service for obtaining the Ph.D.Degree. It, however, appears from the certificate at Annexure-D that the applicant re-joined at N.D.R.I., Karnal, and registered himself on 10.1.1995 for the purpose of submitting his Ph.D.Thesis. He submitted his thesis on 27.4.1995 and his viva-voce was held on 25.8.1995, and he was given the Provisional Degree Certificate on 26.8.1995 which is at Annexure-C of the counter. It has been submitted by the learned counsel for the petitioner that the last date of receipt of application was 2.12.1997 and by that date he had put in five years three months and 28 days of service. Unfortunately, the petitioner has not enclosed the full copy of the advertisement and therefore, it is not possible to

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ascertain if the last date of receipt of application was 2.12.1997. Normally, in such cases, he should have the minimum service experience on the date the notice inviting the applications came out which was 24.10.1997. But even granting the petitioner's stand that the last date of submission of application was 2.12.1997, it has to be seen if by that date he had put in five years of service. He had rejoined the N.D.R.I, Karnal, on 10.1.1995 and he was ultimately given the Provisional Degree Certificate on 26.8.1995. The question, therefore, arises if this period which works out to seven months and 17 days will have to be excluded from the service experience of five years three months and 28 days from 4.8.1992 to 2.12.1997. The petitioner has mentioned in his rejoinder that during this period he went on Earned Leave and Casual Leave, and completed his thesis. It is also submitted at the time of hearing that during this period his wife was unwell and he went on leave on that account and took advantage of the leave to complete his thesis. The respondents have filed Annexure-D in which it has been mentioned that the applicant rejoined N.D.R.I., Karnal, on 10.1.1995 and was given Provisional Degree Certificate on 26.8.1995. The respondents have not indicated how this period from 10.1.1995 to 26.8.1995 was treated. Whether he was on Earned Leave and Casual Leave as stated by him or he was on Extraordinary Leave or Study Leave. The petitioner has stated in his rejoinder that he was on Earned Leave and Casual Leave. But for a period of seven months and seventeen days a person cannot be at a stretch on Earned Leave. In case the petitioner was on Earned Leave and Casual Leave during part of this period, then this period cannot be excluded from his service experience from 4.8.1992. This is because when for any service, experience for a number of years in another job

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is made a pre-condition for selection, while computing the period of service in the lower job the period spent on Earned Leave or Casual Leave is not excluded. Therefore, in case the petitioner was on Earned Leave or Casual Leave during this period from 10.1.1995 to 26.8.1995 or a part of that period, then that period cannot be excluded. If, however, he was on Extraordinary Leave during the part of the above period, then that period will have to be excluded.


7. In view of the above, we hold that the respondents were wrong in deducting three years from his service career as the period taken for obtaining Ph.D.Degree, when he had taken three years for doing the course and academic work for his Ph.D.Degree even before his joining the service on 4.8.1992. As regards working out the period of five years as against the total period of five years three months and 28 days of service as on 2.12.1997 or the period upto 24.10.1997 if that has been taken as the relevant date for other candidates, from 4.8.1992, respondent nos.2 and 3 are directed to ascertain from respondent nos. 1 and 4 as to how this period from 10.1.1995 to 26.8.1995 has been treated by his employer. In case the applicant was on Earned Leave or Casual Leave during part of the period, then that period cannot be discounted from his service experience from 4.8.1992. In case he was on Extraordinary Leave during part of the above period, then that period will have to be discounted. Respondent nos. 2 and 3 are directed to work out the eligibility of the applicant afresh within a period of 20 (twenty) days from the date of receipt of copy of this order. In case the petitioner is found to have had the minimum service experience of five years as per the above exercise, then respondent nos. 2 and 3 should call him for the interview for the posts he has applied for and assess his suitability afresh in case he is otherwise eligible. This exercise, which


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has to be taken up in case the petitioner is found eligible, should be completed within a period of two months from the date of expiry of 20 (twenty) days mentioned earlier.

8. In the result, therefore, the Application is allowed, but, under the circumstances, without any order as to costs.

  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

  
(SOMNATH SOM)  
VICE-CHAIRMAN 18.8.98

AN/PS