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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH

O.A.NO.398 OF 2001

Cuttack, this the 12th day of October, 2004

Dr.Sarat Chandra Sahu Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not? ✓
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? ✓

Feb 12/10/04
(M.R.MOHANTY)
MEMBER (JUDICIAL)

✓
(B.N.SOM)
VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND

HON'BLE SHRI M.R.MOHANTY, MEMBE(JUDICIAL)

.....

Dr. Sarat Chandra Sahu, aged about 50 years, son of late Pitabash Sahu, At-Talagarh, P.O.Balianta, Disst.Khurda, at present working as Sr.Scientist, Department of Entomology, Central Rice Research Institute, At/PO Bidyadharpur, Dist.CuttackApplicant

VRS.

1. Chairman, Agricultural Scientist Recruitment Board, Krishni Anusandhan Bhawan, New Delhi 110 0012.
2. Union of India, represented through Director General, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi 110 001.
3. Director, Central Rice Research Institute, At/PO Bidyadharpur, Dist.Cuttack, Pin 753006

..... Respondents

Advocates for the applicant - M/s Ganeswar Rath, S.N.Mishra,
A.K.Panda, T.K.Praharaj.

Advocates for the respondents - Mr. S.B.Jena, ACGSC

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ORDER

SHRI B.N.SOM. VICE-CHAIRMAN

Dr.Sarat Chandra Sahu, now working as Senior Scientist, Department of Entomology, Central Rice Research Institute, Cuttack, has filed this Original

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Application, being aggrieved by his non-selection for upgradation to the grade of Principal Scientist with effect from 27.7.1998.

2. The grievance of the applicant is that although he possessed the requisite qualification for advancement to the grade of Principal Scientist, he having to his credit scholarship under the Rockefeller Foundation and several other professional achievements, he was not selected for upgradation from the present grade to the next higher grade. He has assailed his non-selection on the ground that the Selection Committee for the purpose of recommending names of Scientists for placing under Career Advancement Scheme to the next higher grade, was constituted in violation of the guidelines issued by the Respondents under Annexure 12. Under the guidelines, the Selection Board should have 3 expert members whereas the Board which interviewed him consisted of 4 expert members. Further that he believes that his name was not recommended on the ground that he had engaged himself in research activities in a different discipline than his own discipline, i.e., Nematology Discipline in Entomology Division, which is bad in law and really speaks of arbitrary and mala fide action of the Respondents. He has also alleged that whereas his name was not recommended for promotion, three other Scientists were recommended for promotion although they were recruited in one discipline and they were working in another discipline. He has also alleged that although Ph.D.Degree is an essential condition for promotion, but some Scientists without Ph.D.Degree

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have also been promoted. He has, therefore, assailed his non-promotion as bad in law.

3. The Respondents have opposed the Original Application and have stated that the case of the applicant was not one of promotion but was a case of career placement under a scheme framed for the purpose of career advancement. Such placement of Scientists under the scheme is not subject to occurrence of vacancy. The eligible Scientists are considered by Agricultural Scientists Recruitment Board for placement as per the guidelines circulated by the Indian Council of Agricultural Research by its letters dated 19.7.2000 and 6.12.2000. A Selection Committee has also been set up for consideration of eligible Scientists taking into account the following aspects of a candidate:

- (i) self-appraisal report for the relevant period;
- (ii) research contribution/books/articles/research papers published;
- (iii) any other academic contributions and the best three written contributions of the Senior Scientist;
- (iv) details of seminars/conferences attended;
- (v) contribution to teaching/academic environment/institutional corporate life; and
- (vi) extension and field outreach activities.

They have further stated that on the basis of assessment of above criteria, every candidate is assessed by the experts in the Committee which recommends the suitability of each candidate for placement in the next higher grade. In the case



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of the applicant also he was put to assessment of the Board and as the Board did not recommend him suitable for placement in the next higher grade, he could not be given upgradation. They have clarified that obtaining Ph.D.Degree is not one of the essential requirements for placement in the grade of Principal Scientist and, therefore, no irregularity was committed by the Selection Committee in recommending names of certain Scientists not possessing Ph.D.Degree for placement in the grade of Principal Scientist. With regard to the constitution of the Committee with four experts instead of three, the Respondents have clarified during oral arguments that in terms of Note IV of the Clause 5.2 of the scheme the quorum of the meeting of the Selection Committee for Principal Scientist shall be five which would ensure at least two outside experts in every meeting. The above provision clearly indicates, they have claimed, that there should be at least two outside experts in every meeting. In this case, the Board called three outside experts as a precautionary measure as some time some expert shows his inability to attend the meeting at last moment. They have also submitted that the provision of more than two outside experts was made to ensure that at least five experts including two outside experts were present in the assessment committee as required under the quorum rules. They have, therefore, submitted that there was no illegality committed in the conduct of the meeting of the Selection/Assessment Committee.

4. We have heard the learned counsel for the rival parties and have perused the records placed before us.

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5. The grievance of the applicant in this O.A. is that although the guidelines under Annexure 12 prescribe that only three expert Members are to be taken in the Selection Board while assessing the performance of the candidate for upgradation to the grade of Principal Scientist, the authorities have taken four expert Members in the Selection Board and therefore, the proceedings of the Selection Board are vitiated and liable to be set aside. The applicant has also submitted that he believes that one of the experts had opposed his promotion on the ground that he had engaged himself in research activities in a different discipline than his own discipline, i.e., Nematology and he assailed that decision on the ground of mala fide and arbitrariness, because in similar circumstances, three other candidates (whose names have been given by him) were given career advancement although they were working in disciplines other than the one for which they were recruited.

6. At the outset, we would like to observe here that Courts/Tribunals have very limited scope to interfere in the matter of selection carried out by an expert body like the Selection Board and that it is not the function of the Court to hear appeals over the decision of the Selection Committee and to scrutinize the relative merits of the candidates. This position of law was clearly laid down in the case of *Dalpat Abashed Solunke vrs. Dr.B.S.Mahajan*, (1990)1 SCC 305, *Indian Airlines Corporation vrs. K.C.Shukla*, (1993) 23 ATC 407, and *Omprakash Popli v. Delhi Stock Exchange Association Ltd.* (1994) 2 SCC 117.

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Keeping the said decisions in view, we would consider the merit of the case of the applicant.

7. It is the admitted fact that under the scheme framed by the Respondents for career advancement of the ARS Scientists under the I.C.A.R., they have laid down the eligibility conditions for granting benefit under the scheme and also the selection procedure. It has also been notified that the Selection Board will consist of the Chairman of the ASRB/Member nominated by him, the Director-General, ICAR or his nominee, and three experts, out of which at least one would be an internal expert other than the Institute to which the concerned Senior Scientist belongs. The Director of the concerned Institute to which the candidate belongs also would be a member of the Board. The applicant in his Original Application as well as through his learned counsel has repeatedly submitted before us that but for the presence of one additional expert in the Board, he could have been recommended for career advancement during the year 1999.

8. We are not greatly impressed by this argument because no material has been placed before us to believe that the apprehension of the applicant was justified because of the fact that in that Selection Board the Director of his Institute was also a member, there was another expert from ICAR itself, and no allegation/evidence of any hostility/bias of any of the members of the Board towards him has been made out. Merely on suspicion/apprehension, it is not possible to question the considered views of the Selection Board consisting of

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eminent experts in the field and of the Board which is presided over by the Chairman of the A.S.R.B. which is a distinguished body of eminent and high ranking Scientists. It is also of no avail to say that as he was found fit by the Selection Board held during the following year, he should have been found fit in the earlier year also. In this connection, we would also like to recall what the Apex Court had laid down in *D.V.Bakshi v. Union of India*, AIR 1993 SC 2374:

“.....The method of evaluation would, therefore, vary and cannot be a matter of any straitjacket formula.....”

The object of any process of selection for recruitment of Scientists is to secure the best and most suitable person for the job and to leave no room for patronage and favouritism . It has also been laid down in *Indian Airlines Corporation's case (supra)* that efforts should be made to limit scope of arbitrariness in interview and in the present case, we find that by constituting the Selection Board with so many experts and high ranking officers, the Respondents had endeavoured to secure fairness in the selection and we have no reason to find fault with that. We also accept the clarification given by the Respondents as to why four experts were nominated in that Selection Board and no illegality was committed by that process. As the grant of career advancement for the Scientists is to be made on the recommendation of the Selection Board, the scheme itself suggests that there would be a process of elimination of those who are not good enough to make the grade and the mere fact that an individual was left out in the selection cannot necessarily be assailed as a bad decision. Such a rejection



can be assailed only on the ground of bias or mala fide and not on account of apprehension.

9. Before we close, we would also like to mention that the learned counsel for the applicant drew our attention to the decision of the co-coordinating Bench of this Tribunal in OA Nos.1054 and 1055 of 2001, decided by Madras Bench on 24.9.2002, wherein the Tribunal had allowed the O.A. and the order denying promotion to the applicants to the grade of Principal Scientist was quashed. We would, however, like to observe here that having gone through the decision of the Tribunal in the O.As. referred to above, we find that the ratio of those decisions is not applicable in this case. Allocation of more than 25% of the total marks for personal interview was found bad and illegal in the aforesaid cases. In the instant case, the non-selection of the applicant has not been assailed on that ground but on the ground of improper constitution of the Selection Board.

10. In view of the above discussion, we hold that the applicant has not been able to make out a case for giving him the relief as prayed for in his Original Application which is accordingly disposed of, being devoid of merit. No costs.

(M.R. MOHANTY)
MEMBER(JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN