

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

DATE OF ORDER : 18.03.1999.

C.A.NO. 382/1996

K.D.Sharma S/o (Late) Shri Jeewantlal, Senior Scientist,
Central Arid Zone Research Institute, Jodhpur Resident of C/o
Shri S.N.Sharma, Advocate, Near Medical College, Shastri
Nagar, Jodhpur.

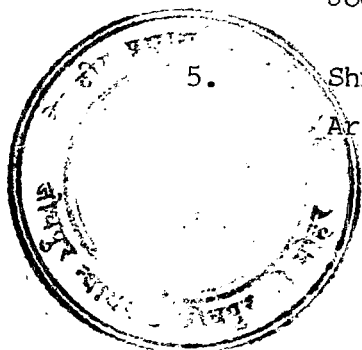
.....APPLICANT

VERSUS

1. Union of India through the Secretary of Agriculture
(Union of India), Ministry of Agriculture, Krishi
Bhawan, Dr. Rajendra Prasad Road, New Delhi.
2. Director General, Indian Council of Agriculture
Research, Krishi Bhawan, New Delhi.
3. Secretary, Indian Council of Agriculture Research,
Krishi Bhawan, New Delhi.
4. Director, Central Arid Zone Research Institute,
Jodhpur.
5. Shri M.A.Khan, Scientist Selection Grade, Central
Arid Zone Research Institute, Jodhpur.

.....RESPONDENTS

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CORAM

HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR. N.P.NAWANI, ADMINISTRATIVE MEMBER

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Mr.Sanjeev Sharma, Counsel for the applicant.

Mr. V.S.Gurjar, Counsel for the respondents 2 to 5.

None present for the respondent No. 1.

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Signature

PER HON'BLE MR. A.K.MISRA :

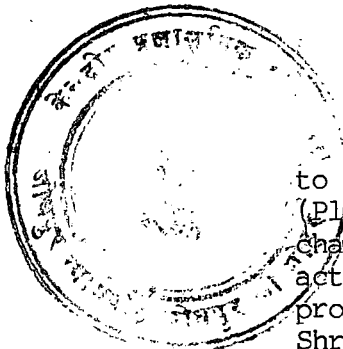
The applicant has filed this O.A. with the prayer that the Seniority List dated 6.11.95 (Annex.A/1) be quashed and respondents No. 2 to 5 may be directed to place the applicant at serial No. 1 in the seniority list.

2. Notice of the O.A. was given to the respondents. The official respondents and the private respondent have filed their separate reply which are more or less similar to each other.

3. We have heard the learned counsel for the parties and gone through the record.

4. Before the facts of the case are analysed it would be better to quote Annex.A/1 which the applicant has categorised as impugned seniority list.

"No.F.RSM/16/95
Dated 6.11.95



Recently while on tour, the undersigned forgot to inform Shri S.K.Saxena, Principal Scientist (Plant Ecology) as to whom he will handover the charge in his absence to look after day to day activities of the division. In order to avoid such problem in future, in the absence of undersigned and Shri S.K.Saxena one of the following senior scientist/scientist selection grade will look after day to day divisional activities as per the seniority list given below. It is also clarified that in this connection, no separate order will be issued in future and the concerned scientists are requested to follow this order according to their seniority. In the absence of undersigned and Principal Scientist (Plant Ecology), steno to Head of RSM Division will inform the concerned scientist and put up the relevevent papers for his necessary action.

1. Shri M.A.Khan, Scientist Selection Grade
2. Dr. K.D.XSharma, Senior Scientist
3. Dr.P.C.Vats, Senior Scientist
4. Shri Amal Kar, Scientist Selection Grade

(Surendra Singh)
Head of Division-I

Copy to Director for information

(Surendra Singh)

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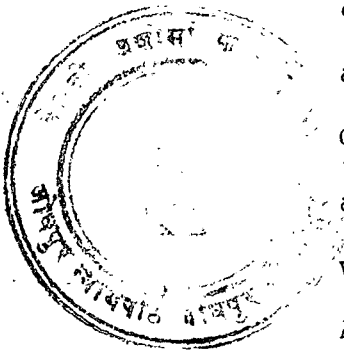
5. The applicant has alleged that he joined as Scientist S-I in the respondent Institute on 4.10.1976 and was selected for the post of S-II Scientist on 22.3.1982 and is working on the same post till today. This post has lately been designated as Senior Scientist. It is further alleged by the applicant that respondent No. 5 joined as S-II after due selection on 16.4.1979 but thereafter he went on foreign assignment with the permission of Government of India. That respondent No. 5 continued to stay in the foreign country without proper extension, therefore, his services were terminated but on representation he was taken back on duty but the intervening period was taken to be as dies non. Thus, the applicant became senior to respondent No. 5 but in the impugned list he has been shown as junior to Shri M.A.Khan. In these circumstances, he has prayed for quashing of the impugned order.

6. The respondents in their reply have alleged that the respondent No. 5 was all-through senior than the applicant. The period of foreign assignment which is said to be a dies non is of no consequence because it does not affect the right of seniority of the respondent No. 5. It is further alleged by the respondents that there is no concept of seniority amongst the Scientists. They have to work as per their categorisation which is given to them on their research work considering their performance. The so called seniority list is only

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a work arrangement order which does not affect the right of the applicant or anybody else. The O.A. is, therefore, ill-advised and deserves to be rejected.

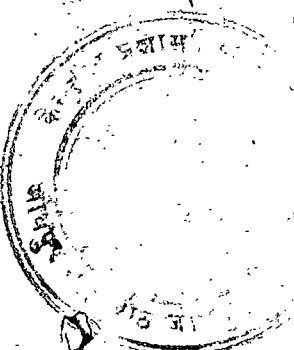
7. The learned counsels for both the parties advanced their arguments elaborating their contentions in respect of their pleadings. The arguments advanced were duly considered. In our opinion, the order Annex.A/1 is only a work arrangement order in absence of senior officials. It clearly mentions that in absence of Shri S.K.Saxena, Principal Scientist (Plant Ecology) the persons named in the order would look after day to day activities of the division in order of the seniority as mentioned. This order is dated 6.11.1995 which was challenged on 19.11.1996. It is a well known concept of administration of official work that the day to day working or activities would not come to stand-still if the Officer-Incharge is out either on leave or on duty and thus such exigencies are well looked after by work arrangement orders. The impugned order Annex.A/1 has also been passed in order to avoid such situation so that day to day activities of the division may not come to stand-still position in absence of Head of the Division and Principal Scientist. It has also not been established by the applicant that as to how his rights are affected if he is placed at No. 2 in such work arrangement. As is very clear from the order Shri M.A.Khan is a



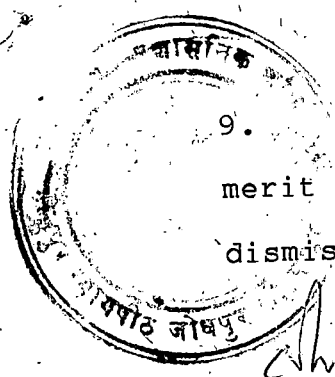
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selection grade Scientist whereas the applicant is a Senior Scientist. ~~He~~ has not been able to show that he was ever senior to Shri M.A.Khan. Therefore, it cannot be said that by placing him at No. 2 his seniority has not been given due regard. At the cost of repetition, we may state that in work arrangement orders it is not necessary that preference in respect of Officer-Incharge is required to be given strictly according to the seniority. It is the discretion and the judgment of the concerning Head of the Division to make arrangements to look-after day to day activities of the Division in ^{his} absence and assignment of such responsibility to a particular person.

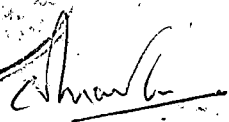
8. In our opinion, the impugned order Annex.A/1 by no stretch of imagination can be categorised as seniority list, therefore it is not required to be quashed as is being prayed by the applicant. During the course of arguments, the learned counsel for the respondents has submitted that this work arrangement order has been superseded by another order which was passed some times in 1997 but there is nothing on record to support this contention. In any case, we are of the opinion that such sort of work arrangement order and preference showsⁿ in such order in respect of the person who would look after day to day activities of the Division is not required to be interfered with. This is a matter of administration and, therefore, we would not like to interfere in the matter.

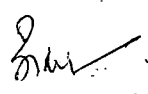


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9. In our opinion, the O.A. does not, bear any merit and deserves to be dismissed and is hereby dismissed with no orders as to costs.


(N.P. NAWANI)
Admv. Member


(A.K. MISRA)
Judl. Member

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Received
10/10/1954
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