

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

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Date of Decision: 21.3.97

OA 76/97

D.V.Kothari, T-6 (Sr.Technical Officer) under ENVIS Programme in the office of CAZRI, Jodhpur.

... Applicant

Vesus

1. The Secretary, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.
2. The Director, Central Arid Zone Research Institute, Jodhpur.

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.J.K.Kaushik  
For the Respondents ... Mr.V.S.Gurjar

O R D E R

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, Shri D.V.Kothari has prayed that the respondents be directed to continue him on the promotional post of T-6 as per the terms and conditions thereof and any order of reversion of the applicant, if passed, may be quashed with all consequential benefits. The applicant has also prayed that any other direction or relief, as considered appropriate, may be granted to him.

2. The applicant's case is that he has been employed on the post of T-6 in the Central Arid Zone Research Institute, Jodhpur, in the scale of pay of Rs.2200-4000. The exact job on which the applicant is working relates to ENVIS (Environmental Information System Centre), which was established at Jodhpur under respondents No.1 and 2 vide Govt.of India letter dated 3.9.91 (Ann.A-2). The applicant joined the said post on 31.8.95 on promotion from the post of T-5, held by him earlier under respondent No.2. The project is funded by the Ministry of Environment and Forests. The Ministry of Environment and Forests have asked the respondents to change the head of the account under which payment is being made to the applicant for the service being rendered by him. However, a decision has been taken by the respondents to revert the applicant from the post of T-6 to that of T-5. The applicant's case is that since he has been promoted to the post of T-6 against 33 1/3% promotion quota on recommendations of the DPC in ENVIS Project, his appointment being co-terminus with the project, he has a right to continue to hold the promotional post because the project is still



continuing and sufficient funds are available for the project.

3. No reply has been filed by the respondents. We have heard the learned counsel for the parties and have perused the material on record.

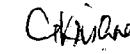
4. The learned counsel for the respondents has taken objection to the maintainability of the OA on the ground that the Ministry of Environment and Forests, on whose behalf the project in question is being executed by the respondents and who provides funds for the project, has not been impleaded as a respondent. He has also drawn our attention to Ann.A-4 dated 10.9.96, being a communication from the Ministry of Environment and Forests, according to which, an amount of Rs.Three lacs and ninety four thousands has been sanctioned for the project for the financial year 1996-97 and an amount of Rs.One lac and ninety two thousands has been included in the aforesaid amount as payment by way of Manhours/Sub-Contracting for execution of the project. His case is that the Ministry of Environment and Forests have now desired the respondents to execute the project on the basis of Manhours/Sub-Contracting and not by appointing a person in a scale post. Therefore, the applicant has no case for being continued on the post of T-6, which carries a scale of pay of Rs.2200-4000. He adds that the project is however still continuing. However, the respondents cannot continue the applicant in the project on the basis of his appointment on the post of T-6 with a scale of pay of Rs.2200-4000.

5. We have considered the matter carefully. The project is still continuing and services of the applicant are also being taken by the respondents for the same duties which were being performed by him on the post of T-6. The learned counsel for the applicant states that the applicant will have no objection if work is continued to be taken from him, which was being taken from him earlier, by making him payment on the basis of Manhours/Sub-Contracting, provided the total amount being paid to him on the basis of Manhours/Sub-Contracting is not lower than that which he was getting earlier. We consider this to be a fair proposition. The respondents may continue to take the same work from the applicant which they were taking from him earlier and make payment to him from the head of Manhours/Sub-Contracting instead of giving him a regular scale of pay on the post of T-6. However, it would be inequitous to reduce his emoluments from those which were being paid to him earlier merely because the head of payment has been changed. Therefore, the respondents should continue to make payment to the applicant of the same gross emoluments which were being paid to him earlier. However, we are not inclined to grant the applicant's prayer for being continued on the post of T-6 with a scale of pay of Rs.2200-4000. We have, <sup>Therefore</sup> however, modified the relief claimed by the

applicant suitably in the light of the facts and circumstances of the case, as per the direction given above. In these circumstances, it is not also necessary that the Ministry of Environment and Forests should be impleaded as a respondent.

6. The OA stands disposed of accordingly. No order as to costs.

  
(O.P. SHARMA)  
ADMINISTRATIVE MEMBER

  
(GOPAL KRISHNA)  
VICE CHAIRMAN

VK