

11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 22.09.2000

O.A. No. 31/1998

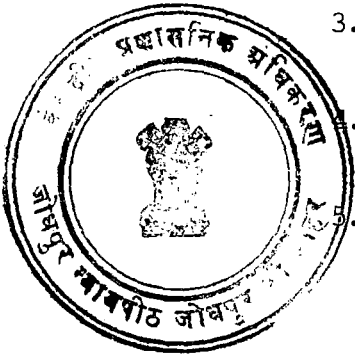
Om Prakash Jawa son of Shri Mool Chandji Jawa resident of Outside Pabubari, Bikaner, at present working as T-I-3, Regional Research Station, CAZRI, Bikaner.

... Applicant.

v e r s u s

1. Indian Council of Agricultural Research Institute through Secretary & Director General, Krishi Bhawan, New Delhi.
2. Director, Central Arid Zone Research Institute, Jodhpur.
3. Administrator Officer Recruitment, Central Arid Zone Research Institute, Jodhpur.
4. Senior Administrative officer, Central Arid Zone Research Institute, Jodhpur.
5. Shri Nazeer Khan, T.4, Millate Section, Central Arid Zone Research Institute, Jodhpur.

... Respondents.



Mr. Vinay Jain, Counsel for the applicant.

Mr. V.S. Gurjar, Counsel for the respondents Nos. 1 to 4.

None is present for the respondent No. 5.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed for a direction to the respondents to issue revised seniority list of grade T-I-3 by including the name of the applicant at appropriate place over and above Shri Nazeer Khan, respondent No. 5 herein. Applicant's further case is that his case should also be considered for promotion to the post of T-II-3 of category-II at par with Shri Nazeer Khan. He also prayed for quashing

11

Annexures A/5 and A/9, giving promotion to the post of T-II-3 and assessment benefit to grade T-4 respectively, to the respondent No.5. Alternatively, he contended that the applicant should be given all the benefits that was conferred on the respondent No. 5, by placing him over and above the respondent No. 5 in all the respective cadres.

2. The case of the applicant is that he is senior to the respondent No.5. However, the respondent No. 5 was inadvertently promoted from the post of T-2 to T-I-3. In those circumstances, the applicant though had qualified for such promotion, but not promoted and he was compelled to file a T.A. No. 155/87 before this Tribunal and this Bench, vide order dated 09.11.92 allowed that application with a direction to consider the case of the applicant for promotion to T-I-3, since he had completed 5 years of service on T-2 post. He further submitted that even in that application it was clearly held that the respondent No.5 was junior to the applicant and accordingly, granted the relief. In pursuance of the said direction, the respondents issued Annexure A/2 dated 21.04.95, promoting the applicant from T-2 (Field Assistant) to the next higher grade of T-I-3 (Rs. 1400-2300) with effect from 01.07.1981 at par with Nazir Khan. But before issuing this order dated 21.04.95, a seniority list was already prepared vide Annexure A/3 dated 13.10.93 in which the name of the respondent No. 5 was shown at sl. No. 5, ignoring the applicant in the grade of T-I-3. Thereafter, vide Annexure A/5 dated 4.4.97, the respondent No. 5 was promoted from T-I-3 (Field Assistant) to T-II-3 (Technical Assistant) in the grade of Rs. 1400-2300 with effect from 23.06.87. Vide Annexure A/9 dated 29.10.97, Nazeer Khan was further given assessment benefit to the grade T-4 with effect from 01.01.93 and his name is found at sl. No. 14, but without considering the name of the applicant. But all these benefits were denied to the applicant inspite of the directions issued by this Tribunal vide order dated 09.11.92. Therefore, the applicant is entitled to whatever promotions conferred on the respondent No. 5, by placing over and above the respondent No.5, for the next promotional post, atleast giving the applicant proforma



MA

promotion on the basis of the respective dates on which the respondent No. 5 was promoted on various posts.

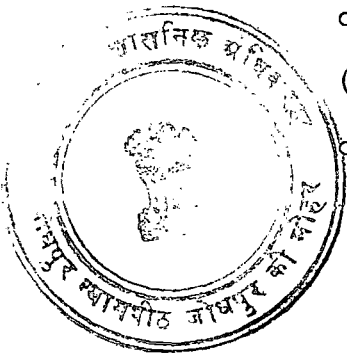
3. The respondents by filing reply denied the case of the applicant. They submitted that as per the directions of this Tribunal in TA No. 155/97, the applicant was promoted vide Annexure A/2 dated 21.04.95 from the post of T-2 (Field Assistant) to T-I-3 with effect from 01.07.1981. Their further case is that so far as subsequent promotions are concerned, these very promotions were given on the basis of the assessment made by the D.P.C. and the respondents have not committed any illegality. The learned counsel for the respondents reiterating the same stand, prayed for dismissal of the O.A.

4. From the pleadings as well as the arguments advanced at the Bar, we find that when the applicant was not promoted to T-I-3, he approached this Tribunal in T.A. No. 155/87, specifically contending that he was senior to Shri Nazeer Khan, respondent No.5. Respondent No.5 (Nazeer Khan) was also the respondent No. 5 in TA No. 155/87. By reading the order of this Tribunal dated 09.11.92 passed in TA No. 155/87, we find that this Tribunal accepted that the applicant was promoted to the post of T-2 on 9.1.76 and the respondent No. 5 was promoted to the post of T-2 on 21.5.76, implicitly holding that the applicant was senior to respondent No.5, and directed the respondents to consider the case of the applicant for promotion to T-I-3 post, since the applicant had also completed 5 years of service on T-2 post. From this, it follows that the applicant was held to be senior to Shri Nazeer Khan, respondent No.5. As we have already noted above that by complying with the directions of this Tribunal passed in TA No. 155/87 on 09.11.92, the department issued Annexure A/2 dated 21.04.95 and by that order the applicant was given promotion to the next higher grade of T-I-3 with effect from 01.07.81. But the seniority list of T-I-3 (Category-I) was already prepared vide Annexure A/3 dated 13.10.93. It is not brought to our notice whether any subsequent seniority list was prepared after the applicant was given




M

promotion on the basis of Annexure A/2. Taking Annexure A/3 dated 13.10.93 as final, we have to direct that the applicant's name should be placed over and above Shri Nazeer Khan. The same has to be done in obedience of the direction of this Tribunal dated 09.11.92 passed in TA No. 155/87. From this, it follows that the applicant being senior to Shri Nazeer Khan, was entitled to all consequential benefits. From Annexure A/5 dated 4.4.97, we notice that Shri Nazeer Khan was given further promotion to T-II-3 (Technical Assistant) in the grade of Rs. 1400-2300 with effect from 23.06.87. Likewise, the applicant also would be entitled to further assessment benefit to grade T-4 given to the respondent No.5 (Nazeer Khan) vide Annexure A/9 dated 29.10.97. In all probability, we feel that the department proceeded only on the basis of the seniority list issued in the year 1993 on T-I-3 (Category-I) post and not in compliance of the directions of this Tribunal dated 09.11.92 passed in TA No. 155/97. But the applicant would be entitled to all consequential benefits whatever has been given to the respondent No.5 (Nazeer Khan), subject to his suitability decided by the D.P.C. In these circumstances, we pass the order as under:-



"The application is allowed. The respondents are directed to consider the case of the applicant for further promotion to T-II-3 and to the grade of T-4, placing ^{him} over and above Shri Nazeer Khan, respondent No.5, subject to his suitability. The respondents are further directed to call review D.P.C. for considering the promotion of the applicant to the aforesaid grades. Four months time is granted for implementing the directions of this Tribunal. No costs."


(GOPAL SINGH)

Adm. Member


(B.S. RAIKOTE)

Vice Chairman

Cvr.

Recd. Copy
[Signature]
27/9

Part II and III destroyed
in my presence on 1.12.66
under the supervision of
section officer () as per
order dated 10.11.66
Nash
Section officer (Record)

Copy longer to 20/9/66
sent to the court for Rest
note no. 341
dt 18.10.2000

AD Ramesh
and Hareend
in the file No 212/95
[Signature]