

Date of order : 16.3.2000.

1. O.A.NO. 230/95

Hamir Singh aged about 54 years, S/o Shri Ganga Singh, by caste Rathore, R/o Central Cattle Breeding Farm, Suratgarh, Dist.Sri Ganganagar, at present working as Agriculture Officer and holding additional charge of Director, CCBF, Suratgarh.

.....Applicant.

versus

The Union of India through the Secretary to the Government of India, Ministry of Agriculture, Department of Animal Husbandry and Dairying, Government of India, Krishi Bhawan, New Delhi.

.....Respondent.



Compressed
Shree

✓ 2.

O.A.NO. 204/99

Hamir Singh aged about 58 years S/o Shri Ganga Singh, by caste Rathore, R/o Central Cattle Breeding Farm, Suratgarh, District Sri Ganganagar, Director Incharge, Central Cattle Breeding Farm, Suratgarh.

.....Applicant:

versus

1. The Union of India through the Secretary to the Government of India, Ministry of Agriculture, Department of Animal Husbandry and Dairying, Government of India, Krishi Bhawan, New Delhi.

2. Dr.M.N.Haq, Director, Central Cattle Breeding Farm, Chiplima, District Sambalpur (Orissa).

.....Respondents.

CORAM :

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

HON'BLE MR.GOPAL SINGH,ADMINISTRATIVE MEMBER

Present :-

Mr.M.S.Singhvi, Counsel for the applicant.

Mr.N.M.Lodha & Mr.K.S.Nahar, Counsel for the respondents.

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Per Hon'ble Mr.A.K.Misra, Judicial Member :

The present applicant has filed two O.As on two different occasions but almost with similar prayer in each of them. The points raised in the O.As and the grounds of challenge being common, both the O.As are disposed of by one common order.

2. The applicant had prayed the following reliefs in the O.A. filed in the year 1995 :-

- "i. by an appropriate order or direction, the provisions of the Ministry of Agriculture, Department of Animal Husbandry and Dairying Central Cattle Breeding Farms (Directors) Recruitment Rules, 1993, be declared illegal and be struck down and the respondents may be directed to include the post of Agricultural Officer as feeder cadre for promotion to the post of Director, Central Cattle Breeding Farms.
- ii. by an appropriate order or direction, the respondent be directed to prepare combined seniority list of Agricultural Officer alongwith other cadres for promotion to the post of Director and place the name of the applicant as per his seniority.
- iii. by an appropriate order or direction, the respondent be directed to consider the case of the applicant for promotion to the post of Director on and from the date he became due for such promotion i.e. from the date persons junior to the applicant in combined seniority have been so promoted with all consequential benefits including payment of arrears etc.
- iv. by an appropriate order or direction in the alternative, the respondent be directed to create atleast two channels of promotion for the persons working on the post of Agricultural Officers and to consider the case of the applicant and promote him on such higher post as may be provided by the respondent with all consequential benefits.
- v. by an appropriate order or direction, the respondents be directed to allow the applicant to



work on the post of Director and to regularise him on that post.

- vi. any other appropriate order or direction, which may be considered just and proper in the facts and circumstances of the case, may kindly be issued in favour of the applicant."

3. He has also prayed for interim relief restraining the respondents from disturbing the applicant from working on the post of Director, Central Cattle Breeding Farm (for short "C.C.B.F."), Suratgarh.

4. Notice of the O.A. was issued to the respondent and interim order to the following effect was granted to the applicant:-

"It will be in the interest of justice that the applicant is not disturbed from the post he has been holding for last about two years by an ad-hoc appointee. So long no regular promotions are made to this post he shall not be disturbed."

This interim order was made absolute on 13.10.95 on failure to file reply to the O.A. by the respondent.

5. While the above mentioned O.A. was pending the applicant moved yet another O.A. claiming similar reliefs as were claimed in the earlier O.A. with a slight modification relating to quashing of order Annex.A/1 dated 15.7.99 by which Dr.M.N..Haq, Veterinary Officer and Director (ad-hoc), C.C.B.F.,Chiplima was ordered to be promoted as Director, C.C.B.F.,Suratgarh and to take charge from the applicant at Suratgarh. In this O.A. the applicant had also prayed for interim relief against the respondents to the effect that the respondents be restrained from disturbing the applicant from the post of Director, C.C.B.F., Suratgarh and also requested for staying the operation of order dated 15.7.99.

6. After hearing the applicant, notices were issued to the respondents. After the respondents entered their appearance and



and sought time for reply, interim relief was granted to the following effect :-

"Till the position is made clear by the respondents in respect of the finalisation of rules, the operation of the order dated 15.7.1999 (Annex.A/1), is stayed till the next date."

The above mentioned interim orders in both the O.As are continuing till date and this is how the applicant is presently working on the post of Director, C.C.B.F., Suratgarh on ad hoc basis.

7. The applicant has mainly contended in these O.As that he was appointed on 1.7.68 as Agricultural Officer after being selected by the U.P.S.C. For want of promotional avenues for Agricultural Officer the applicant is still working on the same post. It is further alleged by the applicant that prior to the year 1993 the post of Director, C.C.B.F., Suratgarh, was to be filled up by direct recruitment. In the year 1981 the applicant applied for selection to the above mentioned post but his candidature was rejected on the ground of non fulfilment of educational qualification. It is further alleged by the applicant that vide Notification dated 26.7.93 the President in exercise of powers conferred by provision of Article 309 of the Constitution of India framed the rules known as Ministry of Agriculture Department of Animal Husbandry and Dairying Central Cattle Breeding Farms (Directors) Recruitment Rules, 1993 (for short "the Rules"). These Rules provide for filling the post by promotion from the cadre of Animal Genetics, Veterinary Assistant Surgeon and Live Stock Officer with ten years service in the regular grade. It is alleged by the applicant that as per the recruitment rules relating to Live Stock Officers (Cattle) 1969, a person who holds a degree in agriculture is eligible for recruitment to the post of



Live Stock Officer.. It is also stated that for the post of Agricultural Officer also, a degree in agriculture is the prescribed qualification. Thus, in both the cases initial eligibility qualification being common prescribing different eligibility conditions for promotion to the post of Director, C.C.B.F. is discriminatory and violative of fundamental rights. It is the contention of the applicant that since there are no promotional avenues for Agricultural Officers in the regular cadre exclusion of Agricultural Officer for being promoted to the post of Director, C.C.B.F. means that a person appointed as Agricultural Officer is necessarily to retire as Agricultural Officer. Since the Agricultural Officer has not been included as being eligible for consideration for promotion as Director, C.C.B.F., therefore, the rules deserve to be quashed because of no rational in excluding Agricultural Officer for being promoted as such.

8. The respondents in both the O.As have filed their detailed reply. The contentions of the respondents in brief are that the post of Director, C.C.B.F., is a post which is directly related to specialization in the field of cattle breeding, genetics, live stock management and other related activities, therefore, the qualification and eligibility criteria has been laid down in the rules. An Agricultural Officer having a degree in agriculture may not be proficient in the specialised branch of cattle breeding and related matters, therefore, the applicant and such Agricultural Officers cannot seek parity for being promoted to the post of Director, C.C.B.F. on the ground that basic qualification of Live Stock Officer and Agricultural Officer are common. It is stated in the reply that Live Stock Officer with ten years experience are only eligible to be considered for being promoted as Director



C.C.B.F. Thus, the eligibility qualification in both the cases are different for further consideration in respect of promotion. In brief, it is also the contention of the respondents that initial similarity of educational qualification is of no consequence when requisite experience is also laid down in the rules for further promotion to the post of Director, C.C.B.F. The respondents have also stated that laying down the eligibility conditions together with experience of working on a particular post is the exclusive domain of the rule framing authority. Therefore, the rules cannot be struck down simply on the ground that Agricultural Officers have not been included for being considered for the promotional post. Hence, the O.As deserve to be dismissed.

9. We have heard the learned counsel for the parties at length and have gone through the case files. Both the learned counsel for the parties elaborated their arguments on the lines of their pleadings which we need not repeat here as the grounds of attack and defence have been mentioned in detail in the foregoing paragraphs.

10. In our opinion, there cannot be two opinions on this point that the rule making authority can lay down specific qualification and eligibility conditions for considering candidates for further promotion on a particular post. In this case, the only ground of attack is that the Agricultural Officer who holds a degree in agriculture is excluded while Live Stock Officer is included for consideration who also holds a degree in agriculture for initial appointment. But, in our opinion, holding a degree in agriculture is not the only condition for consideration for promotion to the post of Director. It is specifically mentioned that Live Stock Officer with ten years



regular service in the grade would only be considered; that means a person working as Live Stock Officer for ten years would only be eligible to be considered. This goes to show that a person having experience of handling live stock for ten years is an eligible candidate. We do not think that an Agricultural Officer has any such experience of handling live stocks. An Agricultural Officer, to our mind, is concerned ^{with} to the specialised subject of agronomy, entomology and all subjects relating to advancement of agriculture products including food grains, pulses, commercial crops, cash crops, their improvement relating to productivity, quick, maturing, harvesting, fodder growing, techniques relating to preservation of agricultural produce etc. etc. whereas, Live Stock Officer is having different sphere of working relating to cattles, may be their health, their maintenance, their fodder liking, maintenance of dairies or such related matters. In short, we may conclude that it is for the expert body to judge and lay down the essential eligibility qualification ^{for the candidates} for being promoted to the promotional post. We are not expected to substitute our conclusion in such matters. Needless to say we are not experts in such technical subjects.

11. The learned counsel for the applicant has cited an unreported judgment delivered by the Hon'ble Rajasthan High Court on 27.11.84 in the S.B.C.Writ Petition No. 1455 of 1982 - K.L.Goyal vs. State of Rajasthan and Others and argued that exclusion of candidates working in P.H.E.D. with Mechanical Engineering degree for being promoted as Chief Engineer, P.H.E.D., was held bad in law on the ground that they are discharging similar duties as that of civil and electrical engineers discharging their duties in the same department. Likewise, in the instant case, exclusion of Agricultural Officer from being



considered as Director, C.C.B.F. while they are discharging similar duties relating to administration and management as that of Live Stock Officers, is bad in law. We have given our thoughtful consideration to the arguments advanced but find ourselves unable to agree to the arguments of the learned counsel for the applicant. In our opinion, for manning the posts of Agricultural Officer and Live Stock Officer, basic education may be the same but working experience is absolutely different as these two branches relate to two different spheres of one big subject which is known as agriculture. Therefore, no similarity can be drawn either on facts or on principle from the rule propounded in the aforesaid ruling. Needless to repeat that laying down eligibility criteria is the specialised subject in technical matters of agriculture which, in our opinion, is not open for our scrutiny. Consequently, the present applicant is not entitled to the relief as claimed in the O.As.



12. Coming to the another point of availability of promotional avenues to an Agricultural Officer, it would be sufficient to mention here that lately the applicant has been promoted by the Government to the post of Director, Regional Station for Forage Production and Demonstration, Suratgarh, District Sri Ganganagar (for short "RSFPD"), vide its order dated 22.12.99. But the applicant is still continuing on the post of Director, C.C.B.F. on account of continuance of stay orders in these cases. We may mention here that even as against this promotional order, the applicant had filed a O.A. which was registered at No. 3/2000 with the prayer that the promotional order be declared illegal and the applicant be allowed to continue as Director, C.C.B.F., Suratgarh, in terms of earlier interim orders. But this O.A. was rejected by us vide our order dated 4.1.2000. We have mentioned in our order

that initially the applicant challenged the action of respondents of replacing him by ad hoc promotee on the ground that no promotional avenues are available to Agricultural Officer and now when he is promoted as Director, he is still challenging the promotion that the promotion is a device to disturb him from the post of Director, C.C.B.F. on which he is working since years. In the present O.A.s the applicant had alleged that Agricultural Officer has no promotional chances in the Organisation but when he is given promotion as Director in the RSFPD he is still refusing to proceed on promotion. This clearly shows that all what the applicant is interested in, is continuing on the present post of Director, C.C.B.F. Probably, he does not want promotion to any other post except this one but the Government servant cannot choose a promotional post. His claim for the promotional avenue ~~but his claim only to be promoted~~ to a particular post cannot be justified in any way. Nowhere, it is stated that the post of Director, C.C.B.F. and post of Director, RSFPD are not equal ranking posts, therefore, applicant's continuance on the present post of Director, C.C.B.F. and applicant's claim for being considered on this post, go^{es} to show that applicant on one excuse or the other wants to continue on the present post which in our opinion is unjustified. When promotion has been granted to the applicant then it would have been reasonable on his part to proceed on such promotion but it appears that promotion on any other post except the one on which the applicant is working, is not acceptable to the applicant. But we can't encourage such conduct. In our opinion, in view of the promotion order dated 22.12.99, the present two applications of the applicant have become infructuous and deserve to be dismissed.

13. From the foregoing discussions, we come to the conclusion



that both the Original Applications of the applicant deserve to be dismissed on merits as well as on having become infructuous, in view of the promotion granted to the applicant by the Government of India.



14. Both the Original Applications are, therefore, dismissed. The interim orders granted in each of these applications stand vacated. The parties are left to bear their own costs.

SD/-
(GOPAL SINGH)
ADM. MEMBER

SD/-
(A.K.MISRA)
JUDL. MEMBER

प्रमाणित सही. मुनिलिपि
24/3/2000
अनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर

Compliance of order
made in file of A 230/95
on 24/3/2000.

24/3/2000

Part II and III destroyed
in my presence on 10.10.06
under the supervision of
section officer (J) as per
order dated 23/8/06

Section officer (Record)