

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 19.05.2000

O.A. No. 362/1999

Dr. M.M. Harsh son of late Shri Jeet Mal Harsh aged about 50 years resident of Harshon-ki-pol, Lodha's Street, Veer Mohalla, Jodhpur- Official address: Scientist Animal Reproduction, Central Sheep & Wool Research Institute, Arid Region Campus, Bikaner, P.O. Beechwal Industrial Area, Bikaner.

... Applicant.

v e r s u s

1. Union of India through the President of ICAR, Ministry of Agriculture, Department of Agricultural Research and Education, Krishi Bhawan, New Delhi.
2. The Director General, ICAR and Secretary DARE, Krishi Bhawan, New Delhi.
3. The Director, C.S.W.R.I, Avikanagar Malpura.
4. The Head, C.S.W.R.I., A.R.C., Bikaner.

... Respondents.

Mr. Kamal Dave, Counsel for the applicant.

Mr. V.S. Gurjar, Counsel for the respondents.

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)

The applicant has challenged the proceedings of the respondents dated 9.11.1999 and 7.12.1999 filed in the case at Annexures A/1 and A/2 respectively. The applicant has further prayed that he may be permitted to perform the duties as Scientist (AR), Incharge, Physiology Lab. ARC, Bikaner.

2. We find that by the impugned orders at Annexures A/1 and A/2, the applicant was transferred to T.O.T. (Transfer of Technology) section to act as Incharge of that Section. The contention of the applicant is that the impugned orders would have the effect of

involving change in discipline of the applicant. It is stated by the applicant that he has been selected and appointed in the discipline of Animal Reproduction, but by the impugned orders, he was transferred to T.O.T. Section, as Incharge of that Section. The impugned orders involve not only the transfer from one section to another, but it would have the effect of changing the discipline of the applicant. He further stated that T.O.T falls within the discipline of Agricultural Extension involving transfer of new technology generated by way of research work under ARC of CSWRI, Bikaner. Therefore, the impugned orders are liable to be set aside. he further stated that if he is transferred to T.O.T, he cannot proceed with his research in the Animal Reproduction, and if he does not produce research work, his promotion chances would be affected. In view of his transfer to T.O.T. Section, his researchwork would be hampered and his chances of promotion can be bleak. The applicant states that in these circumstances, he made a representations to the concerned authorities for not giving effect to the orders of transfer to T.O.T. Section, but they have been illegally rejected vide Annexure A/9 and A/11. He further stated that he is a cardiac patient and he also suffers from other diseases, hence it would be difficult for him to discharge the duties as Incharge of T.O.T. Section. Therefore, he has filed the present application for the relief as prayed for.

3. By filing reply, the respondents have denied the allegations made by the applicant. They have stated that the competent authority has transferred the applicant to T.O.T. Section. They have also stated that one of the objects of the Institute is to transfer technologies on sheep and rabbit production as well as animal fibre technology to farmers, rural artisans and wool industry. If that is so, on his transfer to T.O.T. Section, the applicant would fulfil the object of the Institute by transferring the technologies on the basis of his research for 25 years in the field so that the agriculturists could be benefitted. They have also stated that his holding the post as Incharge of the T.O.T. Section would not come in the way of research work within his discipline. Therefore, his transfer as Incharge of the T.O.T. Section has not changed his designation as Scientist (AR) and he can perform his research work in his discipline. They have also stated that as per the practice of the Institute over the years regarding allocation of component work, the Scientists of different disciplines have been entrusted with the T.O.T. Section. Thus, they have stated that the impugned orders at Annexures A/1 and A/2 would not have the effect of changing his discipline. They have stated that as an Incharge of T.O.T. Section,



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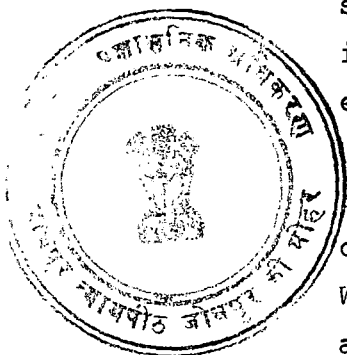
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he need not have any other qualifications. Thus, learned counsel for the respondents have submitted that as an Incharge of T.O.T., the applicant was supposed to discharge the administrative duties and the same does not come in the way of his specialisation. Therefore, he also submitted that transferring persons from one section to another is an internal arrangements of the Institute and that does not call for any interference. He further stated that as per the certificate issued by the authorised medical officer, from whom the applicant has been taking medical treatment, it is clear that the applicant has given fitness certificate for duty, therefore, the contention of the applicant that due to his ailment, he cannot discharge the duties as Incharge of the T.O.T. is not correct. For these grounds, the respondents have sought dismissal of this application.

4. We have given anxious consideration to the facts of the case. As pointed out by Hon'ble the Supreme Court, transfer is an incidence of service and the same does not call for any interference at the hands of the Court. In this case, it is admitted that the applicant has been transferred from one section to another in the same building. If the authority considers it necessary in public interest to transfer a person from one section to another, they are entitled to do so.

5. However, the case of the applicant is that the impugned orders of transfer will have the effect of changing his discipline. Whereas the learned counsel for the applicant submitted that the applicant's joining as Incharge of the T.O.T. Section would not affect his discipline and he can continue his research work in his own discipline. We find that there is substance in the arguments advanced by the respondents. The applicant as Incharge of T.O.T. Section is to discharge administrative functions of the department. The applicant also can transfer the technology he has developed in the field for which he is doing research for the last 25 years, to the farmers. He can also arrange transfer of similar technology of other disciplines through the other Scientists working with the department. From this fact, it follows that the impugned orders would have the effect of changing his discipline is not correct.

6. The learned counsel for the applicant argued that the T.O.T. Section involves qualification of specialised nature for the purpose of transfer of technologies. ~~For example~~, he stated that ~~transferring~~ as Extension Agriculture Officer, he must have necessary qualifications for that purpose. But in our opinion, this apprehension is only baseless. As we have stated above, in addition,

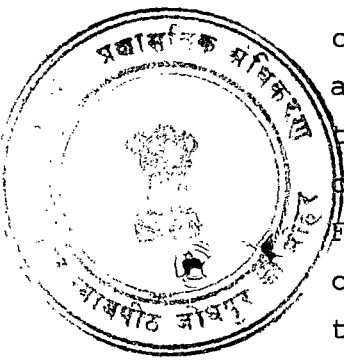
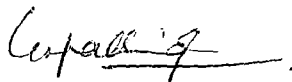


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to the administrative work, he may arrange for transfer of technologies to the agriculturists / farmers by making such arrangements from the persons, who are specialised in different fields. As pointed out above, the applicant can also transfer his technology in which he is expert. Therefore, he need not have any other degree or additional qualifications to discharge the administrative functions.

7. The other contention of the applicant is that he is a cardiac patient and also suffering from other diseases, he is not in a position to discharge his duties as Incharge of T.O.T. Section. But the doctor, who has been treating him, has already given a certificate, as stated in the reply, certifying his fitness for duty. From this fact, it follows that the applicant's contention merits only for rejection. Though in the application, the competency of the transfer is alleged, but no arguments have^{been} addressed as to how the authority who has passed the impugned orders, was not competent with reference to the rules of Institute. In these circumstances, it cannot be said that the impugned orders of transfer at Annexures A/1 and A/2, were passed by an incompetent authority.

8. For the above reasons, we do not find any merit in this application. Accordingly, we dismiss the present application. But in the circumstances, without costs.



(GOPAL SINGH)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman

cvr.

Lib.

MANM (Harm)

23/5/2000

MAN MAC NARM
Applicant

Copy of order sent to
Counsel for Respondents

Order no 142

dated 5/6/2000

[Signature]
5/6/2000