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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH AT JODHPUR

O.A. 136/2007

Dated this the 18<sup>th</sup> day of March, 2011

CORAM

HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER  
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER

Radha Krishan Verma S/O shri Gurdyal Singh Verma  
Aged about 31 years, R/o National Research Center  
Of Camel, Residential Colony, Type II Quarter,  
Bikaner presently working as Livestock Assistant  
In T.2 Category (Technical Officer Livestock)  
In Category II of the Technical Service of ICAR  
Bikaner. ....Applicant

(By Advocate Mr. Manoj Bhandari)

Vs.

1. The Union of India through the  
Secretary, Ministry of Agriculture,  
New Delhi.
2. The Secretary and Joint Director,  
Indian Council for Agricultural Research  
(ICAR), Krishi Bhawan,  
Dr. Rajendra Prasad Road,  
New Delhi-110 001.
3. The Director, National Research Centre  
Of Camel, Jorbeer, PB No.07,  
Shiv Bari, Bikaner 334 001.
4. Assistant Administration officer  
National research Centre of Camel,  
Jorbeer, PB No.7, Shiv Bari, Bikaner.1.

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5. Shri Satnam Singh, presently working  
As T.3 Electrician through Incharge Estate  
Unit, NRCC (National Research Centre of  
Camel), Bikaner. ...Respondents

(By Advocate Mr.V.S.Gurjar for Respondents 1 to 4)

### ORDER

Applicant Radha Krishan Verma presently working as  
Livestock Assistant in T-2 Category (Technical Officer Livestock) in  
Category II of the Technical Service of ICAR, Bikaner has preferred  
this O.A. seeking the following reliefs:

- (a) By an appropriate order or direction, the respondents be directed to confer the promotion to the applicant on the post of Livestock Assistant in T-3 category-II in the Technical Service of ICAR w.e.f. 1st May, 2002 with all consequential benefits.
- (b) By an appropriate order or direction, the respondents be directed to consider the case of the applicant for granting promotion to the post of Livestock Assistant T-3 in Category-II from the date his junior has been conferred the promotion after completion of 5 years in T-2 category in the Technical Service of ICAR with all consequential benefits.
- (c) In the alternative without prejudice to above, by an appropriate order or direction, the respondents be directed to consider and grant promotion to the applicant after completion of 10 years of service ie., w.e.f. 1st May, 2007 with all consequential benefits.
- (d) By an appropriate order or direction the order dated 24/26.3.2007 and 8.1.2007 whereby the candidature of the applicant has been deferred, may kindly be declared illegal and be quashed and the respondents be directed to confer promotion to the applicant from the date his junior has become entitled ie., w.e.f. 1st May, 2002 with all consequential benefits.



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(e) Any other appropriate order or direction which this Hon'ble Tribunal may deem fit just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.

2. The brief facts of the case are as follows.

The applicant was initially appointed on the temporary post of T-2 as Live Stock Assistant in the pay scale of Rs.1200-2040 with effect from 1st May, 1997. He was ordered to be on probation for a period of two years. Thereafter the applicant was confirmed in the category of Live Stock Assistant as T-2 in Category -I in the Technical Service of respondent National Research Center of Camel (NRCC) Bikaner with effect from 30.4.1999 as per order dated 17/19.01.2001 (Annexure.A3).

3. On 3.2.2000 modifications were made in the existing Technical Service Rules of ICAR and accordingly a notification dated 3.2.2000 (Annexure.A4) was issued. As per the said notification Categories I and II of the Technical Services were modified and in Category I there were two Categories of T-1 and T-2 and in Category II there were three categories ie., T-3, T-4 and T-5 respectively. The applicant was working in T-2 category of Category I in the pay scale of Rs. 4000-6000 and so he has been claiming promotion in T-3 in the pay scale of Rs.4500-7000 under Category-II. According to the notification the qualification for Category-I was fixed as matriculate

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with at least one year's certificate from the recognized institution in the relevant field and the qualification for Category -II has been fixed as Bachelor Degree in a relevant field or equivalent from the recognized university. The qualification fixed was for direct recruitment. The applicant was a direct recruitee of the year 1997 and as he is a matriculate with certificate in animal husbandry he was given appointment as Live Stock Assistant in T-2 category. The said notification dated 3.2.2000 further stipulate conditions that a person can be considered for further promotion in Category-II against T-3 post after completion of 5 years of service if a particular incumbent is possessing the qualification of degree/diploma in the relevant field or equivalent qualification from the recognized University. But if such incumbent is not possessing such qualification he shall become eligible for assessment promotion to T-3 grade only after 10 years of service in the T-2 grade.

4. Further case of the applicant is that the applicant was in functional group of farm Technician but the respondent No.5 was in the workshop category of technical service. Respondent No.5 also possessed qualification of matriculation with certificate of ITI and the respondents promoted Respondent No.5 after the promotion of the applicant in Category T-II in the pay scale of Rs.4000-6000 with effect from 29.,6.2001 by order dated 27.4.2002 (Annexure.A8) and

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accordingly his pay was fixed in the pay scale of Rs. 4000-6000 vide Annexure.A9.

5. It is stated that the criteria for promotion to T.3 post in Category-II is by way of 10 years of service in T.2 category if an employee is not possessing the qualification of degree/diploma from the recognized university but if he is possessing the said qualification he can be considered for promotion to the higher post after completing 5 years in T.2 category and as per the above criteria for promotion, the Respondent No.5 was ordered to be promoted to T.3 category of Technical Service with effect from 29.6.2006 on completion of 5 years of his service and subsequently on promotion his salary was fixed in the pay scale of Rs.4500-7000 vide order dated 18/19-12-2006 (Annexure.A.10 and A.11). Applicant's case is that he is equal in qualification with that of Respondent No.5 and therefore he should also have been considered for promotion against T.3 category in the Technical Service of ICAR and so the applicant made representation (Annexure.A12) before the authority concerned on the ground that his junior Satnam Singh (Respondent No.5) who was having same qualification has been promoted to the said category. Applicant again filed representation on 11.12.2006 and 2.1.2007(Annexure A13 and A14) but no order was passed by the authority on his representation and instead of that he was transferred to the Guest House Unit from Medical Unit. Then applicant again

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made representation by way of Annexure.A15 and thereafter on 24/26.3.2007 a final order was passed on his representation to the effect that the applicant could not be considered for promotion in the light of the order passed by the ICAR on 8.1.2007 whereby the promotion in the category of Technical employee was ordered to be put on hold until further orders. This order has been annexed as Annexure.A1 and the same is under challenge. It is further stated that the applicant again made representation on the ground that the order of the ICAR dated 8.1.2007 will not be applicable against the applicant. Further averment has been made by the applicant that even after issuance of the letter dated 8.1.2007 the respondents have granted promotion to Shri Mohan Singh in Category-II from T.4 Live Stock Assistant to T-5 in Technical Service of ICAR. It is stated that the applicant filed application under Right to Information Act asking the respondents to supply a copy of record of promotion of Respondent No.5 as well as with regard to Shri Mohan Singh vide Annexure.A19 where upon the respondents gave information in respect of Shri Mohan Singh. Thereafter the applicant again filed application under Right to Information Act for giving information with regard to promotion of Satnam Singh by way of Annexure.A21 and then the applicant preferred this Original Application.

6. On filing of the O.A notices were issued to the respondents and in compliance of the notice the respondents

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appeared before this Tribunal through lawyer and filed reply of the OA.

7. From perusal of the reply it appears that most of the facts mentioned in the OA are admitted but the main contention of the respondents is that since the applicant could not fulfill the requisite qualification as such he could not be promoted to the post of T.3 Grade in Category II. According to the averment made in the reply the requisite qualification for direct recruitment/promotion from Category-I (T.2) to Category II (T.3) in the same functional group is Bachelors Degree in Agriculture or any branch of Science/Social Science relevant to agriculture or equivalent qualification from a recognized university. It is stated that the applicant possessed the qualification of matriculation and one year training certificate in animal husbandry and so he did not possess the required qualification for five yearly assessment for promotion from Category I Grade T.2 to category II Grade T.3. It is stated that Respondent No.5 had fulfilled the required qualification for five yearly assessment of T.2 to T.3 under the functional group of work establishment staff for which the required qualification is Bachelors Degree/three years' diploma in the relevant field or equivalent qualification from a recognized university. This three years' diploma qualification is relaxable up to 2 years where minimum qualification for diploma has been fixed for two years. An averment has been made in the reply that as per the

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certificate attached with the reply (Annexure. R.1) Respondent No.5 had possessed the diploma certificate of three years and since he was a matriculate and so he was promoted on the basis of five yearly assessment. It is stated that since the applicant is simply a matriculate and has completed the certificate course of one year as such he is not eligible for promotion under the five yearly assessment basis. As regards Mohan Singh it has been stated that he has been promoted after removal of Category bar between Category II to Category III for which ICAR had imposed ban on assessment promotion vide communication dated 19.12.2006 and 8.1.2007 (Annexures.R.5 and R.6). It has further been stated that the applicant is entitled for assessment promotion only after completing ten years of service in Grade T.2. On the basis of the above averments a prayer has been made to dismiss the OA.

8. Shri Manoj Bhandari, learned Advocate appeared for the applicant whereas on behalf of the respondents 1 to 4 Shri V.S.Gurjar appeared and argued the case. As per the admitted case of the parties the applicant is presently working as Technical Officer (Live Stock) in Category II of the Technical Services of ICAR. As per the amendment made in the Technical Service Rules of ICAR vide notification dated 3.2.2000 (Annexure.A4) Category I and Category II of Technical Service were modified and in Category I there are two grades of T.1 and T.2 and in Category II there are three grades of

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T3, T4 and T.5 respectively. The qualification for Category I has been fixed with at least one year's certificate from recognized institution in the relevant field. The qualification for Category II is Bachelors Degree in relevant field or equivalent qualification from the recognized university. The qualification as fixed above are for direct recruitment. The notification further contains provision that a person can be considered for further promotion in Category II against T.3 after completion of five years of service if a particular incumbent is possessing the qualification of degree/3 years diploma in the relevant filed or equivalent qualification from the recognized university. This is evident from Annexure A.4 read with Annexure A6 and to this extent there is no difference of opinion between both the lawyers. But the contention of the respondents is that the applicant did not fulfil the requisite qualification as he is simply a matriculate and has passed certificate course of one year of Animal Husbandry in the year 1994-95 vide Annexure A.5. As per Para 4 of the OA and Annexure A.5 it will establish that the applicant has got qualification of matriculation having one year certificate course in animal husbandry. As per the requisite qualification for five years assessment promotion from Category I (T.2) to Category II (T.3) and functional group of work establishment staff the qualification for T.3 is Bachelors Degree/three years diploma in the relevant field or equivalent qualification from recognized university. The admitted case is that the applicant is

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simply a matriculate and has completed a certificate course of one year in Animal Husbandry but the required qualification is three years diploma. Thus it is well established that the applicant does not fulfil the requisite qualification for promotion from T.2 to T.3 post in Category II.

9. It has been contended in the O.A that the Respondent No.5 (Satnam Singh) also did not possess the requisite qualification and he had not completed three years diploma course and even then he was promoted. At this stage we want to say that if the authority has committed any mistake in giving promotion to Respondent No.5, we cannot commit same mistake. However, we would like to point out that the respondents in their reply <sup>ve</sup> has clarified this point and has stated that the minimum qualification of three years diploma has been relaxed to two years diploma where the duration of diploma course is only two years and since the Respondent No.5 had fulfilled this criteria as such he was promoted. We accept this contention of the respondents in this regard.

10. As regards the contention that one Mohan Singh was promoted in Category II even after the ban imposed by ICAR whereby promotion in category of technical employees was ordered to be hold up until further orders. In this regard the explanation of the respondents is that Mohan Singh was promoted when the ban was removed. Thus we are of the view that the applicant who has tried to

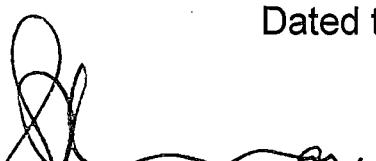
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make out a case that he is entitled for promotion on the basis of five yearly assessment from Category I (Grade T.2) to Category II (Grade T.3) is not acceptable. Therefore, we are of the view that on this ground the OA is bound to be dismissed. However, it appears that the applicant has already completed ten years of service in Grade T.2 of Category I as such, we find that now he fulfils the criteria for promotion to Category T.II (Grade T.3) post and so a direction can be issued to the respondents to consider the case of the applicant for promotion on T.3 post in Category II.

11. In the result, we find no merit in this OA and so the same is hereby dismissed. However, the respondents are directed to consider the case of the applicant for promotion from Category-I (T.2) to Category-II (T.3) as the applicant has already completed ten years of service in the grade. With the above observations the OA stands dismissed. No costs.

Dated this the 18<sup>th</sup> day of March, 2011

  
SUDHIR KUMAR  
ADMINISTRATIVE MEMBER

  
JUSTICE S.M.M. ALAM  
JUDICIAL MEMBER

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