

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.497/96

Tuesday, this the 10th day of June, 1997.

C O R A M

HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER  
HON'BLE SHRI AM SIVADAS, JUDICIAL MEMBER

....

VM Shamsuddin,  
Director of Agriculture,  
Directorate,  
UT of Lakshadweep,  
Kavaratti.

....Applicant

By Advocate Ms VP Seemanthini.

VS

1. Union of India represented by its  
Secretary, Ministry of Agriculture,  
Department of Agriculture and Cooperation,  
Krishi Bhawan, New Delhi.
2. The UT of Lakshadweep represented  
by its Administrator,  
Kavaratti.

....Respondents

By Shri S Radhakrishnan, Addl Central Govt Standing Counsel.

The application having been heard on 6th June, 1997,  
the Tribunal delivered the following on 10th June, 97:

O R D E R

HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant is the Director of Agriculture in the Union Territory of Lakshadweep. In 1986, he was in the scale of Rs.3000-4500. The post of Director of Agriculture was recommended by the Planning Commission in 1986 to be upgraded to the scale of Rs.3700-5000, along with recommendations to upgrade the posts of Director of Fisheries, Director of Education and Port Officer. The grievance of the applicant is that while the other three posts

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were upgraded promptly, the post of Director of Agriculture was upgraded only in 1991. He submits that this is discriminatory, and that he cannot be made to suffer on account of the delay on the part of respondents to upgrade his post promptly. He had approached the Tribunal in OA 589/95 and the Tribunal directed that his representation dated 20.8.94 be disposed of. The impugned order A.3 dated 25.7.95 was passed on the representation rejecting his request. Applicant prays that A.3 be quashed on the ground that it is arbitrary and discriminatory and in violation of Articles 14 and 16 of the Constitution, and that he be placed in the upgraded scale of pay of Rs.3700-5000 with effect from 10.3.86 (the date on which the Planning Commission recommended the upgradation) or from 1.4.88 (the date on which applicant completed three years of service in the scale of pay of Rs.3000-4500) with consequential benefits of arrears and interest for the delay in disbursement of arrears at 18% per annum.

2. Respondents submit as follows.

The draft Seventh Five Year Plan of the Union Territory of Lakshadweep was reviewed by the Planning Commission in February, 1986 and the proposal for upgrading the post of Director of Agriculture along with that of certain other Departments like Animal Husbandry, Fisheries, Education and Cooperation was supported by the Planning Commission. The recommendations of the Planning Commission are not mandatory, nor has any date for effecting the upgradation been specified. The date of completion of three years service in a scale does not entitle applicant to be placed in a higher scale. The proposals for upgradation of the post took some time to reach a final shape since it had to be examined in the light of proposals to restructure the

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Department, combining the posts of Director of Animal Husbandry and Director of Agriculture and in the light of a study carried out by Cochin University. The proposals in their final shape was received by the Ministry in the Government of India only in January, 1990 and the final recommendation that the post of Director of Agriculture may be upgraded "if financially and administratively feasible" was received from the Planning Commission on 12.4.91. This had to be processed in consultation with the Ministry of Finance and the upgradation was ordered on 22.11.91. Thus, there was no inordinate delay as alleged.

3. Learned counsel for respondents also submitted that the application is barred by limitation as the upgradation ordered in 1991 was being challenged after a period of five years. However, since the application is within time with reference to the impugned order A.3, we will deal with the issue on merits.

4. Proposals for restructuring or upgradation in different Departments cannot be put on a comparative basis since each case will have to be considered on its own merits and there is no statutory time frame in which such actions have to be completed. It is seen that the proposal for upgrading the post of the Director of Fisheries was initiated much earlier in 1985 and the upgradation of the post of Director of Agriculture was considered only in 1986 in the context of the proposals in the Seventh Five Year Plan. Several alternatives were considered and the proposal took final shape only in April, 1991. Thereafter, the upgradation was sanctioned in November, 1991. We do not see any arbitrariness in this action. In any case, applicant does not have a legal right to have his post upgraded, much less to have it upgraded on any particular date. These are matters of policy essentially within the jurisdiction of the administration. The upgradation of similar

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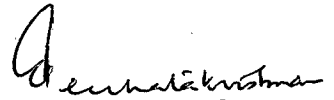
posts in other Departments does not give any right to the applicant for upgradation as the fact situations in different Departments are not comparable. In the absence of any legal right, the prayer that A.3 be quashed on the ground that it is discriminatory, cannot be granted. We do not see any merit in the claim of the applicant to get the higher scale from either 1986 or 1988.

5. The application is accordingly dismissed. No costs.

Dated the 10th June, 1997.



AM SIVADAS  
JUDICIAL MEMBER



PV VENKATĀKRISHNAN  
ADMINISTRATIVE MEMBER

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LIST OF ANNEXURE

Annexure A3: Photocopy of the office Memorandum  
No.22015/1/95-SL&UT, dated 25.7.95  
of the 1st respondent.

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