

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.-No.532 of 1998.

Thursday, this the 21st day of December, 2000.

CORAM:

HON'BLE MR A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

P.K. Sreedharan, Assistant,
Central Institute of Fisheries Technology,
Matsyapuri P.O., Cochin-682 029. Applicant

(By Advocate Shri B.S. Sivaji)

V8.

1. The Secretary,
Indian Council of Agricultural
Research, Krishi Bhavan,
New Delhi.
 2. The Director,
Central Institute of Fisheries
Technology, Matsyapuri P.O.
Kochi.
 3. A. George Joseph,
Superintendent (Provisionally
promoted), Central Institute of
Fisheries Technology,
Matsyapuri P.O.,
Kochi -29.

(By Advocate Shri P. Jacob Varghese (R.1&2)

The application having been heard on 21.12.2000, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR A.V. HARIDASAN, VICE CHAIRMAN

Applicant who is working as Assistant in the Central Institute of Fisheries Technology, Cochin has filed this application for the following reliefs.

"1) To direct the respondents No.1 and 2 to consider the selection and appointment of the applicant to the post of Superintendent which arose on 1.11.1995 which is set apart for Limited Departmental Competitive Examination quota for Scheduled Caste as circulated by circular No.4-42/95-Admn. dated 11.12.1995 and appoint the applicant to that post with all consequential benefits.

ii). To direct the respondents No.1 and 2 to exchange the vacancy of Superintendent which arose on 31.8.1995 for promotion quota for Scheduled Tribe and Scheduled Caste quota and fill up the same by promoting the applicant with effect from 18.4.1997 with all consequential benefits.

iii. To declare that the 3rd respondent is not legally eligible to hold the post of Superintendent which arose on 31.8.95 on ad hoc/provisional basis and to declare further that he is deemed to have been demitted the office of Superintendent forthwith.

iv). Any other appropriate order or direction, as this Hon'ble Tribunal deem fit in the interest of justice."

2. It is alleged in the application that recruitment to the next higher grade as Superintendent has to be made 66 2/3% by promotion and 33 1/3% by Limited Departmental Competitive Examination, failing which by deputation from Assistants who have five years service in the grade in other institute, that pursuant to the above Recruitment Rules, towards one vacancy reserved for Scheduled Castes falling in the Limited Departmental Competitive Examination quota, a notification was issued on 11.12.1995 (A-1), that the applicant applied pursuant to the said notification, and that the respondents 1 and 2, without proceeding further with the recruitment process initiated under A-1 continued the adhoc appointment of the 3rd respondent who is junior to the applicant and belongs to the general category. With these allegations the applicant has filed this application .

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3. The official respondents in their reply statement contended that though the notification A-1 was issued as there was an interim order of stay of appointment issued by the Tribunal in O.A. 1552/95 filed by one Shri Rajasekharan Nair, further proceedings pursuant to the notification A-1 could not be continued and that when the O.A. was finally disposed of on 11.9.97, the pay scale of the post of Superintendent as also the Assistant having been equated and the post of Superintendent treated as dying cadre, there was no need to fill up the post. Adhoc appointment of the 3rd respondent is justified on the ground that it was only a provisional arrangement.

4. The 3rd respondent has also filed a reply statement.

5. We have heard the learned counsel on either side. It is evident from the judgement of the Tribunal in O.A1552/95 and the pleadings in this case that the official respondents could not proceed further with the Recruitment process initiated by A-1 on account of the interim order of stay. It is also evident that, by order dated 16.6.97 (Annexure R-1), the posts of Superintendent and Assistant came under the same pay scale and that had done away with the necessity to make the promotion to the post of Superintendent from the post of Assistant. Therefore, the applicant cannot validly claim that the respondents should be directed to make the promotion to the post of Superintendent w.e.f. 1.11.1995. What remains is the question whether the 3rd respondent was legally eligible

to hold the post on ad hoc basis. The 3rd respondent was appointed on ad hoc basis by order dated 20.9.96. The first time when the applicant raised a protest against this was only on 27.3.98 i.e. long after the right of the applicant to challenge the promotion of 3rd respondent got barred by limitation. Even in this application the applicant has not sought to have the ad hoc appointment of the 3rd respondent on the post of Superintendent, set aside. Therefore, he is not entitled to have a declaration as prayed for.

6. In the light of what is stated above, finding no merit in this application, we dismiss the O.A. leaving the parties to bear their own costs.

Dated the 21st December 2000.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-1: True copy of circular No.F.4-42/95-Admn. dated 11.12.95 issued by the 2nd respondent.
2. R-1: True copy of the office order No.15(8)/96-Estt.I dated 16.6.97 extending revised pay scales of Rs.1640-2900 to Asstt. and Stenographers(Gr.II).