

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.543 of 1994

Friday, this the 28th day of April, 1995

CORAM

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR S P BISWAS, ADMINISTRATIVE MEMBER

Annamma Mathew,
T-5 Technical Officer,
Central Institute of Fisheries Technology,
Matsyapuri P.O.,
Kochi- 682 029. ...Applicant

By Advocate Mr P Santhosh Kumar.

Vs

- 1 The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan, Dr.Rajendra Prasad Road,
New Delhi.
- 2 The Secretary,
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi.
- 3 The Director,
Central Institute of Fisheries Technology,
Kochi-29.
- 4 M S Rajan, T-5 Bosun,
Central Institute of Fisheries Technology,
Kochi.
- 5 N Sreeharshan, T-5 Bosun,
Central Institute of Fisheries Technology,
Kochi. ...Respondents

By Advocate Mr P Jacob Varghese for Respondents 1 to 3.

By Advocate Mr N N Sugunapalan for Respondents 4 & 5.

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant seeks a direction to consider her claim for promotion to T-6 category. Inter alia, a further direction not to appoint any other person before the final seniority list is published, is also sought.

...Contd.

2 During the hearing, we are informed by counsel on both sides that an order has been passed by a Bench of this Tribunal in OA 987/93 filed by fourth respondent, touching on the same subject. The Bench observed:

"After considering the contentions of the applicant and respondents, we are satisfied that the application can be closed after recording the aforesaid statement of the second respondent in the reply containing the assurance, which according to us would safeguard the right of the applicant for getting promotion in T-6 grade if he is otherwise qualified for the same."

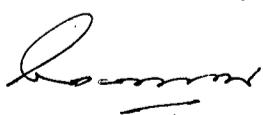
No doubt, this order safeguards the interests of the applicant therein, without safeguarding the interests of others who are eligible to be considered. The order states that if applicant therein satisfies the qualification, he may be promoted. Even if he is qualified, he cannot be promoted to a selection post without a process of selection, which implies a process of comparison.

3 We are of opinion that the direction in OA 987/93 is 'per incuriam' as it did not advert to a material aspect, namely the claims of other eligible hands and as it did not advert to the fact that the post was a selection post. It is not enough, if the applicant is qualified for claiming an appointment against a selection post. He must also qualify by merit in the process of selection.

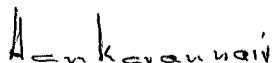
4 We declare the order in OA 987/93 as 'per incuriam'. It will be for the departmental respondents to proceed further in accordance with the rules governing the matter.

5 Application is disposed of as aforesaid. No costs.

Dated the 28th April, 1995.



S P BISWAS
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN