

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 68 of 2005

Monday, this the 7th day of March, 2005

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. Dr. P. Thomas Varghese,
Principal Scientist (Agronomy),
Scientist-in-Charge,
National Research Centre for Oil Palm,
Regional Station, Palode, Trivandrum. Applicant

[By Advocate Shri Vishnu S Chempazhanthiyil]

Versus

1. Union of India represented by its
Secretary, Ministry of Agriculture,
New Deli.
2. Deputy Director General (Horticulture),
Indian Council of Agricultural Research,
Krishi Anusandhan Bhavan,
New Delhi – 110 012
3. The Director,
National Research Centre for Oil Palm,
Pedavagi, Andhra Pradesh – 534 450
4. Dr. Kochu Babu,
The Director,
National Research Centre for Oil Palm,
Pedavagi, Andhra Pradesh – 534 450
5. The Director,
Indian Council of Agricultural Research,
Krishi Anusandhan Bhavan,
New Delhi – 110 012 Respondents


[By Advocate Shri P. Santhoshkumar (R2 to R5)]

The application having been heard on 7-3-2005, the Tribunal on the same day delivered the following:

ORDER

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


Dr.P. Thomas Varghese, Principal Scientist (Agronomy) and Scientist-in-Charge, National Research Centre for Oil Palm, Regional Station, Palode, Trivandrum, was by Annexure A1 order dated 21st October, 2004 transferred and posted to NRC-OP Headquarters, Pedavegi with immediate effect on the alleged recommendations of the Research Advisory Committee (RAC for short) with a view to strengthen the Oil Palm research under irrigated tract. In his place, one Dr.R.S.N. Pillai, Principal Scientist was asked to take over as Scientist-in-Charge. The applicant felt aggrieved by this transfer. He, therefore, made a representation stating that he was in the midst of a project, that the transfer was in the midst of the academic session, that the post to which he was transferred at Pedavegi is already accepted by an incumbent and that the transfer was not in public interest but on account of the malafides of Dr.Kochu Babu, the 4th respondent. It is alleged that there was no recommendation in the RAC meeting to transfer the applicant. As the representation was not forwarded by the Director, the applicant filed OA.No.843/2004 and that OA was disposed of directing the 2nd respondent to consider the representation and to give the applicant an appropriate reply keeping in abeyance the relief of the applicant. In obedience to the above direction, the 2nd respondent has considered the representation and passed Annexure A6 order dated 20th January, 2005 declining to interfere with the order of transfer and holding that the order of transfer would stand. Aggrieved, the applicant has filed this application seeking to set aside Annexure A1, A6 and A7, for a declaration that Annexure A1 order is vitiated by malafides and for a direction to the respondents to permit the applicant to continue in the present station, declaring



that Annexure A6 order is vitiated by non-application of mind. It is also alleged in the application that the 4th respondent, who was junior to the applicant, was selected as Director, which selection the applicant challenged, that the applicant had made reports about certain irregularities committed by the 4th respondent and that the impugned order of transfer was issued as a retaliatory measure on account of malafides. It has also been alleged that since the RAC has also not made any recommendation for his transfer but only suggested the retention of the applicant in the present posting, the action on the part of the respondents in transferring the applicant in the midst of the project and in the midst of the academic session is vitiated by malafides. It is further alleged that the 2nd respondent has issued Annexure A6 order without adverting to the various grounds raised in the representation of the applicant and therefore the impugned order Annexure A6 is unsustainable.

2. On behalf of respondents 2 to 5, a statement in reply has been filed wherein the allegation of malafides has been refuted. The claim of the applicant that it was on the applicant's merits that the two projects were sanctioned has been refuted and it has been contended that the applicant did not make any contribution for the successful implementation of the project, that the project would be continued by other Scientists and that the applicant's transfer was recommended by the RAC only to strengthen the Oil Palm research under irrigated tract at Pedavegi and this being done in public interest, the Tribunal may not interfere.


3. We have carefully gone through the entire materials on record and have heard Shri Vishnu S Chempazhanthiyil, learned counsel of the applicant and Shri P. Santhoshkumar, learned counsel of respondents 2 to 5.



4. Learned counsel of the applicant argued that the provocation for issue of the impugned order of transfer was Annexure A4 and A4(a) letters written by the applicant and the malice in the mind of the 4th respondent and not any consideration of the public interest. To elaborate this contention, the learned counsel brought to our notice the history that the applicant and the 4th respondent were contestants for the post of Director, that the 4th respondent was selected, that the applicant challenged the selection and appointment unsuccessfully before the Tribunal and that the 4th respondent has always been harassing the applicant.

5. Learned counsel of the respondents, on the other hand, argued that, while the applicant may have intolerance in his mind in not being successful in getting appointment to the post of Director while the 4th respondent was selected and appointed, there is nothing on record which would show that the 4th respondent has shown any hostility towards the applicant and that the order having been issued in public interest the applicant does not have a legitimate grievance calling for redressal.

6. We have carefully considered the rival contentions in the light of the averments made in the pleadings. It is evident from the materials on record that it was consequent on review of the research programmes of the Crop Production in tune with the RAC recommendations that the applicant's transfer was ordered with a view to strengthen the Oil Palm research under the irrigated tract at NRC-OP Headquarters, Pedavegi. The representation submitted by the applicant was considered by the Deputy Director General as directed by this Bench of the Tribunal in its order in OA.No.843/2004. All the points raised in the representation have been considered and discussed. The Deputy Director General has categorically stated that the transfer of the applicant was ordered for strengthening the Crop Production research under the



irrigated tract at Headquarters as recommended by the RAC in its meeting held on 6-9-2004. We do not find any reason to doubt the bonafides of the decision of the Deputy Director General as there is no allegation of malafides against the Deputy Director General. The statement of the applicant that no decision was taken to transfer the applicant can only be considered as a self-servicing statement which is found to be not true in view of what is stated in the impugned order. The allegation of malafides made against the 4th respondent also does not appear to be prima facie tenable. As argued by the learned Standing Counsel for the respondents this all appear to be manifest in the words contained in Annexure A4 and A4(a) letters which being addressed to the Director contain imputation of alleged irregularities and omission of Dr. Kochu Babu who was the Director himself. This discloses the unhappy feeling of the applicant towards the 3rd respondent but do not show that the 4th respondent has any enmity towards the applicant. We, therefore, do not find any reason to interfere in the matter.

7. In the light of what is stated above, the application is rejected under Section 19 (3) of the Administrative Tribunals Act, 1985. No costs.

Monday, this the 7th day of March, 2005


H.P. DAS
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

CP[C] No. 3/2005 in OA No. 68/2005

Monday, this the 7th day of March, 2005

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. Dr. P. Thomas Varghese,
S/o Mammen Thomas,
Principal Scientist (Agronomy),
Scientist-in-Charge, National Research Centre
for Oil Palm, Regional Station, Palode,
Thiruvananthapuram,
Residing at 'Panavelil', House No.41,
Yamuna Colony, Kudapanakunnu PO,
Thiruvananthapuram – 695 043

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Applicant

[By Advocate Shri G. Sasidharan Chempazhanthiyil]

Versus

1. Dr. Kochu Babu,
The Director,
National Research Centre for Oil Palm,
Pedavagi, Andhra Pradesh – 534 450
2. Dr. R.S.N. Pillai,
Principal Scientist,
NRC-OP Regional Station, Palode.

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Respondents

[By Advocate Shri P. Santhoshkumar]

The petition having been heard on 7-3-2005, the
Tribunal on the same day delivered the following:

ORDER

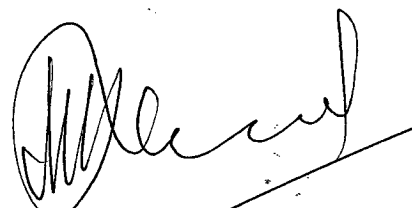
HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

Learned counsel of the petitioner states that he may be permitted to withdraw the Contempt Petition (Civil). Permission granted. The Contempt Petition (Civil) is dismissed as withdrawn.

Monday, this the 7th day of March, 2005

12.1.2005

H.P. DAS
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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