

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.90/99

Tuesday, this the 10th day of July, 2001.

CORAM;

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

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

1. E.K.Mohandas,
Supporting Staff Grade-I,
Indian Institute of Spices Research,
Calicut.
 2. K.Chandran Nair,
Supporting Staff Grade-I,
Indian Institute of Spices Research,
Calicut.
 3. M.Venu Nair,
Supporting Staff Grade-I,
Indian Institute of Spices Research,
Calicut.
- Applicants

By Advocate Mr PV Mohanan

Vs

1. The Director,
Indian Institute of Spices Research,
Peruvannamuzhi,
Calicut.
 2. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi.
- Respondents

By Advocate Mr Mathews J Nedumpara

The application having been heard on 10.7.2001, the Tribunal on the same day delivered the following:

O R D E R

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

The applicants three in number, are Supporting Staff Grade-I in the Indian Institute of Spices Research (IISR for short), Calicut. They commenced their service as Casual

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Mazdoor in Central Plantation Crops Institute Regional Station, Calicut in 1979. While the Institute was bifurcated in 1987, the applicants were transferred to Central Plantation Crops Research Institute(CPCRI for short), Kasaragod. They were regularly appointed with effect from 1987, but their regular appointment was antedated to 22.6.82, by A-2 order pursuant to the order of this Tribunal in O.A.271/94. They were later transferred to the IISR in the year 1997. However, from 1982 onwards, they are continuing in the grade of Supporting Staff Grade-I. By proceedings dated 16.7.97, the Indian Council of Agricultural Research (ICAR for short) introduced a scheme for promotion of Supporting Staff Grade-I, II and III at the ratio of 7:5:3:1.5 for the purpose of avoiding stagnation. Since even after working out the scheme there was further stagnation, the ICAR issued an order dated 16.7.97(A-3) with the approval of the competent authority to grant one time relaxation for the promotion of Supporting Staff in Grade-I, II and III who were working for more than 12 years in a particular grade to the next higher grade on personal basis by creating/upgrading such post(s) in consultation with FA&CAO of the Institute, provided that such post(s) would stand abolished on account of promotion to higher grade/post(s), resignation/retirement etc. The grievance of the applicants is that though they have been stagnating in the grade of Supporting Staff Grade-I even after expiry of the period of 12 years from the date of their appointments to that grade, their claim for placement in the higher grade have not been acceded to. In reply to their representation, they were informed by the impugned order dated

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12.2.98 that as per the clarification received from the Council, the promotion had to be given strictly based on seniority and as such, the request of the applicant could not be acceded to. Under these circumstances, the applicants have filed this application, to have the impugned order A-4 set aside and for a direction to the respondents to promote the applicants to the post of Supporting Staff Grade-II with effect from 22.7.94 with all consequential benefits including arrears of pay and allowances.


2. The respondents in their reply statement contend that though the applicants were appointed as Supporting Staff Grade-II with effect from 22.6.82, they were transferred to the IISR, Calicut only on 2.6.97, with a clear understanding that they would rank junior to all Supporting Staff Grade-I in position in the Institute as on that date, and therefore, their claim for promotion to the higher grade even though they have completed 12 years in the grade cannot be acceded to.

3. We have heard the learned counsel on either side at considerable length. It has been held in a catena of rulings of the Apex Court that even if a person is transferred on his request from one seniority unit to another or redeployed on surplusage, the past service rendered by him in the grade shall not be completely wiped out, and should be considered for eligibility for promotion although such service would not count for seniority. The latest ruling on the issue is Dwijen Chandra Sarkar and another Vs Union of India, AIR 1999 SC, 598, wherein it was held that for the purpose of grant of Time

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Bound One Promotion the service rendered prior to redeployment should be taken into account. Even going by the wording of the Council's letter dated 16.7.97, the promotion of the higher grade of Supporting Staff to avoid stagnation does not have to be linked with seniority. What is stated in that letter is that it had been decided with the approval of the competent authority to grant one time relaxation and the Supporting Staff in Grade-I, II & III who were working for more than 12 years in a particular grade may be promoted to the next higher grade on personal basis. The only requirement is completion of 12 years of service in a particular grade of Supporting Staff. The promotion to higher grade being only to avoid stagnation and financial upgradation, it does not affect the seniority of any Supporting Staff who were in position to the Institute, on the date on which the applicants were transferred. Therefore, the impugned order turning down the claim of the applicant for promotion to the higher grade to avoid stagnation on the ground that such promotions are to be made only on the basis of seniority is illegal and unsustainable.


4. In the light of what is stated above, the impugned order is set aside and the respondents are directed to consider the applicants for promotion as Supporting Staff Grade-II with effect from 22.7.94 ignoring the position of their seniority in the Unit and taking into account their entire length of service in the grade with effect from 27.6.82 and to grant them all consequential benefits. The resultant



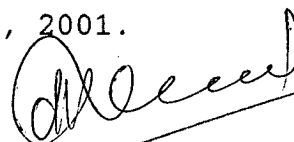
orders on the basis of the above exercise shall be issued within a period of two months from the date of receipt of copy of this order.

5. The application is disposed of as above. No costs.

Dated, the 10th of July, 2001.



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-2: True copy of the OO No.F.4(117)94-Estt. dated 30.7.94 issued by the 1st respondent.
2. A-3: True copy of the order No.19-19/97-Estt.IV dated 16.7.97 issued by the 1st respondent.
3. A-4: True copy of the proceeding No.1(43)/1/90-Estt. dt.12.2.98 issued by the 1st respondent.