

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.118/94

Friday, this the 10th day of February, 1995.

CORAM:

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

1. VK Ramachandran,
Lab Technician T-II-3,
Central Institute of Fisheries Technology,
Kochi.
2. KE Mani,
Senior Mechanic,
C.I.F.T. Matsyapuri.P.O.
Kochi.
3. KV Baladasan,
Technical Assistant T-II-3,
C.I.F.T. Matsyapuri.P.O.
Kochi.
4. VV Johny,
Technical Assistant T-II-3,
C.I.F.T. Kochi. - Applicants

By Advocate Mr P Santhoshkumar

Vs.

1. The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan,
Dr Rajendra Prasad Road,
New Delhi-110 001.
2. The Director,
C.I.F.T. Kochi.
3. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhavan, New Delhi. - Respondents

By Advocate Mr P Jacob Varghese

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants 1, 3&4 who have been promoted to T-II-3 grade and applicant No.2 who is in T-I-3 grade and is awaiting promotion, have filed this application praying that they are entitled for promotion

with retrospective effect from 28.12.1980 in the case of third applicant and from 1.1.1977 in the case of other applicants. They state that they possess the prescribed qualifications on those dates and that other persons similarly situated had been given promotion retrospectively with effect from the date on which they possessed the prescribed qualifications. They rely on the orders of the Tribunal in TAK-593/87 in support of their claim.

2. According to respondents, the Technical Service Rules do not provide for automatic promotion to the higher grade T-II-3 on acquisition of qualifications prescribed for higher category, and that the applicants will have to wait till suitable vacancies arise and their turn comes for promotion under the promotion quota. Respondents state that from 7.4.1981 onwards a specific quota of 20% of vacancies (which was raised to 33 1/3% from September 1989) in the grade T-II-3 was available for being filled up by promotion of persons in the grade T-I-3 possessing the prescribed qualification for category II posts and that the applicants 1, 3&4 were promoted on dates when vacancies arose under this quota. The second applicant has to wait till a suitable vacancy arises under the promotion quota and his turn comes for consideration, according to respondents.

3. The Tribunal in TAK-593/87 stated as follows:

"It may be remembered that the Technical Service Rules were promulgated on 1.1.1977 but given effect to from 1.10.1975. The amendment of 27th January, 1979 giving the alternative qualification of "matriculate with 10 years experience in the relevant position (sic field)" was prescribed "for only existing employees holding positions in the council on the 1st January, 1977...The petitioner would be deemed to have completed 10 years of technical service with effect from 20th July, 1980...we allow the petition to the extent of directing the respondents to deem the petitioner to be eligible for promotion to T-II-3 category of posts with effect from 20th July, 1980."

4. The first applicant made a representation A8 stating that he was eligible for being considered for induction to Technician T-II-3

category from 1.1.1977 and that Technicians who possess Matriculation and 10 years experience in the relevant field as on 1.1.1977 were inducted into grade T-II-3 in ICAR Institutes like CRRI, Cuttack etc. and praying that his case also should be considered on the same basis. The respondents have disposed of this representation and representations from applicants 2 and 4 by A10, All and A12, rejecting the representations. A10 does not give any reasons for rejecting the representation nor has it discussed the various issues that have been raised in the representation. We also find that the impugned order All states that Shri Mani has been promoted to the grade T-II-3 as per directions given by this Tribunal, whereas the respondents in their reply have clearly stated that Shri Mani is yet to get his promotion as T-II-3. This statement in the impugned order All is clearly a mistake.

5. Applicants also rely on the orders of the Tribunal in OA-1074/93 which also refers to an order of the Tribunal in OA-379/93 in which it is stated:

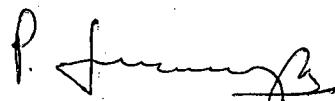
"Learned counsel for respondents has no objection to consider the representations of the applicants in the light of the principles followed in the judgements of Hyderabad and Cuttack Benches in Annexures XX and XXI"

6. During the hearing, learned counsel for applicants submitted that he may also be permitted to make fresh representations like the applicants in OA-1074/93 referring to the various decisions. Accordingly we permit applicants to make fresh representations to the first respondent within one month. If such a representation is received, the first respondent will consider it and pass appropriate orders in the light of the decisions rendered in TAK-593/87, OA-379/93 and OA-1074/93. Such orders shall be issued within four months from the date of receipt of the representation. For the convenience of

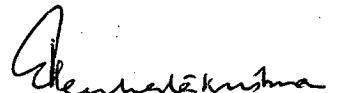
the first respondent, applicants will also enclose copies of the OA and copies of the judgements referred to above along with their representation.

7. Application is disposed of with the above directions. No costs.

Dated, the 10th February, 1995.



P SURYAPRAKASAM
JUDICIAL MEMBER



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

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List of Annexures

1. Annexure-A8: True copy of representation dated 14.9.92 by the 1st applicant to the 1st respondent.
2. Annexure-A10: True copy of Memo dt.4.2.93 from Administrative Officer, CIFT, Kochi to 1st applicant.
3. Annexure-A11: True copy of Memo No.F.4.44/92. Admn. dt.13.11.92 from 2nd respondent to 2nd applicant.
4. Annexure-A12: True copy of Memo No.F.4-44/92 Admn. dt. 13.11.92 from 2nd respondent to 4th applicant.