

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

Original Application No. 130 of 2010

*Tuesday*, this the 12<sup>th</sup> day of April, 2011

**CORAM:**

Hon'ble Mr. George Paracken , Judicial Member  
Hon'ble Mr. K. George Joseph, Administrative Member

Smt. T.K. Sudhalata,  
T-5, Technical Officer, (Sr. Hindi Translator),  
Central Tuber Crops Research Institute (CTCRI),  
Sreekaryam, Trivandrum : 695 017. ... Applicant.

(By Advocate Mr. T.H. Chacko)

v e r s u s

1. Union of India,  
Represented by the Secretary to the  
Government of India, Ministry of Agriculture,  
Krishi Bhavan, New Delhi,  
Rajendra Prasad Road, Ne Delhi : 110 001.
2. Indian Council of Agricultural Research (ICAR),  
Represented by its Secretary,  
Krishi Bhavan, new Delhi : 110 001
3. The Director,  
Central Tuber Crops Research Institute (CTCRI),  
Sreekaryam, Trivandrum : 695 017.
4. Department of Promotion Committee,  
Constituted and met on 09.07.2008, 26.11.2008  
and 19.12.2009, Represented by its Chairperson,  
Dr. M.K. Sheela, Director of Extension,  
Kerala Agricultural University,  
Vallanikkara P.O., Trichur : 680 656
5. The Administrative Officer,  
Central Tuber Crops Research Institute (CTCRI),  
Sreekaryam, Trivandrum : 695 017.
6. The Publicity Officer (T-7 Grade-Controlling Officer),  
Central Tuber Crops Research Institute (CTCRI),  
Sreekaryam, Trivandrum : 695 017. ... Respondents.

(By Advocate Mr. P.S.Biju, ACGSC for R-1 and Mr. T.P. Sajan for R2-6)

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This application having been heard on 07.04.2011, the Tribunal on 12.04.2011 delivered the following :

**ORDER**

**Hon'ble Mr. K. George Joseph, Administrative Member**

This O.A has been filed by the applicant for the following reliefs :

- (i) To call for the Annual Confidential Reports and connected records including minutes and recommendations on DPC held on 09.07.2008, 26.11.2008 and 19.12.2009 leading to the issuance of Annexure A-13 and A-14 and to quash the same for granting notional promotion to T-6 grade with effect from 29.06.2007;
- (ii) To declare that Annexure A-8 issued to the applicant was only after the 5 yearly assessment period i.e. 29.06.2006 disqualified her for further promotion to T-6 is illegal;
- (iii) To declare that the applicant is eligible for notional promotion to T-6 Grade with effect from 29.06.2007 with consequential monetary benefits;
- (iv) To grant such other relief(s) which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. The applicant joined ICAR service as Senior Hindi Translator on 06.01.1988. Her pay was revised in the scale of Rs. 5500-9000 under Technical Services with effect from 29.06.1996 (T-4 Grade). She was promoted to the next higher T-5 grade in the scale of Rs. 6500-10500 with effect from 29.06.2001. She was communicated the adverse remark that she was an average performer vide Memorandum No. 5/85-Per dated July 10, 2006 for the period 01.04.2005 to 31.03.2006. The Assessment



Committee had not recommended her case for promotion to T-6 Grade as she could not score the marks required as per the guidelines for promotion. Aggrieved, the applicant has filed this O.A.

3. The applicant submits that the Memorandum No. 5/85-Per dated July 10, 2006, stating that she was an average performer, was received by her after consideration of the five yearly assessment period. The same was issued without prior sufficient opportunity in writing by informing her of the deficiency. As per the dictum laid down by the Hon'ble Supreme Court in ***Sukhhdeo vs. Commissioner, Amaravathi Division***, 1996 (5) SCC 103, if grading below the bench mark amounts to an adverse ACR, it is required to be conveyed to the affected employee. Hence there is violation of natural justice, malafide and arbitrariness in denial of promotion to T-6 Grade to the applicant. The applicant was given 3 advance increments to deprive her of the merit promotion. The applicant is a Post Graduate degree holder in Hindi language and literature with a B.Ed. Degree, which was not considered by the DPC. The meritorious performance of the applicant was not placed before the Assessment Committee. The relaxation introduced in the requirement of consistently three 'Very Good' ACRs during the five years assessment was ignored. The finding of the DPC is erroneous and vitiated by undue influence of the then Director, CTCRI. She, therefore, prays for allowing the O.A.

4. The respondents contested the O.A. In their reply, they submitted that the adverse remark that she was an average performer was duly communicated to the applicant by the competent authority. The dictum



laid down by the Apex Court in ***Sukhhdeo vs. Commissioner, Amaravathi Division***, 1996 (5) SCC 103, is not applicable in the facts and circumstances of the present case. The advance increments were granted to the applicant on the basis of the recommendation of the Assessment Committee. Post Graduation is the prescribed qualification for T-6 Grade. In addition to it, the Assessment Committee has to examine the other material as per Rule 6 of TSR guideline vide ICAR letter No. 18(1)/2004-Estt.IV dated 26.12.2005. As per the said guideline, the maximum weightage for ACR shall not exceed 80 marks. The Assessment Committee shall examine the other material as referred to in para 1 of the said guideline and award marks on a scale of 20. For promotion from T-5 to T-6 Grade, only if an employee gets 67% marks or so, he will be eligible for consideration for such promotion. As the applicant did not get 67% marks out of 100, she was not recommended for promotion from T-5 to T-6 Grade. The applicant has got 52% for the first assessment, 58% for re-assessment and 55% of marks for the 3rd assessment. Therefore, the Assessment Committee recommended that she was not eligible for promotion to T-6 Grade. In view of the above, the O.A. being devoid of merit, is liable to be dismissed.

5. In the rejoinder, the applicant reiterated that the controlling officer was duty bound to give prior intimation by informing the deficiency of the applicant which was noticed by him for improvement in the form of an advice for improvement. No such advice was tendered to the applicant. Granting of advance increment has covered and cured the adverse remark. The applicant performed her best and secured 10<sup>th</sup> position in



Town Official Language Implementation Committee, Trivandrum, during the period 2005-2006.

6. We have heard Mr. T.H. Chacko, the learned counsel for the applicant, Mr. P.S. Biju, the learned ACGSC for R1 and Mr. T.P. Sajan, the learned counsel for respondents 2-6 and perused the material on record.

7. We have carefully considered the contentions of the rival parties. In our considered view, the dictum laid down by the Apex Court in the case of ***Sukhhdeo vs. Commissioner, Amaravathi Division*** (supra) is not applicable in the facts and circumstances of the instant O.A. The remark of the officer who made the assessment was duly communicated to the applicant. She did not challenge the adverse remark. 3 advance increments were granted to the applicant in accordance with the provisions contained in the notification issued vide ICAR letter No. 18-1/97-Estt.IV dated 03.02.2000 and F.No. 19(9)/03-E.IV(Vol.I) dated 11.10.2004 and on the recommendation made by the Assessment Committee. Granting of promotion and granting of advance increments are based on different criteria. The promotion was considered under Rule 6 of TSR guidelines vide ICAR letter No. 18(1)/2004-Estt.IV dated 26.12.2005. According to the said guidelines, only 80% weightage is given to ACR for the relevant period and 20% weightage is given for assessment of the materials indicated in para 1 of the above guidelines. The applicant has not challenged the said guidelines. As per the assessment made in accordance with the guidelines, she could not secure



the required 67% marks out of 100 in the 3 assessments made by the Assessment Committee. Therefore, she was not eligible for promotion to T-6 Grade. The relaxation introduced in the requirement of consistently three "Very Good" ACRs during the five years assessment does not make the position any better for the applicant. The allegation that the then Director, CTCRI, failed to place meritorious performance of the applicant before the Assessment Committee is not substantiated.

8. In the light of the above, we do not find any merit in the contentions of the applicant. The O.A. is accordingly dismissed with no order as to costs.

(Dated, the 12<sup>th</sup> April, 2011)



**(K. GEORGE JOSEPH)**  
ADMINISTRATIVE MEMBER



**(GEORGE PARACKEN)**  
JUDICIAL MEMBER

cvr.