

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.14/2004

MONDAY....this the 16th day of February, 2004

CORAM

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

P.T.Sarada W/o M.Sivadas
aged 42 years,
Scientist (Sr.Grade)
Research Centre of Central Marine Fisheries
Research Institute,
West Hill PO, Calicut
residing at Thadampattu Thazham,
Karaparamba,
Calicut.10.Applicant

(By Advocate Mr.T.C.Govindaswamy)

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1. Union of India, represented by the
Secretary to the Govt. of India,
Ministry of Agriculture,
New Delhi.
2. The Director General,
Indian Council of Agricultural
Research, Krishi Anusandhan Bhavan,
New Delhi.
3. The Director,
Central Marine Fisheries Research
Institute, Kochi.
4. Division Head,
Fishery Environment & Management Division,
Central Marine Fisheries Research Institute,
Kochi.
5. Division Head,
Crustacean Fishery Division,
Central Marine Fisheries Research
Institute, Kochi.Respondents

(By Advocate Mr.Jacob Varghese (R.2-5)
Mr.C.Rajendran, SCGSC (R1)

The application having been heard on 11.2.2004, the Tribunal
on 16.2.2004 delivered the following:

O R D E R

HON^{BLE} MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant who was initially appointed under the respondents as a Scientist on 3.3.86 was promoted as Scientist (Senior Scale) with effect from 3.3.94. While she was working in the Calicut Centre in Crustacean Research Work, she was transferred to Minicoy Island on administrative grounds. She joined Minicoy during January, 1993. As there was no Crustacean Fishery Division at Minicoy, the applicant was attached to Fishery Environment and Management Division and was expected to study environmental parameters of inshore water of Minicoy including primary and secondary productivity in relation to fisheries. Although hardly any facility for research work was available at Minicoy the applicant on account of her own hard work and enthusiasm carried out some research work and prepared certain research papers some of which had been published. The grievance of the applicant is that although the applicant was considered for promotion to the next higher grade i.e., Selection Grade in the pay scale of Rs. 12000-18300 with effect from 27.7.1998 on account of an improper consideration of her case probably because of the adverse entry in her ACR which has been expunged or because the committee did not contain expert in relevant field she was not recommended for grant of the benefit of promotion. She was informed by Annexure.A2 order dated 26.3.2002 that the competent authority in the Council accepted the proceedings of the Departmental Promotion Committee and

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approved the recommendation for not promoting among others the applicant also to the Selection Grade. Aggrieved by Annexure.A2 order, the applicant submitted Annexure.A4 representation dated 4.4.2002 to the Director General, ICAR (second respondent). The applicant was served with Annexure.A5 Memo dated 1.7.2003 communicating an adverse entry in his ACR for the year 2001-2002 against which she submitted a representation. While the applicant was eagerly waiting favourable response a proforma for consideration for promotion with effect from 27.7.99 was circulated. The applicant was again informed by letter dated 28.6.2003 that the DPC had not recommended her for promotion. In the meanwhile on consideration of her representation the adverse entry in the ACR of the year 2001-2002 was expunged by the competent authority vide order dated 26.3.2003 (A6). However, the meanwhile the applicant was served with Annexure.A8 order dated 13.10.2003 in reply to her representation Annexure.A4 that the A.C.R. of the applicant for the period 2001-2002 was not taken into account by the Departmental Promotion Committee in its recommendation which resulted in Annexure.A2 order and that there was no provision for review of the assessment in career advancement scheme. Aggrieved by that the applicant has filed this application seeking to set aside Annexure.A8 and Annexure.A2 to the extent it affects her, declaring that the Assessment Reports of the applicant for the period from 1993 to 2001 are to be submitted by the Division Head, Fishery Environment and Management Division duly taking into consideration the applicant's performance attached to that

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field while at Minicoy and to direct the respondents accordingly and for a direction to the respondents to convene a Review Assessment Committee in terms of Annexure.A1 and to consider the applicant afresh for promotion as Scientist (Selection Grade) with effect from 27.7.98 taking into consideration the Annual Assessment Reports submitted in terms of the declaration with all consequential benefits.

2. On behalf of the respondents Shri Jacob Varghese, learned counsel appearing for the respondents has filed a statement. It has been contended on behalf of the respondents that the applicant was not promoted as the Departmental Promotion Committee which consisted of experts did not recommend her promotion on the basis of the work performed by her during the relevant period and that the ACR for 2001-2002 was not taken into consideration. It is contended that as the committee has considered the case of the applicant on the basis of relevant materials there is no irregularity in the process requiring judicial intervention.

3. We have carefully gone through the application and all the annexures as also the statement filed by the counsel on behalf of the respondents, and have heard Shri T.C.Govindaswamy, learned counsel of the applicant and Shri Jacob Varghese, learned counsel of the respondents. The grievance of the applicant that the adverse entry in the ACR has been taken into account is not based on facts because it has been clarified in the impugned order Annexure.A8 that

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the ACR for the years 2001-2002 has not been taken into account. Further the Annexure.A5 communication was made much after Annexure.A2 order was issued. Shri T.C.Govindaswamy, the learned counsel of the applicant argued that the good work performed by the applicant during the period in question has not been appreciated in the proper perspective because the committee did not consist of the expert in the field of Crustacean Fishery or in Fisheries Environment and Management and therefore it is a case where a direction should be given to the respondents to have the case of the applicant considered by convening a Review Departmental Promotion Committee meeting which include expert in the field.

4. The learned counsel of the respondents taking us through the statement filed on behalf of the respondents argued that the Departmental Promotion Committee was constituted as per instructions in that regard, that the committee consisting of experts in the relevant discipline considered the case of the applicant along with other Scientists for promotion and on the basis of the assessment made by them of the significant achievements evidenced from self commitment, reports, publications, patents, innovations, awards etc.in an impartial manner and did not recommend the applicant for promotion and that the competent authority finding no reason to reject the report or modify the same rightly accepted the same and that was why the applicant could not be promoted. As there is no allegation of malafides or infraction of rules, he argued that the

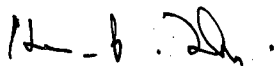
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Tribunal may not be justified in intervening in the matter.

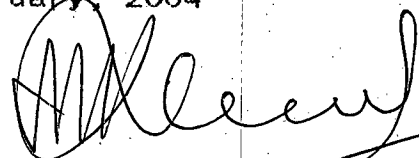
5. On a consideration of the entire facts and circumstances emerging from the materials on record and from the averments of the learned counsel on either side, we are unable to find that there is anything in this case which would show that the Departmental Promotion Committee was improperly constituted or that the recommendation of the committee was not fair and proper. There is no allegation of malafides against the committee or any member thereof nor is there any case for the applicant that in constituting the committee or in the exercise of consideration by the committee any rule has been violated or mistake committed. The Departmental Promotion Committee has been constituted with experts in the discipline as is required according to rule and the scheme and therefore, we are of the view that in the absence of any allegation of malafide or infringement of the rules, interference with the finding of the committee which has been accepted by the competent authority by the Tribunal is not called for.

6. In the light of what is stated above, we do not find anything in this case for further deliberation and therefore, we dismiss this application in limine without any orders as to costs.

Dated this the 16th day of February, 2004



H.P. DAS
ADMINISTRATIVE MEMBER
(s)



A.V. HARIDASAN
VICE CHAIRMAN