

Central Administrative Tribunal
Ernakulam Bench

Dated Tuesday the thirtieth day of May,
One thousand, nine hundred and eighty nine.

Present

Hon'ble Shri SP Mukerji, Vice Chairman
and

Hon'ble Shri G S Sharma, Judicial Member

OA 147/89

1 M Ramakrishnan	}	Applicants
2 C Balamamundinathan		
3 KLK Padmanabhan		
4 M Ganapathy		

Vs

1 The Indian Council of Agricultural Research rep. by its Secretary, Indian Council of Agricultural Research, New Delhi.	}	Respondents
2 The Director of Central Marine Fisheries Institute, Cochin-31		

M/s PF Thomas & Sunil Thomas	: Counsel of Applicants
Mr. Jacob Verghese	: Counsel of Respondents

O R D E R

Shri SP Mukerji, Vice Chairman

In this application, the applicants who are working as Assistants have challenged the legality of the Circular dated 24.1.89 at Annexure-I by which one post of Superintendent has been proposed to be filled up under 33 1/3% quota through a Departmental Competitive Examination. This circular has been issued on the basis of the amended Recruitment Rules issued by the Indian Council of Agricultural Research

at Annexure-II. The main contention of the applicants ^{is} ~~are~~ that under the old Recruitment Rules the posts of Superintendent were to be filled up by 100% by promotion and that too on the basis of seniority. By the amendment of 1983, the promotion ^{to their disadvantage} quota was reduced [^] from 100% to 66 2/3% and the balance of 33 1/3% was to be filled, not by direct recruitment, but by promotion of Assistants and Stenographers through Limited Departmental Competitive Examination. The learned counsel for the applicants has argued that since the applicants were transferred from government service to the services under ICAR and their service conditions on absorption were to be governed by the Memorandum dated 11th September, 67 (Annexure-III), the promotion quota could not be reduced from 100% to 66 2/3% by the Council without the orders of the Government of India. In this regard our attention has been drawn to Clause ~~4~~ ⁵ of Para-3 of the aforesaid Memorandum of 11th September, 67. The learned counsel for the respondents has stated that by the Memorandum of 11th September, '67, the Council replaced the Government of India in regard to the control of the Institutes and Centres of the Council and accordingly, the Council has the fullest authority to amend the Recruitment Rules in the best interest of running the Scientific Institutions and their proper management.

2 We have heard the arguments of the learned counsel of both the parties and gone through the documents carefully. Clause V of para 3 of the Memorandum dated 11th September, 67 relied upon by the learned counsel for the applicant reads as follows:

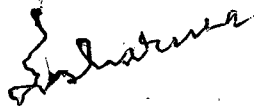
"The grant of pay, leave, travelling and other allowances, and other service conditions of the said staff shall be regulated, mutatis-mutandis, in accordance with the Fundamental and Supplementary Rules and such other rules and orders as are issued by the Government of India from time to time".

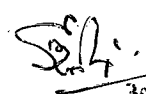
A bare reading of the aforesaid clause ⁶would indicate that for the staff absorbed from the Government "other service conditions" will be in accordance with the FRs & SRs and rules and orders issued by the Government of India from time to time. We have not been impressed by the argument of the learned counsel for the applicants that the aforesaid clause disentitles the ICAR as distinguished from Government, to amend the Recruitment Rules. As a matter of fact, the provision of 100% promotion claimed by the applicants, itself is ⁶deprived from the Recruitment Rules which have been adopted or promulgated by the Council itself and not by the Government. This is evident from the prefatory sentences of Annexure-II in which ⁶references have been made to the Council's letter and not to any orders of the Government of India. The learned counsel for the applicants could not show us any order of the Government of India by which the provision of 100 % promotion from the grade of Assistants to

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that of the Superintendents had been ^{made} ~~made~~ by the Government of India. Apart from the competence of the Council to amend, adopt and promulgate the Recruitment Rules in their own rights, it has been held by the Supreme Court in a number of cases that mere chances of promotion is not a condition of service and cannot be protected. In this regard their rulings in State of Mysore Vs. GV Purohit- 1967 SLR (SC)-753 and RS Deodhar Vs. State of Maharashtra- 1974 SC-259 will be very pertinent. Since chances of promotion is not a condition of service, the aforesaid clause V of the Memorandum of 1967 which refers to "other service conditions" cannot govern the Recruitment Rules or the impugned amendment which reduces the promotion quota from 100 % to 66 2/3%.

3 In the conspectus of facts and circumstances we are fully convinced that the ICAR was fully competent to amend the Recruitment Rules and the impugned Circular cannot be faulted. We see no force in the application and dismiss the same under Section 19(3) of the Administrative Tribunals Act of 1985.


(G S Sharma)
Judicial Member
30.5.89


(SP Mukerji)
Vice Chairman
30.5.89