

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A.No.215/2002

this the 11th day of June 2004

C O R A M:

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

1. Dr.P.Thomas Varghese, aged 51, S/o Mammen Thomas Principal Scientist and Scientist-in-charge, National Research Centre for Oil Palm, Regional Station, Palode-695562.
2. Dr.K.N.Ponnamma, aged 55, W/o N.Vijayan Principal Scientist, National Research Centre for Oil Palm Regional Station, Palode-695562.

Applicants.

(By Advocate Mr.Vishnu S. Chempazhanthiyil)

Vs.

1. Agricultural Scientists Recruitment Board represented by its Secretary, Krishi Anusandhan Bhavan, Pusa, New Delhi-110012.
2. Director General, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi-110001.
3. Union of India, rep. by its Secretary, Ministry of Agriculture, New Delhi.
4. Dr.M.Kochu Babu
S/o Sri Madhavan Pillai, aged 49, Principal Scientist National Research Centre for Oil Palm, Regional Station, Palode 695562.
5. Dr.B.G.Dhandar, National Research Centre for Oil Palm, Pedavagi.
6. Dr.T.V.R.S.Sharma
National Research Centre for Oil Palm, Pedavagi.

Respondents.

(By Advocate Mr.P.Jacob Varghese for R1 & 2,
Mr.C.Rajendran for R3 & Mr.M.R.Rajendran Nair for R4)

O R D E R

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER.

The applicants are working as Principal Scientists in the Regional Station of National Research Centre for Oil Palm functioning under the 2nd respondent from 27.7.1998 onwards. They claim that they are Ph.D holders in Agronomy and Entomology

respectively. The first applicant has completed 27 years of service in ICAR and the 2nd applicant has completed 30 years service in the ICAR. The 1st applicant is the recipient of Best Ph.D Thesis award of Indian Society of Agronomy and the 2nd applicant is the recipient of R.L.Narasimhaswamy Memorial Award. The applicants have applied for the post of Director in response to Anxx.A1 notification (only one post). Their grievance is that though they are possessing the requisite qualification as that of the 4th respondent, they were not called for interview. But the 4th respondent who cannot be compared with the applicants, was called for interview on 29.5.2001 and the 4th respondent is awaiting appointment. Aggrieved by the inaction/nonfeasance on the part of the respondents the applicants have filed this O.A mainly seeking for the following relief:

1. Declare that the applicants are entitled to be considered to the post of Director, National Research Centre for Oil Palm, Pedavegi and direct the respondents to extend such consideration.
2. Declare the action of the respondents in not calling the applicants for interview held on 29.1.2002 for the post of Director, National Research Centre for Oil Palm, Pedavegi as illegal and arbitrary.
3. Declare the action of the respondents in considering the candidature of 4th respondent to the exclusion of applicants is arbitrary and discriminatory.
4. Call for the records and set aside the selection of 4th respondent as Director, National Research Centre for Oil Palm, Pedavegi pursuant to advt.No.2/2001, item No.70 dated 14.4.2001 in Annexure A1.
5. Direct the respondents to cancel the interview held on 29.1.2001 to the post of Director, National Research Centre for oil Palm, Pedavegi and conduct a fresh interview by including the applicants as well.
6. Direct the 1st respondent to conduct a fresh interview for appointment to the post of Director, National Research Centre for Oil Palm, Pedavegi.

2. The official respondents filed reply statement contending that the applicants were not considered since they do not fulfil the qualification of 5 years experience as Principal Scientist grade 16400-22400 nor they have been found as eminent

scientist of proven records. Dr.M.Kochu Babu was called for the interview only after the Board found that he was eligible under alternative qualification as he was having 18 years regular service and was considered eminent scientist as he was the recipient of Jawaharlal Nehru Award which is a National level award. The applicants do not possess any national/international award and cannot be considered as possessing alternative qualification as well. Jawaharlal Nehru Award in the year 1996 for identification of phyto Plasma and studies thereon with special reference to Oil Palm in Kerala which is a National level award conferred on Dr.Kochu Babu and he also having 18 years regular service in the relevant subject.

3. Respondent No.4, Dr.Kochu Babu, filed a detailed reply statement supporting the contentions of the official respondents and further contended that the applicants are not qualified for the post of Director, National Research Centre for Oil Palm Pedavegi and therefore, they were rightly excluded from being considered for the said post. The applicants were aware of the fact that they would not be called for the interview well before 29.1.2002 but they took no steps in time to ensure that they also be called for the interview. They were not vigilant enough to take recourse to the remedies, if any they had, at the appropriate time and at this belated stage, they cannot challenge the action of the respondents. It is also contended that the O.A is premature as it is not known whether this respondent was actually being selected for the said post in the interview held on 29.1.2002. Dr.TVRS Sharma was also interviewed for the said post who has not been impleaded in this O.A as respondents. It is further submitted that the averment of the second applicant that she passed M.Sc. Agriculture in 1970 is false. She passed M.Sc. (Zoology) which is a Post Graduate Degree in pure Science subject and not in the field of

h.

Agriculture. Their claim that they are rank holders, is not supported by any material on record. The awards claimed to have been won by the applicants are not recognised as a National Award of eminence by any governmental agency, including ICAR whereas Jawaharlal Nehru Award is for outstanding Post Graduate Agriculture Research from 1969 to 1995 published by the ICAR, Department of Agricultural Research & Education. The award stated to have been won by the 1st applicant is instituted by a professional society registered under the Societies Act which in no way can be considered as an award proving eminence because such awards are not recognised either by the ICAR or by any other governmental agency. It cannot be considered as a proven scientific contribution. The applicants have earlier applied for the post of Director, ICAR Research Complex for Goa but they were not considered for the said post. He has also averred that it cannot be insisted that all those who apply for a post should be considered for selection and appointment to the said post. The Agricultural Scientist Recruitment Board will be perfectly justified in excluding those who do not satisfy the qualifications for being considered for selection and appointment. The copy of the table of comparison produced by the applicants is a self serving document designed to suit their requirement. No right to be considered for selection can be claimed by ineligible persons.

4. The applicants filed rejoinder contending that nowhere in the advertisement or in the information sheet it was mentioned that getting a Jawaharlal Nehru Award for Ph.D thesis will be a criteria/qualification for being called for interview. Once the advertisement is published, all authorities are strictly bound by the advertisement and cannot go in search of the better or higher qualification. The 1st applicant is a recipient of the Coveted National Award, the Ph.D Thesis Award

1995 of Indian Society of Agronomy which is an accredited Society of National repute. The ISA is also financed by ICAR. If winning a National Award for Postgraduate work was the criteria for calling for interview, the 1st respondent ought to have called the 1st applicant also for interview since he possessed the National Award of Indian Society of Agronomy for best Ph.D Thesis for the year 1994. The 4th respondent was also screened out initially. The criteria of Jawaharlal Nehru Award being an eminent Scientist was evolved only after the 4th respondent was screened out initially which shows favouritism on the 4th respondent.

5. We have heard Mr.Vishnu S.Chempazhanthiyil, learned counsel for the applicants, Mr.P.Jacob Varghese, learned counsel for the respondents No.1&2, Mr.C.Rajendran, SCGSC, learned counsel for respondent No.3 and Mr.M.R.Rajendran Nair, learned counsel for respondent No.4.

6. There is only one post and the applicants and the respondent No.4 are the aspirants for the same. The essential/requisite qualifications for the said post is as follows:

- i) Doctoral Degree in Horticulture or related agriculture.
- ii) At least 5 years experience as a Principal Scientist (16400-22400) or in an equivalent position.
 - or
 - An eminent Scientist having proven record of scientific contribution working in reputed Organisation/Institute having at least 18 years experience in the relevant subject.
- iii) Evidence of contribution to research/training/Extension Education as supported by published work/innovations.
- iv) Specialisation in Horticultural crops with special reference to plantation crops.



7. Admittedly, the applicants and the 4th respondents have 5 years experience as Principal Scientist or an equivalent post. It is true that 16 applications were received pursuant to the notification, including the applicants and the 4th respondent. The 4th respondent was screened out initially. But a representation was made by him subsequently contending that he was eligible to be considered under the 2nd proviso and that his name should be considered on the basis of the qualification of "eminent Scientist having proven record of scientific contribution working in reputed Institute having at least 18 years experience in the relevant subject". When the matter came up for hearing, the learned counsel for the official respondents has submitted the relevant records regarding the proceedings initiated in processing the interview stating that the 4th respondent was considered and called for interview on the basis of his obtaining alternative qualification and also on the basis of having been awarded Jawaharlal Nehru Award. The final list of selection is not forthcoming from the record submitted by the respondents. On the other hand, it is the specific case of the 4th respondent that the result of the interview has not been published because one Dr.T.V.R.S.Sharma has also been interviewed for the said post. In this context, it is important to note that the applicants have already filed O.As No.252/02 and 251/02 before the Hyderabad Bench of the Tribunal which have been dismissed on the ground of lack of jurisdiction (orders of the Tribunal not produced). However, one V.M.Reddy, an identically placed person to that of the applicants, has filed O.A 166/02 before the Hyderabad Bench of the Tribunal praying for the same reliefs as that in this O.A, which was dismissed by the said Bench of the Tribunal vide order dated 18.4.2002 (Annx.R4(b)(1) on the ground that the applicant did not have 18 years of experience in the relevant subject. In the said case, the Hyderabad Bench of the Tribunal observed that "It is open to



the respondents to follow certain norms which has been done in the instant case". The same advertisement was challenged by the applicant therein and the 4th respondent was made a party therein. The contention of the applicant therein was that the Jawaharlal Nehru Award should not be accepted as a national eminence. But the Tribunal did not interfere with the selection process and dismissed the O.A. Admittedly, the applicants cannot claim the qualification of 5 years experience as Principal Scientist nor they could be fitted in the alternative qualification of 18 years experience in the relevant subject. Obviously, the National Award that the 1st applicant received from the Society of Agronomy which according to the respondents, will not constitute of national eminence. Correctly or not, the respondents through an expert Committee had fixed the criteria for the post in question that the candidates who possess 'Jawaharlal Nehru Award' shall be called for interview which is of national eminence recognised by the ICAR itself. Here, the question comes whether such a criteria as has been recommended by the Expert Committee and adopted by the respondents in earlier selections as well had been challenged or not. In a celebrated decision reported in AIR 1990 SC 535, J.Ranga Swamy Vs. Govt of Andhra Pradesh & Ors. interpreting Articles 309 and 226 of the Constitution of India, the Apex Court has laid down the dictum that in regard to qualifications/criteria prescribed for posts, it is not for the Court to consider and assess the relevancy and suitability, in case of any grievance in that respect, but the appropriate authorities might be moved for review of prescribed qualification/criteria. In this background, it is not for us to assess the comparative merits of such criteria and if the applicants are aggrieved, they should have approached the appropriate authorities for review of the prescribed qualifications/criteria. We are making this clear on the basis that, this Court is not an expert to analyse the

different qualifications and criteria adopted in calling for interview/ selection. The contention that it should have been published alongwith the notification may not be practicable because this is one of the criterion that the respondents are probably adopting for short-listing the candidate/selection, which cannot be said to be faulted. This position is reiterated by the Hon'ble Supreme Court in a case reported in AIR 1993 SC 2285, V.K.Sood Vs. Secretary, Civil Aviation & Ors. Hon'ble Supreme Court in para 7 of the said judgment observed that "It is for the expert body and this Court does not have the assistance of experts. Moreover, it is for the rule making authority or for the Legislature to regulate the method of recruitment, prescribe qualifications etc. It is open to the President or the authorised person to undertake such exercise and that necessary tests should be conducted by UPSC before giving the certificates to them. This is not the province of this Court to trench into and prescribe qualifications in particular when the matters are of the technical nature". The Hon'ble Supreme Court further observed that "Rules cannot be impeached on grounds that they prescribe tailor made qualifications to suit particular individual or are discriminatory."

8. In the facts and circumstances of the case and also the legal position discussed as above, we are of the considered view that the O.A does not merit and therefore, only to be dismissed. We do so accordingly. In the circumstances, no order as to costs.

11th June 2004

H. P. Das

(H.P.Das)
Administrative Member



(K.V.Sachidanandan)
Judicial Member.