

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.223/2012

Friday, this the 15th day of February 2013

C O R A M :

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

K.Manoj Kumar
S/o.V Karunakaran Pillai
Aged 38 years, residing at 632,
Vikas Nagar Colony
KSHB Flats, Calicut – 6
Presently working as Statistical Assistant
Directorate of Arecanut and Spices Development
Under the Ministry of Agriculture
Govt. Of India, Calicut, Kerala – 673 005

...Applicant

(By Advocate Mr.C.A Joy)

V e r s u s

1. Union of India represented by Secretary,
Department of Agriculture and Co-operation
Ministry of Agriculture, Govt of India
Krishi Bhavan, New Delhi – 110 001
2. The Horticulture Commissioner
Department of Agriculture and Co-Operation
M/o. Agriculture, Government of India
New Delhi – 110 001
3. The Director
Directorate of Arecanut and Spices Development
Calicut – 673 005

...Respondents

(By Advocate Mr.George Joseph, ACGSC)

This application having been heard on 14th February 2013, this
Tribunal on 15th delivered the following :-
Feb 2013

ORDER

HON'BLE DR.K.B.S RAJAN, JUDICIAL MEMBER

1. The applicant has joined the respondents' organization as a Computer



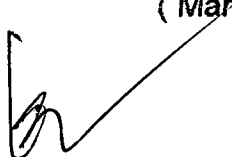
in 1999 (Qualifications for the said post is degree in Maths/Statics/Commerce/Economics/Science with Maths as one of the subjects). He has at his credit the qualification of Graduation in Maths and Post Graduation in Agricultural Statistics. The next post in the hierarchy is Statistical Assistant (for which qualification under the Direct Recruitment is Graduate in Mathematics or Statistics with three years experience in dealing with the collection and analysis of statistical data and for promotion is 3 years experience as Computers) which the applicant secured his promotion to the next post of Statistical Assistant in 2003. Thus, for the past ten years he has been in the said post.

2. The next post in the ladder of promotion is Statistical Investigator, for which the feeder posts include the post of Technical Assistant, Statistical Assistant and Marketing Assistant. As per the Recruitment Rules of 1968 for the post of Statistical Investigator the requisite qualifications under the promotion quota are as under:-

"Statistical Assistant/Technical Assistant possessing a degree qualification with Economics/Statistics/Mathematics/Commerce and with 3 years experience in the grade. "

3. In 1989 the Recruitment Rules underwent an amendment and the qualification for the post of Statistical Investigator under promotion clause has been specified as under:-

"Technical Assistant, Marketing Assistant and Statistical Assistant with 5 years of regular service in the regular grade and must possess a degree in Agriculture of a recognized University or equivalent. The Rules further provided under a Note that Regularly appointed Technical Assistants holding a degree in any discipline on the date of Notification of the Rules will be considered for promotion as Statistical Investigator/Senior Technical Assistant (Marketing)/Senior Technical Assistant (Agricultural Development)"



4. The above rule had undergone a slight amendment in 1992 in the 'Note' column, to include apart from Regularly appointed Technical Assistants, also Marketing Assistant and Statistical Assistant.

5. Earlier on at least two occasions, though the individuals in the feeder grade did not possess the requisite qualification of Degree in Agriculture, these were promoted by invoking the provisions of Relaxation clause. One P.K. Malathi and another is P. Radhakrishnan were the beneficiaries of such relaxation.

6. In this OA the applicant has challenged the prescription of Graduate in Agriculture as the requirement for promotion to the post of Statistical Investigator. After adducing various grounds, the applicant has sought for the following reliefs:-

"8. I. To declare that Annexure A3 & A4 amendment to the Recruitment Rules illegal ultra virus and violative of the provisions of the Constitution of India.

II. To direct the respondents to consider the applicant for promotion to the post of educational qualification as degree in Agriculture as if in the case of P.Radhakrishnan and P.K Malathy.

III. Direct the respondents to consider and pass appropriate orders on Annexure A8 representation within a time limit fixed by this Hon'ble Tribunal.

IV. Declare that the non consideration of the applicant for promotion to the post of Statistical Investigator is illegal and discriminatory."

7. Respondents have contested the O.A. According to them the applicant joined the organization ten years later than the 1989 amendment to the Recruitment Rules. The respondents have stated that when relaxation is sought, the DOPT did not agree to consider any designation with regard to



qualification prescribed in the Recruitment Rules while giving promotion. At present the R.Rs for various posts are under revision and the points raised by the applicant would be put under consideration. Once, the UPSC gives its green signal, the same would be through.

8. The applicant has filed his rejoinder in which he has reiterated his stand as in the OA. Additional reply has also been filed to which additional rejoinder has been filed by the applicant.

9. Counsel for the applicant argued that the applicant has the degree in Maths and a P.G. Degree in Agricultural statistics. As early as in 1989, proposal was made for amendment to the 1989 Recruitment Rules, vide Annexure A-9. The applicant's qualification cannot be ignored on the ground that it does not conform to the requirement as in Recruitment Rules in which Agricultural Degree has been specified. This degree was not included in respect of the post of Computer, which is the feeder grade for this post. It would mean that those Statistical Assistants who do not possess the degree in Agriculture may not be able to get any further promotion at all.

10. Counsel for the respondents tried to justify the averments/contents made in their reply and additional reply.

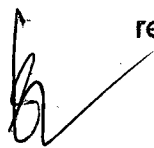
11. Arguments were heard and documents perused. The line of promotion in the organization is as under:-



Post	Computer	Statistical Asst. etc., (Under Promotion quota)	Statistical Investigator (Under Promotion quota)
Qualification	Degree in Maths/Statistics/Commerce/Economics/Science with Maths as one of the subjects	Promotion will be from among the computers who have upto in 3 years service in the grade.	Technical Assistant, Marketing Assistant and Statistical Assistant with 5 years of regular service in the regular grade and must possess a degree in Agriculture of a recognized University or equivalent.

It is understood that for Research Officer, which is the next higher grade, Degree in Agriculture is not insisted upon.

12. Degree in agriculture has not been specified as one of the qualifications required for the post of Computer. A person who entered the respondents' organization with the degree in Maths/Statistics/Commerce/Economics/Science could easily get the next higher post as there is no specific qualification mentioned therein. Computers with 3 years of service would be eligible for promotion to the post of Statistical Asst. Whereas, in so far as Statistical Investigator is concerned, the requirement is a Graduation in Agriculture (or equivalent) – a degree which has not been provided for in respect of the base level post of Computer nor for a direct recruit for the feeder grade of Statistical Asst etc., . If it could be stretched to state that the same is imbibed in the term, "science", then it would mean that it is only those who have degree in Agriculture (or equivalent) alone could be considered. This does not appeal to logic. That would mean hostile discrimination which is anathema to equality. Again, if for Research Officer, degree in Agriculture is not specified (either for D.R. or for promotion), then it is only for Statistical Investigator that degree in Agriculture is stipulated. This is totally irrational. The respondents have stated that matter is under consideration to have the recruitment rules of various posts amended. The sooner, the better.




13. The respondents vide Annexure A-7 has recommended the case of the applicant for the post of Statistical Investigator, as he has the Post graduation Degree in Agricultural Statistics. The applicant's qualification, in our considered opinion would meet the requirement under the "equivalent" column. Post Graduate in Agricultural Statistics, in our opinion, should embrace both Agriculture as well as Statistics. Since the job requirement may involve both Agriculture as well as Statistics, pending the amendment to the Recruitment Rules, the educational qualification of the applicant should be brought within the term, "or equivalent" and his case for promotion to the post of Statistical Investigator should be considered if he fulfills other requirements for promotion. Thus, the Recruitment Rules be not amended but the applicant's case should be considered bringing his qualifications "Post Graduate Degree in Agricultural Statistics" under the column "or equivalent" appearing in Column No.8 of the Recruitment Rules, 1989. The case of the applicant shall be considered as and when his turn for consideration for promotion to the post of Statistical Investigator comes.

14. This relief is granted to the applicant keeping in view the facts and circumstances of the case and also granting the relief sought under item 8(v) of the O.A. and keeping in view the provisions of Rule 24 (to secure ends of justice) of the CAT(Procedure) Rules 1987.

(Dated this the 15th day of February, 2013)


K.NOORJEHAN
ADMINISTRATIVE MEMBER
 SV


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

C.P(C) NO.134 OF 2013 IN O.A. NO. 223 OF 2012

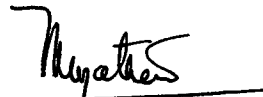
Learned counsel for petitioner submitted that the order of the Tribunal dated 15.02.2013 in OA 223/2012 has been complied with. Hence

: 2 :

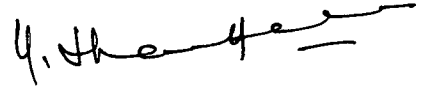
the petitioner is not pressing the Contempt Petition (Civil).

2. C.P(C) is **dismissed** as not pressed.

Dated, the 17th July, 2014



MINNIE MATHEW
ADMINISTRATIVE MEMBER



U.SARATHCHANDRAN
JUDICIAL MEMBER

VS