

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.233/97

Dated, Tuesday the 16th day of November, 1999.

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HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

N.T.Prabhakaran
Administrative Officer (Retired)
Indian Institute of Horticultural Research
Bangalore - 89.
residing at Prabha Nikethan, South Aryad
Avalukunnu Post, Alappuzha - 6.Applicant.

(By advocate Mr N.N.Sugunapalan)

Versus

1. The Secretary
Indian Council of Agricultural Research
Krishi Bhavan
New Delhi.
2. The Director General
Indian Council of Agricultural Research
Krishi Bhavan
New Delhi.
3. The Chief Secretary
Government of Kerala
Secretariat, Thiruvananthapuram.
4. The Registrar of Co-operative Societies
Thiruvananthapuram.
5. The Director
Indian Institute of Horticultural Research
Bangalore-89.Respondents.

(By advocate Mr Mathews J. Nedumpara for R1,2,& 5)
Mr C.A.Joy, Government Pleader for R3 & 4)

The application having been heard on 16th November, 1999,
the Tribunal on the same day delivered the following:

O R D E R

Shri N.T.Prabhakaran who retired voluntarily from the service of the Indian Institute of Horticultural Research, Bangalore while serving as Administrative Officer on 30.4.93 has filed this application being aggrieved by his non-promotion with effect from 20.8.87 as Administrative Officer as also by the action of the respondents in not taking into account 14 years of service rendered by him under the State Government of Kerala for the purpose of pension.

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2. The claim of the applicant being not accepted by the respondents, he filed OA 202/95 which was disposed of directing the second respondent therein to consider and dispose of his representation. The applicant has been told by A-16 impugned orders dated 15.1.97 that he was not promoted as Administrative Officer as the Departmental Promotion Committee which was held on 13.7.87 did not recommend him for such promotion and that he is not entitled to have the period of service under the State Government of Kerala reckoned for computing qualifying service for pension. Aggrieved, the applicant has filed this application for the following reliefs:

- i) Set aside A-16.
- ii) Declare that the applicant is entitled to be promoted as Administrative Officer with effect from 20.8.87 and consequently promotion as Senior Administrative Officer and all monetary benefits arising therefrom.
- iii) Issue necessary directions to the respondents to promote the applicant notionally as Senior Administrative Officer considering applicant's seniority in the cadre of Administrative Officer with effect from 20.8.87 with all consequential benefits.
- iv) Issue necessary directions to the respondents to count 14 years of service under State Government of Kerala for the purpose of pension and disburse the benefits arising therefrom with reasonable interest for the delayed payment by the respondents.
- v) Issue necessary directions to the respondents to convene Review DPC to consider the applicant for granting notional promotion to the grade of Administrative Officer for the years 1988, 1989 and 1990 and consider him yearwise and if found eligible grant promotion to him as per his eligibility and also consider and grant him further promotions in accordance with law, with all consequential monetary benefits arising on the said grant of notional promotion to him.

It has been alleged in the application that the applicant's case for promotion was not considered by the respondents and his juniors were promoted.

3. Respondents have filed a detailed reply statement contending that the applicant was considered alongwith his juniors for promotion to the post of Administrative Officer by the Departmental Promotion Committee which met on 13.7.87

which did not recommend his promotion because he did not get the grading required for such promotion. It is stated in para 3 of the reply statement thus:

"3. As to paragraph 4(1) & (2) of the OA, the contentions raised therein are without merit and hence are denied. The Departmental Promotion Committee (for short, DPC) which met on 13.7.87 considered the applicant also. The DPC while making assessments of the officers, does not give any extra weightage to those who are already officiating in the higher grade nor is it solely guided by the gradings, if any, recorded in the confidential records. The DPC accordingly categorised the officers into 5 classes, namely:

- i) Outstanding
- ii) Very Good
- iii) Good
- iv) Average
- v) Unfit

for induction to Group 'A' posts/services from lower Group while the bench mark will be 'Good' the select list be drawn up to the extent necessary by placing those classified under 'Outstanding' followed by 'Very Good' and then by 'Good' without disturbing inter-se seniority in each category. The DPC after going through the Confidential Reports dossiers and the report on work, conduct and performances of the candidates recommended 19 officers to be promoted as Administrative Officers. But the applicant was not recommended."

4. Regarding counting of service rendered under the State Government of Kerala, the respondents contend that the instructions in regard to dispensing with bearing of the pensionary liability between Central Government and the State Government are not applicable to Indian Council of Agricultural Research and, therefore, the applicant is not entitled to have the period counted for the purpose of computing qualifying service for pension.

5. We have heard Mr N.N.Sugunapalan, the learned counsel of the applicant and Mr Davy on behalf of the counsel appearing for respondents 1, 2 & 5 and Mr C.A.Joy, Government Pleader for the State of Kerala. With a view to see whether the applicant's case for promotion as Administrative Officer

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was considered properly in accordance with rules by the Departmental Promotion Committee which met on 13-7-87, the respondents were directed to make available the proceedings of the DPC for our perusal and the learned counsel of the respondents produced the entire file relating to the DPC. We have perused this file also.

6. The case of the applicant that the DPC did not consider the applicant at all for promotion alongwith his juniors on 13-7-87 does not appear to be correct. In the list of names considered by the DPC, the applicant's name figures at Sl.No.7. However, we searched throughout the records produced for our perusal by the learned counsel for the respondents but failed to see anything which would indicate that the DPC made the grading of the applicant and other candidates considered. Only the original Annexure R-7 is there in the file which shows that the DPC did not recommend the name of the applicant for promotion. No grading of the applicant as 'Outstanding', 'Very Good', 'Good', 'Average' or 'Unfit' or any other indication as to why the applicant did not qualify to be promoted is discernible from the records produced by the respondents. Against the name of the applicant in the consideration list it was noted that permission of I.C.A.R. was solicited for initiating disciplinary proceedings against him. It is not known whether this was the reason for his supersession. We, therefore, are not satisfied that the DPC has considered the case of the applicant for promotion in the manner as has been stated by the respondents in their own reply statement. Therefore, we are of the view that the respondents have to be directed to convene a review DPC as on 13-7-1987 to consider the case of the applicant in the light of the rules and instructions on the subject as also in the line taken by them in para 3 of the reply statement.

7. Regarding the claim of the applicant for recomputation of his retiral benefits reckoning the service rendered by the applicant under the State Government of Kerala, since the

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applicant's request for voluntary retirement as per Rule 48 of CCS (pension) Rules, 1972 has already been accepted by the second respondent as seen from Annexure A-22, the respondents ought to have taken into account the service rendered by the applicant under the State Government of Kerala because otherwise he would not have completed 30 years of service under the ICAR alone. Therefore, whether the pensionary benefits are to be contributed by the State Government also or not, respondents 1, 2 & 5 are duty bound to pay to the applicant the retiral benefits taking into account the entire service rendered by him under the State and Central Governments.

8. In the light of what is stated above, we dispose of this application with the following directions:

- i) Respondents 1, 2 and 5 are directed to have the case of the applicant for promotion to the post of Administrative Officer considered as on 13-7-1987 by a review Departmental Promotion Committee in accordance with the rules and instructions on the subject as also in the manner indicated in para 3 of the reply statement and if the Committee recommends the promotion of the applicant, the applicant shall be given the consequential benefits of notional promotion with effect from the date his juniors were promoted on the basis of the recommendations of the DPC held on 13-7-1987.
- ii) If the applicant is recommended for promotion and is promoted as directed above, his case for promotion as Senior Administrative Officer shall also be similarly considered by the DPC as on the relevant date and if he is adjudged suitable for such promotion, he shall be given notional

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promotion, fixation of pay and other consequential benefits.

iii) Respondents 1,2 and 5 are also directed to re-calculate the pensionary benefits due to the applicant both consequent on the directions as aforesaid and taking into account also the 14 years of service rendered by him under the State Government of Kerala whether the contribution from the State Government of Kerala is received or not.

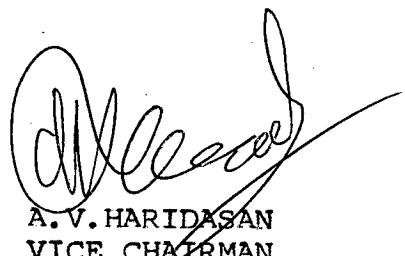
9. The above said directions shall be fully implemented and consequential orders issued and payments if any found due made within four months from the date of receipt of a copy of this order.

There is no order as to costs.

Dated 16th November, 1999.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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Annexures referred to in this order:

A-16: True copy of letter No.2(9)/91-Estt.1 dated 15.1.97 sent by first respondent.

A-22: True copy of the order No.F.2-9/91-Estt.1 dated 26.4.93 issued by Deputy Secretary for 1st respondent to the applicant.

R-7: True copy of the proceedings of the DPC held on 13.7.87.