

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE 30.3.1990

PRESENT

HON'BLE SHRI N. V. KRISHNAN, ADMINISTRATIVE MEMBER

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. No. 316/89

S. Natarajan

Applicant

Vs.

1. Union of India represented by
Secretary, Ministry of
Agriculture, New Delhi
2. The Director General,
Indian Council of Agricultural
Research, New Delhi and
3. The Director, CMFRI
Cochin-31

Respondents

M/s. K. Ramakumar,
V. R. Ramachandran Nair and
P. Nandakumar

Counsel for
applicant

Mr. Jacob Varghese

Counsel for the
respondents 2 & 3

JUDGMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The applicant mainly challenges Annexure-D notification issued by the Indian Council for Agricultural Research publishing the decision of the Council to fill up the post of Scientists S-2 on transfer basis from the sister Institutes under the ICAR.

2. The applicant's grievance is that though he is eligible for the post of Scientist S-2 his application

was not forwarded for consideration because of Annexure-D. At present he is working as Field Officer T-7 in Central Marine Fisheries Research Institute (hereinafter referred to as CMFRI). He joined as Engineer (Electronics) in the erstwhile Pelagic Fisheries Project. But when this project was closed and the staff was merged with CMFRI, the applicant was taken as Field Officer in the service of CMFRI in 1979. He passed A.M.Ae.S.I., which according to him, is equivalent to Bachelor's Degree in Engineering and also M.B.A.

3. The CMFRI issued Annexure-A notification for making appointment to the post of Scientist S-2 (Electronics and Instrumentation) in the scale of Rs. 1200-50-1600 (pre-revised). The qualification prescribed for the post was 'Master's Degree in Engineering with specialisation in Electronics/Instrumentation) relaxable in Bachelor's Degree). The applicant also applied for the post. Annexure-B is the copy of his application. It was returned by the Sr. Administrative Officer as indicated in Annexure-C stating that it cannot be forwarded to the Council for consideration since he is not holding the 'Scientific post' in Agricultural Research Service and his case will not come within the policy decision as envisaged in Annexure-D. The applicant has challenged Annexures C & D on the ground that they are discriminatory, illegal and violative of Articles 14, 16 and 21 of the Constitution.

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4. According to the respondents when Pelagic Fisheries Project was closed the applicant was offered a temporary post of Field Officer (T-VI) in the scale of Rs. 700-1300 (pre-revised) w.e.f. 31.10.1979 which was accepted by the applicant as per Annexure R-3 letter. His appointment was treated by the Council as a fresh appointment in the Technical stream and his earlier request for induction into ARS was rejected by the Council as early as in 1982 by Annexure R-5. Hence he is not eligible for the post of Scientists S-2.

5. Since the applicant was not working in the Scientific Branch he is not eligible for induction to ARS, which was introduced w.e.f. 1.10.1975 with a design to replace the existing 'post-centred' system by a 'Scientist centred' system. The rules of ARS provide initial induction opportunity only to the educationally qualified employees of the Council having Masters Degree or equivalent in the scale of pay of Rs. 425-700, Rs. 500-750 and Rs. 550-900. Those who were not possessing the minimum educational qualification for entering into ARS as on 1.10.1975 were given 5 years period to acquire their educational qualification. This opportunity was available only to those who were in the service of the ICAR on the date of introduction of ARS namely 1.10.1975. Admittedly the applicant was not in the service of ICAR at that time. On this ground also the applicant is ineligible for the post of Scientist S-2.

6. Going by the qualification prescribed by the Council for the post the applicant is not eligible unless there is relaxation. The applicant has not made out a case for relaxation of the qualification. As indicated above the applicant was informed as early as on 6th August, 1982 as per Annexure R-5 when he made a request for induction into ARS that his request cannot be accepted. Under these circumstances we are of the view that the applicant has no legal claim for considering the applicant for the post of Scientist S-2 post and his challenge against Annexure-C should fail.

7. The applicant's challenge against Annexure-D is equally unsustainable and it is also liable to fail. The method of recruitment to the various posts in ARS is governed by separate Rules. The relevant portion of Rule dealing with Scientists S-2 and S-3 grades reads as follows:

"The positions in these grades will normally be filled by the Scientists promoted on the basis of merit as determined by appropriate assessment. No direct recruitment is required to be made to positions in these grades except to correct certain imbalances. The persons holding regular posts in other organisations when selected to grades S-2 and S-3 of the Service will be allowed to remain on deputation for a period not exceeding three years before their absorption in the Service. For this purpose, the following procedure has been laid down:....."

This provision of the service rules of ARS of the ICAR which was framed in exercise of the powers conferred by Rule 38 of the Rules of the ICAR sufficiently protects the appointment in Scientists grade by

circulating the post among sister institutions and sending names of the available Scientists to the and ✓ the ✓ Council/issuing/ transfer orders as decided. In the Board of ~~xxxxxxxxxxxxxxxx~~ ✓ Directors of CMFRI.

All appointments to the grade of Scientists are restricted by means of a policy decision taken by the Council under the aforesaid rules. The decisions of the Council are taken in the best interest of the Institution and it cannot be held that they are arbitrary as contended by the applicant. Annexure-D which is challenged in this application only highlights the salient provision which is part of the mode of recruitment provided in rule 6 of the ARS framed under rule 38 of the ICAR. Hence it cannot be set aside on the grounds urged by the applicant in this application so long as rule 6 of the ARS remains unchallenged. Since the applicant is not eligible for the post he has no right to attack Annexure-D. There is no violation of the legal rights of the applicant and there is no merit in this application.

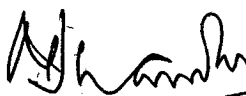
8. Having considered the contentions of the applicant in the light of the available document we are of the view that the applicant is not eligible for the post and there is no substance in the application.


9. Today when the case was taken for orders, the learned counsel for the applicant brought to our notice

an M.P. dated 27.3.1990 filed by the applicant seeking permission for accepting some more documents and for re-hearing of the case. We granted the request and heard both counsel again. But we find ourselves unable to change our view already taken in this matter as indicated above.

10. However, since it has been brought to our notice that the applicant had submitted a representation to the third respondent, the Director, as is evident from Ext. E produced along with the M.P. and that the third respondent has already taken up the matter with ICAR, it would be fair ^{and proper} in the interest of justice to direct the respondents to dispose of the representation considering the grievance of the applicant uninfluenced by any of the observations made by us above. We also make it clear that the applicant is at liberty to pursue this matter in appropriate forum as he may deem fit and proper.

11. Accordingly we dismiss the application with the above directions but without any order as to costs.


30.3.90.
(N. Dharmadan)
Judicial Member


30/3/90
(N. V. Krishnan)
Administrative Member